

**LAW ENFORCEMENT EMPLOYEE-INVOLVED FATAL
INCIDENT REPORT**



Employer Agency: Healdsburg Police Department
Investigating Agency: Sonoma County Sheriff's Department
Decedent: Everardo Romo
Date of Incident: February 14, 2014

Report Prepared by:
SONOMA COUNTY DISTRICT ATTORNEY

RELEASED TO GENERAL PUBLIC

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I. INTRODUCTION

On February 14, 2014, Everardo Romo died as a result of a self-inflicted gunshot wound to his head which occurred during an attempt by officers of the Healdsburg Police Department to place him under arrest. The Healdsburg Police Department invoked the Sonoma County Law Enforcement Employee-Involved Fatal Incident 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, in order to eliminate the risk or appearance of conflicts of interest, an outside law enforcement agency is to investigate law enforcement employee-involved fatalities. Accordingly, members of the Sonoma County Sheriff's Office (SCSO) assumed responsibility for the investigation of this shooting incident. Members of the Sonoma County District Attorney's Office were also assigned to participate in the investigation.

The role of the Sonoma County District Attorney's Office in a law enforcement employee-involved fatal incident is to review the investigation to determine if there exists any criminal liability on the part of the law enforcement employee; to provide assistance to the investigating agency regarding legal issues; to supplement the investigation when necessary; and, when appropriate, prosecute those persons believed to have violated the criminal law.

Once the investigation is complete, the District Attorney is required to complete a thorough review of the investigation and prepare a report summarizing the investigation and documenting her conclusions. A copy of this report is to be submitted to the foreman of the Sonoma County Grand Jury. The following report has been prepared by the Sonoma County District Attorney. It includes a summary of facts surrounding the death of Everardo Romo, specific conclusions, and a report of autopsy.

II. SCOPE OF REVIEW

The sole purpose of this criminal investigation and review is to establish the presence or absence of any criminal liability on the part of the involved law enforcement employee(s).

III. STANDARD OF REVIEW

The District Attorney, as the chief law enforcement official of Sonoma County, and as the person responsible for deciding what cases to prosecute within this jurisdiction, has the responsibility to review and approve the filing of all criminal cases. The discretion to exercise this function, i.e. to charge a person with a crime, is not without limit.

The standard to be applied by the District Attorney in filing criminal charges is accurately expressed in a publication of the California District Attorneys Association entitled, *Uniform Crime Charging Standards*.¹ It provides:

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

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.

Additional restraint on the charging authority is found in *The California Rules of Professional Conduct, Rule 5-110*, which provides that an attorney in government service (this definition includes prosecutors) shall not institute or cause to be instituted criminal charges when the member knows or should know that the charges are not supported by probable cause.

Simply put, the standard for charging a crime is high because the burden of proof required at trial is quite high, i.e. proof beyond a reasonable doubt: the highest burden of proof under the law.

IV. SUMMARY OF FACTS

The following is a summary of facts intended to assist the reader in understanding this report and its conclusions. It is not a substitute for the volumes of reports, interviews, and other evidence from which it is derived. It is, however, an accurate composite of what the District Attorney believes the material facts in this case to be.

Events Leading Up To Incident

Everardo Romo died on February 14, 2014, as a result of a single, self-inflicted gunshot wound to his head which occurred while officers of the Healdsburg Police Department were attempting to arrest him.

On February 13, 2014 the Sonoma County Sheriff's Department received a report of allegations that Romo had committed lewd acts on a minor and an arrest and search warrants were obtained. Officers served and executed the search warrant, but were unable to locate Romo.

On February 14, 2014, around 6:30 pm, Romo made phone contact with his wife and threatened suicide. His wife told investigators she thought she heard a gunshot during that phone call. As a result, Sheriff's Deputies began looking in the area for Romo. They requested their dispatch to obtain ping information on the phone call he had made to his wife and they were advised of the closest address to the ping. Deputies and the Sonoma County Sheriff's Department Helicopter H-1 responded to that area to search for Romo. During that search, they heard a dispatch that the Healdsburg Police Department had responded to an interrupted home burglary at a home in Healdsburg near their search area (the address and names of occupants are removed to protect their privacy) and they could see and hear the Healdsburg Police Department's response.

9-1-1 Call

On February 14, 2014 at 7:57 p.m., Healdsburg Police received a 9-1-1 call from Jane Doe #1 regarding an intruder in her home, located at a home in Healdsburg. Jane Doe #1 told them that she had returned home and discovered a male intruder inside her residence and advised the 9-1-1 operator that her husband, John Doe #1, was currently in a physical fight with that intruder. Jane Doe #1 told dispatch that her husband had located an intruder in their living room and was holding him down until police could arrive. She also told dispatch they had no idea who the person was or if he had any weapons, but she couldn't see any on him or in the room. Jane Doe #1 then went outside to wait for the police, who arrived soon after and she hung up.

Homeowner's Statements

John Doe #1 and Jane Doe #1 went on an outing with their two children. Jane Doe #1 returned home first with her minor son (9 years old). Upon arriving home, Jane Doe #1 unlocked the front door and requested her minor son go inside to let their dogs outside while she then went to get the mail. Jane Doe #1 was walking back towards the front door of the home when her minor son exited the house and told her that there was "someone in the house." Jane Doe #1 stated that simultaneously her husband was driving up to the home with their minor daughter (11 years old). As John Doe #1 parked his vehicle, she yelled to him that there was someone inside their house. John Doe #1 parked his vehicle, immediately exited it and went inside the house. Jane Doe #1 put their two minor children into her car and told them to stay there and she then went into the house to see what was happening.

When she entered the home she saw John Doe #1 running from room to room, and he initially indicated he did not see anyone. She then saw John Doe #1 go to the back sliding glass door, which he indicated was locked. She stated John Doe #1 then turned around and spotted someone in the living room and without saying anything immediately jumped on that person. John Doe #1 was on the person holding him down and yelling at Jane Doe #1 to call 9-1-1. Jane Doe #1 had to leave the home to get her cell phone from her called 9-1-1. When she heard sirens she went out into the street to flag down the responding officers.

After the officers entered her home, she returned to the children in the car to check on them and as she was returning to the house, she heard someone yell "he's got a gun." When she heard that she ran back to where the children were located and saw a neighbor in their yard. She quickly got the children out of the car and had her neighbor take them. A short time later an officer exited her home and told her that her husband was ok, but the suspect was deceased.

John Doe #1 was interviewed and stated that he and his wife and children had been at a community event, and that he arrived home after his wife and son. Upon arriving home his wife and son told him there was someone in the house. John Doe #1 then immediately went into the house. The house was dark, except a light in the dining room. He stated he first went into his bedroom and the laundry room. He did not see anyone. He then went into the garage (attached to the home) and discovered a light on inside the garage. He then checked his children's bedrooms and did not locate anyone. He then went to the living room to check the back sliding glass doors to see if they were open. He found them locked. Around that time his wife (Jane Doe #1)

entered the home and John Doe #1 then began looking around the living room and saw what he initially thought to be a blanket on the floor next to their living room chair. He quickly realized it was a person and immediately jumped onto the intruder.

John Doe #1 described him as being in a fetal like position with his face in the carpet when he jumped on him. John Doe #1 yelled for Jane Doe #1 to call 9-1-1. John Doe #1 described the suspect as continually trying to reach for something, telling John Doe #1 it was his cell phone, but John Doe #1 continued to keep the suspect immobile on the floor (his knee in suspect's back and holding onto both of the suspect's hands). The suspect attempted to reason with John Doe #1, asking in broken English for his phone and to go outside. The suspect was telling John Doe #1 that the "FBI" was outside and he could let him go and it would be ok. John Doe #1 indicated he struck the suspect a few times to keep the suspect from becoming mobile. Once the police arrived inside the home and were in a position to take control of the suspect, John Doe #1 rolled off of him towards the back of the room (near sliding glass doors) so the police could get control of the suspect.

John Doe #1 stated that after he was off the suspect he backed up a little, standing next to the sliding glass doors at the time the shot was fired. He said he did not see any officer fire a gun, and he did not see a muzzle flash. He did hear a pop and see gun smoke. He was sure that no officer fired a weapon and that the gunshot came from the suspect. He also indicated he had not seen a gun when he was on top of the suspect.

After the suspect was handcuffed, the officer who had been on top of him approached John Doe #1 and asked if he was armed. John Doe #1 believed the officer did not know where the shot came from and thought maybe John Doe #1 had a weapon. John Doe #1 did not have a weapon on his person.

Responding Officers Statements

Officer Tom Whitmore:

On February 14, 2014 at or near 7:57 pm, HPD Officer Tom Whitmore was on duty and inside the Healdsburg Police Department with trainee Officer Will Van Vleck, when they were dispatched to an interrupted residential burglary at a home in Healdsburg. Prior to leaving the parking lot at HPD, they were advised by dispatch that the homeowner and suspect were in a physical altercation. As Whitmore approached the residence he saw a female in the street flagging them down. Upon contact she indicated her husband was inside the home fighting with the suspect. Whitmore and Van Vleck entered the home, with Van Vleck going first.

Upon entry they viewed the homeowner and suspect on the floor. They communicated with the homeowner and Van Vleck got into position to take over subduing the suspect from the homeowner. Whitmore observed Van Vleck put the suspect in a "bear hug," while he attempted to move the furniture in order to gain access to assist Van Vleck (Whitmore could not assist as there was furniture to the other side of the suspect which was impeding his ability to gain access). After moving a loveseat, Whitmore was then able to gain access to the suspect's right arm. Van Vleck then bent over in an attempt to assist with handcuffing the suspect.

At that time he heard a “pop” and saw smoke rise from the suspect. Whitmore indicated the sound was a “pop” and was muffled (not a “bang”). They were then able to handcuff the suspect. Whitmore described the suspect position as fetal, with knees tucked under his body and forehead on the floor (chest facing the floor). Whitmore did not pull his service gun out during the incident. When they rolled the suspect to his side, they observed a small dark semi-automatic firearm near suspect’s upper chest and lower at an approximate 45 degree angle to the right of the suspect’s head. Whitmore observed a wound behind the suspect’s right ear and left the gun in place. Medical assistance was requested. When they moved the suspect, they observed a casing where the suspect’s head had been. The casing was left where it was observed.

Officer Will Van Vleck:

Officer Will Van Vleck was a trainee in phase 2 and assigned to work with Officer Whitmore. Upon their arrival at the address, they were flagged down by a female who indicated that “they” were in the home. Van Vleck entered first. The home was dark, with little light. Van Vleck believes they identified themselves to the people inside upon entry. When they entered, he observed one person on top of another and it appeared the person on the bottom was pushing up, trying to stand up and the person on top was pushing down, keeping the individual on the bottom from standing. Van Vleck communicated with the person on top until he was sure he was the homeowner and the person on the bottom was the intruder (homeowner, said “this is him, help me out” or something to that effect). Van Vleck thought the homeowner had good control over the suspect; he did not see the homeowner strike the suspect.

Van Vleck, pushed the homeowner to the side and put his body on the back of the suspect, using his weight to keep him down. The suspect “turtled up” underneath him. Van Vleck was able to get a hold of the suspect’s left wrist, but the suspect was able to get his right hand underneath his (suspect’s) body. He was only able to get a hold of the suspect’s right elbow. The suspect was then trying to get his arm out from under his body. During this time Whitmore was trying to assist Van Vleck in getting control of the suspect’s right arm. Van Vleck estimates that about 20 seconds into this he heard a shallow pop and smelled smoke. When he realized it was a gunshot, he looked over his shoulder to see if the homeowner had fired the shot, but realized that was not the case. At some point he heard other officers saying “shots fired”. He then told Whitmore he would slowly pull out the suspect’s arm and put it behind his back. He slowly pulled out the suspect’s left hand and put it to the suspect’s back. The left hand was empty when he pulled it out. Whitmore was pulling out the suspect’s right hand and moving it to his back (suspect’s). Van Vleck then cuffed the suspect’s hands behind his back. Van Vleck did not draw his weapon during any of the above events. Van Vleck heard someone else say he (suspect) shot himself. Van Vleck called for EMS to respond. They rolled the suspect to his back and at that time first observed the gun underneath him. After rolling the suspect over the wound became apparent. EMS reported the suspect deceased.

Cpl. Scott Eland:

Cpl. Scott Eland also responded to the dispatch call. Upon arrival, he observed Whitmore and Van Vleck walking to the front door. There was a female in front of the home telling them

“they are inside.” Eland entered the home and went down the front hall to the back of the home. He observed a man, who he later learned was the homeowner, standing at the back left by sliding glass doors. He observed Van Vleck and Whitmore with the suspect. Van Vleck was on the suspect’s left side and Whitmore was on the suspect’s right side. Both Van Vleck and Whitmore were trying to get the suspect’s hands out away from his body. Eland recalls someone saying something about a gun. Eland recalls pulling out his service pistol and asking who or where the suspect had shot. He recalled Van Vleck responding that the suspect may have been shooting at him (Van Vleck). Eland never heard a gunshot. Eland then observed what appeared to be blood seeping into the carpet near the suspect and on the side of the suspect’s head. Eland then requested medical code three and to have them stage outside. Whitmore and Van Vleck were able to get the suspect’s hands cuffed and Eland then holstered his service pistol. When they rolled the suspect over, Eland observed a small caliber gun, he estimated a .380 caliber, underneath the suspect. Eland did not discharge his service weapon.

Eland then walked the homeowner outside to his wife. Eland took a brief statement from the minor son who said that when he went inside he first saw the man in the living room. The man told the boy “don’t worry, I don’t hurt kids.” The boy ran back to his mother and told her there was a man inside the house.

Sgt. Luis Rodriguez:

Sgt. Luis Rodriguez with HPD also responded to the dispatch. Upon arrival, he first came into contact with a female outside the home. She indicated that “he had a gun.” Rodriguez ran inside the house. Upon entry he observed someone (later determined to be the suspect) lying on the living room floor face down. Whitmore was on the left of the suspect and Van Vleck was on the right. Eland was standing with his service pistol drawn. Rodriguez described the suspect as lying face down, with his head towards the front entry of the home and his feet towards the back sliding glass doors. There was also a person, later identified as the homeowner, standing near sliding glass doors. Rodriguez observed Van Vleck and Whitmore trying to get the suspect’s hands from underneath his body and drew his taser announcing he could “taze” the suspect. Whitmore told him they believed the suspect had been shot and he immediately put his taser away without deploying any probes. Rodriguez observed what he thought was blood near the suspect. When the suspect was rolled over, he also observed a handgun underneath the suspect. The EMS was called inside and they pronounced the suspect deceased. Rodriguez was aware the Sonoma County Sheriff’s Office was in the area looking for a suspect and eventually turned the scene over to them.

Evidence Collection

Officer Buergler assisted in collecting evidence after the incident was over. He identified the small black semi-automatic pistol found underneath Romo as a Browning Arms .380 caliber pistol. The pistol was loaded with one live cartridge in the chamber and five additional rounds of ammunition in the seated magazine. The ammunition was later examined and determined to be Winchester .380 ammunition in nickel plated cartridges with jacketed hollow points. A single fired nickel plated Winchester .380 cartridge was also located at the scene.

An inventory of every involved officer's equipment, including duty firearms and magazines, was conducted. No officer at the scene possessed a .380 or a weapon of similar caliber. At no time during the event did John Doe #1 or any member of the Healdsburg Police Department discharge a firearm.

Autopsy

On February 18, 2014, a post mortem examination was conducted by Dr. Kelly Arthur-Kenny, a medical doctor certified in the area of forensic pathology. Arthur-Kenny located a "nearly intact... partially jacketed" bullet in Romo's brain. She opined that the suspect died from a single gunshot wound to the head. Dr. Arthur-Kenny did not locate any fibers or other materials on the fragments, leading her to believe that it did not go through any clothing prior to entering the skull. She believed the entrance wound appeared to show loose contact of the barrel to the skull ("a few millimeters and likely no more than one centimeter from the scalp").

During the autopsy, Forensic Assistant Garcia located 7 rounds of ammunition in Romo's jacket pocket. Those rounds were consistent with the ammunition found in the .380 Browning Arms pistol recovered from underneath Romo at the scene.


V. STATEMENT OF THE LAW

The cause of death was a self inflicted gunshot wound to the suspect's head. None of the responding HPD Officers, nor the homeowner who detained the suspect, discharged a weapon during this event. Thus, no police conduct and/or use of force directly or indirectly caused the suspect's death.

VI. CONCLUSION

The only weapon fired was in the possession of the suspect and according to all witnesses was fired by himself. It was located under his body, along with the casing. The fatal wound was found to be self-inflicted.

Thus, there was no use of lethal force by any of the involved officers, and there is no basis for any criminal charges.



Jill R. Ravitch
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