

Officer Involved Shooting: Albert Wong

The Pathway Home, Yountville, CA

Napa County Sheriff's Department

Deputy Steven Lombardi



ALLISON HALEY

DISTRICT ATTORNEY

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ROLE OF THE DISTRICT ATTORNEY

The role of the Napa County District Attorney's Office in an officer involved shooting investigation is to review the circumstances of the incident for the sole purpose of determining if there is criminal liability on behalf of any member of law enforcement. The District Attorney does not examine concurrent issues of law enforcement policy or procedure, compliance with police training or civil liability of any party or entity mentioned in the report. This report should not be interpreted as expressing an opinion on any of those associated matters.

This report summarizes the events that took place on March 9, 2018 at The Pathway Home located at the Yountville Veterans Home in the town of Yountville, County of Napa as it relates specifically to a deputy sheriff shooting at Albert Wong and documents the legal conclusion drawn from the evidence. This summary is not intended to include every aspect of those events. Rather, it is a composite of the material facts that were considered by the District Attorney in coming to her legal conclusion about the narrow issue of potential criminal liability in light of the officer involved shooting. This report draws from a thorough review of the police investigation, recorded interviews of witnesses, radio transmissions, physical evidence, case law, as well as forensic science and testing.

The California Highway Patrol (hereinafter "CHP") has primary law enforcement responsibilities on State owned properties in California, as outlined in the Government Code and Title 13 of the California Code of Regulations. Accordingly, investigators with the CHP assumed responsibility for the investigation of this shooting incident. CHP Lieutenant Amir Tabarsi led the investigation. He presented a report to the Napa County District Attorney's Office on August 30, 2018.

FACTUAL SUMMARY

On March 9, 2018, 36 year old U.S. Army combat veteran Albert Wong drove a rental car to The Pathway Home (otherwise known as Madison Hall) located on the campus of the Yountville Veterans Home. The Pathway Home provided educational, professional, and clinical support in a residential setting to post-9/11 veterans pursuing academic or vocational endeavors who were transitioning back into the civilian world following military deployment. Wong was a

former resident of The Pathway Home and was known to employees and residents of the organization. Wong was discharged from The Pathway Home on February 20, 2018 due to his refusals to comply with program policies and treatment plan. Wong had expressed extreme anger and frustration toward the clinical staff due to many prior disagreements and his recent discharge from the program.

Wong entered The Pathway Home on March 9th armed with a .308 caliber semi-automatic rifle loaded with a 20-round magazine and a loaded 12 gauge double-barrel shotgun and carried three extra 20-round magazines for the rifle in a tactical belt around his waist. He also carried 12 shotgun shells in the tactical belt and wore both ear plugs and over-the-ear protection as well as eye protection. Wong entered Madison Hall and walked directly to the second floor "Group Room" where a staff "going-away" party was in progress. Wong entered the room at 10:19am and immediately ordered the veterans in the room to leave, and then granted permission to individual staff members one-by-one to exit the room. Left in the room with Wong were Dr. Jennifer Gray Golick, Dr. Jennifer K. Gonzales Shushereba and The Pathway Home Executive Director Christine Loeber, MSW, LCSW.

Staff and veterans who were allowed to leave the Group Room called 911. Some callers were diverted to the CHP Golden Gate Division Dispatch and others' calls were received by Napa Dispatch. The first call to Napa Dispatch at 10:21am reported "[W]e have an active shooter." All available Napa County Sheriff Deputies were dispatched to a report of "...possible shooting occurring at the Vets' Home..." Deputy Steven Lombardi, a 26-year veteran of the Napa County Sheriff's Department was the sole deputy on duty in the Town of Yountville at the time of the call. Deputy Lombardi acknowledged receipt of the dispatch call within six seconds and arrived as the lone law enforcement officer on scene within four minutes at 10:25am. Deputy Lombardi was equipped with a .223 caliber rifle, a Kimber .45 caliber handgun and a Smith & Wesson .38 handgun. Deputy Lombardi had previously served the Napa Sheriff's Department for almost a decade as a range instructor affording him particularized familiarity, expert training and dexterity with firearms.

Between the initial dispatch call and Deputy Lombardi's arrival at the Veterans Home, all officers were updated by dispatch. Deputy Lombardi learned that the suspect had a rifle and was holding hostages. He learned the suspect's name was Albert Wong and was given a physical description including race, gender, height, weight and clothing worn. Dispatch further updated all officers that Wong was a veteran, a former resident of The Pathway Home, had a semi-automatic rifle with "a lot of ammo" and had released some of the hostages.

Upon arrival at the Vets Home, Deputy Lombardi was flagged down and given directions to the second floor Group Room by a Pathway Home employee who had been released by Wong. This employee let Deputy Lombardi into Madison Hall and directed him to the second floor stairwell. Deputy Lombardi refused to allow the Pathway Home employee to accompany him to the second floor because he feared for the employee's safety. Deputy Lombardi climbed the stairwell and arrived on the second floor. At this time Deputy Lombardi was still the sole law enforcement officer at The Pathway Home and was gravely concerned for the safety of the hostages. When Deputy Lombardi arrived on the second floor, he was unable to identify where the heavily armed gunman was located and began quickly and methodically clearing rooms. Deputy Lombardi reached the "Group Room" and partially pushed open the closed metal door. From his limited view, he saw the suspect holding a rifle. Deputy Lombardi let go of the door, backed up and took up a position covering the doorway. Deputy Lombardi then heard the rifle held by the gunman being racked and the scream of a woman. Deputy Lombardi feared for the safety of the screaming woman and determined he needed to kill the suspect to save her life, stating "I didn't want her to die." At 10:31am, Deputy Lombardi moved from his place of safety at the corner of the hallway and fired his .223 caliber rifle at the last location where he saw the suspect. Numerous high velocity rounds began coming back through the door toward Deputy Lombardi. Deputy Lombardi backed up while continuing to return fire at the gunman in the Group Room. Believing Wong was going to come out of the door into the hallway, Lombardi reloaded his weapon with a full magazine and waited alone in the hallway covering the doorway.

Additional law enforcement officers arrived six minutes after the shots were fired. There was no further engagement with the suspect.

Deputy Lombardi fired a total of thirteen rounds from his .223 caliber rifle at Wong during the shooting sequence which lasted approximately ten seconds. Wong fired a total of twenty-two rounds from his .308 caliber rifle toward Deputy Lombardi during the shooting sequence. Subsequent autopsies revealed that no shots fired by Deputy Lombardi struck Dr. Golick, Dr. Gonzales Shushereba, Executive Director Loeber or Wong.

STANDARD OF REVIEW

The District Attorney, as the chief law enforcement official of Napa 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 is not without limit.

The standard to be applied by the District Attorney in filing criminal charges is expressed in the *Uniform Crime Charging Standards*. It provides:

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.

STATEMENT OF THE LAW

The sole issue to be resolved in this report is whether the shooting involving Albert Wong by a Sheriff's deputy was lawful: specifically, was the use of lethal force by the deputy

reasonably necessary under the circumstances to accomplish a lawful law enforcement purpose.

California law permits any person to use deadly force in self-defense or in the defense of others if he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. CALCRIM No. 2470; *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. 3470. If a person uses force in lawful self-defense, he need not stop using force until the threat has ended. *See* Plumhoff v. Rickard (2014) 134 S.Ct. 2012, 2022.

Likewise, California Penal Code §196 finds homicides justifiable when committed by public officers if the suspect was actively resisting and there are circumstances which reasonably create a fear of death or serious bodily harm to the officer or to another.

LEGAL ANALYSIS

On March 9, 2018, all evidence suggests that U.S. Army veteran Albert Wong entered The Pathway Home with a premeditated intent to kill. Upon leaving his residence in Sacramento, he penned a letter of apology to his landlord implying that he would not return. He carried two weapons and nearly 100 rounds of ammunition on his person. He wore protective ear and eye gear and did nothing to camouflage his weapons. He strode purposefully through The Pathway Home to the Group Room during a publicized and pre-planned going away party. He did not hesitate to order veterans out of the room and one-by-one ordered staff members to leave. In so doing, he was left alone with the three persons to whom he had previously articulated multiple death threats. These death threats were not generalized; rather,

he had specifically threatened to kill members of the clinical staff by coming onto the premises and shooting them with a gun. Physical evidence collected at the scene and later analyzed suggests that immediately after the shootout with the Sheriff's deputy, Albert Wong executed the women using his .308 caliber rifle and then committed suicide using his shotgun. The women immediately succumbed to their catastrophic injuries. These events occurred within twelve minutes of Wong's entry into the Group Room at The Pathway Home.

Deputy Sheriff Steve Lombardi was dispatched to a report of a "possible shooting" occurring on the grounds of the Veterans Home and responded within four minutes. He was advised that the shooter had hostages, was well armed, was a military veteran and former client of The Pathway Home. Deputy Lombardi received direction to the gunman's general location and alone, climbed the second story stairwell to face the unknown. Unfamiliar with the layout of the building and unsure if the gunman had moved, Deputy Lombardi began clearing the second floor rooms until he opened the door to the Group Room and visually identified the gunman. Deputy Lombardi did not use lethal force at that time. Rather, Deputy Lombardi backed up and took a position to cover the doorway. It was only when Deputy Lombardi heard the racking of the rifle and the scream of a woman that he was in immediate fear for the safety of others and chose to use lethal force, shooting at the location he had last seen the gunman. Subsequently, Deputy Lombardi was shot at by Albert Wong over 20 times with high velocity rounds. Deputy Lombardi sustained no injuries.

CONCLUSION

The choice to use lethal force demands the utmost from law enforcement officers in response, performance and decision making. These encounters often become wildly unpredictable and rapidly evolving, requiring officers to make split second decisions while in fear for their own lives, the lives of their fellow officers and the citizenry they have sworn to protect.

The use of deadly force on March 9, 2018 by Napa County Sheriff's Deputy Steven Lombardi was a reasonable and lawful response under the totality of the circumstances. Therefore, the actions were legally justified and criminal charges against him are neither warranted nor supported by the evidence.

This review conducted within the scope and jurisdiction of the District Attorney is complete and final. The public deserves transparency as to how and why our office reaches a decision in an officer-involved shooting and, as a result, we are now releasing our report and conclusions in their entirety. We are closing our file and will take no further action in this matter.

Allison Haley

Napa County District Attorney

Exhibit 1: .308 caliber semi-automatic rifle used by A. Wong.

Exhibit 2: 12 gauge shotgun used by A. Wong

Exhibit 3: Tactical belt worn by A. Wong

Exhibit 4: The door to the "Group Room" after the officer involved shooting at issue

EXHIBIT 1



EXHIBIT 2



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EXHIBIT 3



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NO NUCLEAR
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EXHIBIT 4



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