

# Report on Independent Investigation of Demouria Hogg Shooting



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## Summary

Demouria Hogg was found unconscious in a car on a freeway offramp around 7:00 a.m. Saturday, June 6. There was a pistol, with an extended clip, on the passenger seat. Witnesses report that 12 to 15 Oakland police officers established complete control of the area for over an hour before Mr. Hogg was shot and taken away. The police knew he was unconscious and not responding to their repeated efforts to rouse him, even after they broke one or more windows in his car, including the window over the seat on which lay the weapon. They have provided no explanation for their failure to retrieve the gun through the broken window or — as an officer from another jurisdiction has suggested — place a shield or other object over it to delay any move towards it the driver was startled when they moved in to extract him. Another option they evidently had was to wait until Mr. Hogg woke up, at which point he may have left the car to see why he could not move it (the wheels were blocked). If he awakened but remained, it appears that they could have then tried either commanding him to get out (as they were doing while he was unconscious) or, if that failed, negotiating with him.

Instead, they delegated a relatively young and inexperienced officer to provide “lethal cover,” while other officers attempted to open a door and physically extract him. The officer who trained a pistol on him fired two shots in rapid succession at close range, fatally wounding him.

OPD obtained video of the incident from a neighborhood business, and, they say, from officers’ body cameras. Neither the videos nor any reports had been released as of the date of this report, three and one-half months later.\*

This document reports the results of an independent investigation by the Community Response Team of the Anti Police-Terror Project (but it is not an APTP document). It is a slightly condensed version of a more detailed report, omitting material that could identify the witnesses with whom we spoke.

## Information Sources

Members of our team interviewed 15 witnesses to the police action; read or watched media reports; listened to publicly-posted recordings of police, sheriff’s, and fire department radio chatter during the operation; analyzed bystanders’ photos and video of the scene; and discussed the case with an officer from another jurisdiction.

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\*The police and other public agencies immediately released a photo of a pistol said to have been found in the car Mr. Hogg was driving, his alleged drug-arrest record and performance on probation (which were unknown to the officers on the scene), and a general claim that “a confrontation” led to the homicide. Two days later an attorney for the unidentified shooter gave the press her version of the events and stated that he had seen body-camera video.

## Detailed Narrative

Sometime around 7:00 a.m., Saturday, June 6, witnesses saw what turned out to be the car Demouria Hogg was in stopped in the far left lane of the Lakeshore Ave. offramp from I-580 West, almost at the bottom of the ramp, i.e., perhaps a car length from the intersection with Lakeshore Avenue. Some recall seeing a left turn signal on. A man was waving traffic around the car and made a call which resulted in a crew from the Oakland Fire Department and an ambulance from Paramedics Plus (“PMP”) arriving. Mr. Hogg was in the driver’s seat, head tilted back, eyes closed. Personnel from these agencies unsuccessfully tried to rouse the driver from outside the car.

OFD called the police because a pistol was on the front passenger seat.

OPD arrived with a very large presence: cars, SUVs, and officers. It is documented that the police knew of the driver’s inability to respond within 20 minutes after their arrival, and they probably knew it right away. They stationed a rifleman with an AR-15 pointed at the car in front of the 76 station’s price-per-gallon sign on the corner, perhaps 50 feet from the vehicle. The officer was behind no cover, i.e., did not appear to fear for his safety. There may have been another officer pointing a rifle, taking cover behind an open car door.

Perimeters were set up on all streets coming into the intersection; the offramp was blocked at some point; and vendors setting up for the farmer’s market on Lakeshore were told to move farther down the block. (Note: video during the shooting shows traffic being allowed to come, and go, all the way down to the side entrance to Trader Joe’s, from the offramp, again showing a relative lack of police concern that Mr. Hogg would awaken and start shooting.) Farmers’ market people describe the police as being very aggressive in ordering them back, and video shows them repeatedly ushering out of the street a man trying to take photos or video. People in the few businesses on Lakeshore that were already open or were getting ready to open were told to stay inside. The explanation was that it was for people’s safety.

The police were on the scene for over an hour before shooting Mr. Hogg. They repeatedly made amplified announcements, aggressively commanding him to leave the car with his hands up, saying they knew he was armed, etc. Dogs were there, with their barking also amplified through the loudspeaker system. Sirens may also have been used.

The police later reported that they fired bean bags at the car in an attempt to break windows and/or rouse Mr. Hogg; witness accounts corroborate this; and radio chatter speaks of deploying “less-lethal” more than once. Eventually, perhaps midway into the encounter, officers approached the front passenger side, with at least one holding a shield while another used a metal implement to smash the window. Some witnesses think both windows on the passenger side were broken, but all who could see agree that the front one was.

This was followed by more amplified commands. A key point here is that time passed, probably at least 10 minutes, maybe significantly more, between the breaking of the window at the seat where the weapon was and the decision to move in and forcibly remove Mr. Hogg. Through all this, he seems not to have moved at all, and the nature of the continuing police actions, along with multiple officer comments on the radio, corroborate that he was not responding.

Reports of what happened at the end pretty much corroborate what Steve Betz, attorney for the officer who fired, told the media. "One person was assigned to lethal cover, one person assigned to a Taser, one person assigned to take the person out of the car and one person assigned to break the window out." Our reports conflict on whether a window on the driver's side was broken, but the best guess is that it was, to enable officers to unlock and open Mr. Hogg's door. They apparently did that. The lethal-cover officer fired two shots in very rapid succession, and Mr. Hogg was also tased. Both gunshots hit him in the left chest. Mr. Betz described the officer who shot as a 28-year-old, with 18 months on the force.

The police kept their perimeter for another five or six hours. Many farmers' market and street vendors and shop owners thought that was unnecessary, unless the police were trying to cover something up. A vendor who had been forced to leave his wares at his sidewalk display across on Lakeshore across from the gas station was able to return to get his stuff with an escort, but he had the impression he was not supposed to look around. During the operations, an officer commanded at least one person who was taking video to turn off his phone. With all of the subsequent investigations said to be taking place (IAD, Homicide, DA, Citizen's Police Review Board), we are aware of a number of witnesses with considerable pertinent information who were contacted only by us.

### Unanswered Questions

Why the police didn't wait the driver out, and call in a skilled negotiator

Why they didn't retrieve the gun through the broken passenger window (if they didn't)

Why they did not place a shield, blanket, or other object over the pistol to delay any attempt by him, if startled awake, to reach for it, so he could be further confused for a moment and immobilized with a Taser (This was suggested as a normal tactic for this type of situation by an officer from another jurisdiction with whom we spoke.)

Why they didn't use tear gas to get him to leave the car

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<sup>1</sup>E.g., <http://www.nbcbayarea.com/news/local/Man-Shot-And-Killed-By-Oakland-Police-IDd-306557381.html>.

Why an inexperienced officer was the one designated to make a split-second decision whether to shoot

Why OPD is “protecting the integrity of the investigation” by withholding camera footage and other information from the public but immediately gave the press its version of the incident and photos of the weapon and showed its videos to the attorney for a subject of interest in the investigation.

## REDACTED NOTES OF WITNESS INTERVIEWS

### Interviews 6/9/15

Witness #1. Runs a business close to the intersection. He was back by the far (?) corner of the CVS building (which is the next building up Lakeshore). He heard a few seconds of loud, argumentative voices (the street was quiet that early), then "pop-pop" in rapid succession. (He repeated this several times; definitely less than a 1-second interval between the pops.)

#### Witness #16

Drove to the intersection about 7:40am. At a Lakeshore light, she was directly across the street from a BMW. She notices on the driver side, it has stops under the tires so it can't go anywhere. Just behind them were 2 police cars, and a policeman in the street. The police are alert, but passive. She didn't see an ambulance.

She pulls into the Trader Joes parking lot. She notices more police cars coming up. After shopping there, things have escalated and there is police tape. She was standing in front of Arizmendi, observing the situation.

The police are on the megaphone and they say "come out of your car with nothing in your hands." She can't see in the car. Shortly after, she hears 2 shots of bean bags at his car. She counts 7 police officers crouching behind their cars, and 2 police come up to the BMW and shatter the passenger side windows with a metal pipe. Then the police drop and go back behind the car. She wonders why they didn't grab the gun on the passenger side. She had a clear view of the car, saw no movement inside it, and is therefore curious about media reports of a "confrontation."

### Interviews 6/13/15

#### Witness #2

Was walking by, saw the guy asleep in the car. Saw what looked like a gun on the passenger seat. His impression was that the car was open, not locked, but can't say why. Kept walking; this is all he saw. Sympathetic: "They should have found another way to handle it."

#### Witness #3.

This person had a better vantage point than most witnesses and was inside the police perimeter.

Black man — height was about 5'9" — wearing a white tee shirt, was directing traffic around the stopped car. An ambulance came up behind. Then a fire truck stopped around the corner. Then many police came, and guy in white tee shirt took off. Doesn't know where he came from, whether he had been in car or not.

Police shouting "get out, get out" for a while. Many police. Then two came over to break windows: woman held a shield while male officer used maybe some kind of a bar to break both passenger-side windows. More shouting to get out, then one brought a dog over, which barked or howled loudly. No response to any of this. Two shots were fired much later. Not from up close — witness indicated a distance of maybe 30 yards.

After shots fired, car tried to back up but a police vehicle blocked it from behind, backed up only about three feet. Man made some vocal sounds — not especially loud — briefly as they pulled him from car.

An investigator took his phone but returned it.

When our interviewer tried to follow up two days after the initial interview, he was uncooperative and frightened, despite great rapport earlier. Something had apparently happened since the interviewer

Timothy Knight and Andrew \_\_\_\_\_

These are not witnesses, but a policy analyst and investigator, respectively, from Oakland's Civilian Police Review Board, whom we encountered in the area two Saturdays in a row, also seeking witnesses.

Witness #4

Was near the intersection when, around 7:15, the car came down the ramp, had its signal on, looked like it would turn left, but stopped by the pole, short of the intersection.

Someone called 911. Ambulance came down ramp; soon after that, OFD from under freeway, stopping at corner. The paramedics were there the whole time. After maybe 15 min.[?] police showed up, driver unresponsive. An officer on Lakeshore, some distance from the car, had an AR-15 pointed at it. Police ordered everyone away at some point so quickly he couldn't pick up his stuff — had them go back by Arizmendi. Taped off sidewalks. He's been in military and recognizes sounds: heard a number of beanbag shots; then two live rounds in rapid succession "pop-pop" [no pause]. Came back around Rand to get his stuff; officer escorted him; witness had the feeling he couldn't look around to see what was happening. Ambulance left without lights or sirens — thinks the man was dead already.

Police didn't open the area up again till maybe 6 hours later — thinks was excessive, that they were manufacturing their narrative.

### **Interviews Saturday 6/13/15**

Witness #5

Was in a local business near the scene and watched through the front window.



An African-American man, dark, short black hair, quite thin, maybe in his 30s-40s, "5'8" to 6' tall" was directing traffic around the gray car. She at first thought maybe he was the driver. An ambulance stopped on the off-ramp behind the car and a fire truck soon arrived on the overpass side of Lakeshore by the corner. Then many police cars came up very quickly from all directions. A woman with a rifle crouched behind an open car door, rifle pointed at the gray car. Doesn't recall seeing a dog.

They made many loud announcements for an extended period of time: "We know you have a weapon. Get out of the car. Come out with your hands up." At some points they made noise by turning their sirens on. She thinks they shot bean bags. Then officers broke out both windows on the passenger side. Then more orders to get out. The driver was still just sprawled out, head back, unresponsive. The witness was struck by their persistence and patience.

Then, with maybe a dozen officers surrounding the car, two shots were fired. Officers pulled a man out. He was placed on a gurney, and the ambulance left without using a siren or lights.

Thinks they could have retrieved the gun, since he was so unresponsive. Also, that if he'd made a truly threatening move, more shots would have been fired.

Officers wouldn't let anyone out of the shop until 4:00 or 4:30, even to get food, "because it was a crime scene."

#### Witness #6

Was with #5, and similar account. Saw officers put blocks under the front wheels. Only aware of a window or windows on driver's side being broken (didn't think passenger side affected), mentioned several officers approaching with shields to do that. Police had two dogs, too. They had the driver's door open, and the woman who fired was positioned at the open door and shot through the opening. [I think she said] the one who fired the Taser was right next to the one who shot. The car jerked forward a bit at one point, [I think she said:] after the Tasing. She noticed a couple of officers in front with hands on the hood as if they thought they could stop it from going forward that way.

Because of the tint to the car windows, she couldn't see what the driver was doing, but clearly he wasn't responding up until the end.

Officers who took their statements were courteous. They wouldn't let her get her own car, which was at the gas station — one retrieved it for her.

#### Witnesses #7 & 8

This couple believes they saw Mr. Hogg one or two weeks before the shooting at an East Oakland gas station, also asleep or passed out in a car. He'd been in an accident. She was concerned about his condition, roused him, made him get up and walk around a bit. He told her he was okay. (They don't know him, but they saw his picture on our flyer.)

**Sat. 6/20**

Witnesses #9 – #11

[See confidential report. Basically consistent with other accounts.]

Witness #12

Farmers market vendor. Around 7:00, someone (thinks medium height, build, light colored clothes) was directing traffic around the stopped car. A police car came and left; a fire truck came and left. Then a bunch of police came and politely told market people to move back, explaining that there were a bunch of guns pointed their way. Many people asked why they didn't point the guns up the hill; "There are two officers up the hill." Some time passed, then they started making announcements over a megaphone: "We know you are in the car. Roll down the windows. Stick your hands out NOW!" Very belligerent. No attempt at reasonable negotiation, just demanding. Then the witness heard two thumps. Then another short megaphone command, again very belligerent. Shortly after that, glass was shattered (heard it, didn't see it, but it looked like they'd broken a window), then two shots, then a lot of activity and they pulled the guy out, took him away on a stretcher. May have heard glass breaking more than once. After the shooting, OPD hung around for the next five hours. "There wasn't a thinking person in the whole episode, because they were pointing guns at us." May have heard glass breaking more than once.

Has seen a gunman talked down elsewhere by a patient negotiator using a reasonable tone, giving assurances that "no one's going to get hurt," etc. Nothing like that happened here, no trying to talk him out, only angry, belligerent demands. Onlookers were joking, "I wouldn't have gotten out of the car, either." "You've got 9 cops with guns pointed out at you and yelling at you, and you were probably just sleeping or passed out or high; that would have scared the crap out of me."

Thinks only 15–20 minutes from first megaphone commands to shots.

Witness #13

Works a stall at the market. 1 to 1.5 hrs. after her 6:00 a.m. arrival, she noticed a car parked on the offramp. Maybe 10–15 minutes later, a lot of cop cars started coming up from all different sides. At first this was uneventful, and she didn't hear or see anything. Thinks two ambulances came up from under the overpass. Maybe 10 minutes after the cops' arrival, they started using their megaphone to say, "We know you have a weapon. Put your hands on the side of the car." He didn't move or respond. She could see "like a blob," enough to know if he moved, but not enough detail to be able to describe him. He did not move during the time she could see. They kept saying it, a little more frequently and "with a little more, like bite." They kept moving the barricade for control of onlookers "back and back and back," and a little while later they came up to the crowd and said they needed to move back into the parking lot under the freeway. [Didn't hear this from other witnesses, but police radio corroborates that they decided to do this.] Moved to a car with a co-worker, and after that point didn't hear or see anything. Her hearing isn't that

good, but others heard gunshots. About 10 minutes later police permitted them to return to their stalls. People were concerned because ambulance left without sirens, but a cop said, "He's gonna be fine."

When they evacuated the people, it was weird, telling people "Go, go, go!"; they frightened the kids. An officer told a regular (not a vendor), who was trying to video it, to turn off his phone.

### **Thurs., 7/30**

#### Witness #14

This witness saw the vehicle from quite close before police arrived, and later retreated to where he could still see and hear much of what was happening. He could not, however, see whether Mr. Hogg ever moved. He saw a man unconscious in his car maybe one car length from the bottom of the left-hand lane of the Lakeshore off-ramp from I-580. The car engine was running. Firefighters and paramedics from the ambulance company tried to open the doors, but they were locked. They tapped on the window but could not rouse the man. He was slumped forward. At some point someone noticed a gun on the passenger seat, with a loaded extended magazine. Everyone withdrew, the witness to a place perhaps 50 yards away.

OPD arrived. During at least the next hour, an officer was frequently repeating commands on a bullhorn, along the lines of, "Turn off your engine, toss the keys out the window, come out with your hands up." There were many approaches to the vehicle by several officers on each side, followed by retreats and seeming to huddle to decide what to do next. There were several unsuccessful attempts to break windows, including firings of bean bags. Finally an officer approached the passenger side with a shield, and another broke the front passenger window, using what looked like a metal tool, then retreated again. The glass may not have shattered completely, but some part was broken out.

Some time after this — "no more than 20 minutes" — three officers approached the driver's side, others on the passenger side. Somehow they opened the driver's door. Within two minutes (some uncertainty here), two to three shots were fired, and an officer immediately waved to the firefighters to come. The man was still in the car, though perhaps leaning out some, and unresponsive. Mr. Hogg was placed on the ground a short time, while it appeared that paramedics worked on him a bit. He was placed on a gurney and taken away by ambulance.

### **Saturday, September 12**

#### Witness #15

This witness also saw the vehicle from quite close before OPD arrived. At that point he retreated to a place where he could still hear most or all of what was happening but could not see much.

Before the police came, the motor in the stopped car was running, and the driver looked very relaxed, hands in his lap towards his thighs, head tilted back. The witness saw a Paramedics Plus ("PMP") ambulance parked in front of Mr. Hogg's vehicle and a fire truck pulled up the

ramp, behind it. A firefighter and a PMP paramedic went to the driver's window. The PMP guy was wearing a large, heavy ring and knocked very loudly on the window, shouting at the guy. Apparently no response. The paramedic said the driver looked as if he may have had a seizure.

Firefighters took a large wheel chock from their truck and put it under a wheel of the car. The witness heard one of them mention that there was a pistol with an extended clip on the passenger seat, along with a bag of what looked like marijuana. Most of the firefighters withdrew, but the one at the window with the paramedic, and the paramedic, just backed off about six feet.

The police arrived and spoke with the firefighter who looked like he was in command, but after this the witness moved to where he could hear everything, see little.

The encounter lasted a very long time. He doesn't recall how long — he would have remembered a lot more details earlier. [He did give a statement to police on the scene soon after the shooting, but no other investigators have contacted him.] The police made many announcements over loudspeakers telling the driver to get out of the car. The sounds of barking dogs were also being amplified.

At some point he heard a couple of pops, not sounding like gunshots, but more like compressed air. He guessed police were firing beanbags, and at some point sounds like this were followed by something rolling into the intersection. More commands over the loudspeaker. At some point he heard sounds that he thought were the police hitting a window with something like a baton. But car windows are hard to break. However, eventually, about halfway into the encounter, he could tell they were using a heavier metal club or something. Doesn't know how many windows were broken. Does recall later seeing the front passenger window, at least, broken. Doesn't recall how much of the window was broken out — but thinks it was probably pretty complete: it would be abnormal for it not to have just completely shattered in small pieces, and he doesn't recall noticing anything different here.

Somewhere in the middle of this, he knew it wasn't going to end well; felt that the guy was going to be shot. (This is a sympathetic witness; the whole thing was pretty disturbing to him. He too wonders why the cops didn't just grab the gun.)

After the sounds of breaking glass, more amplified announcements for quite awhile. Then, evidently, the police moved in: he heard lots of shouting — not through the loudspeaker — as if they were right there shouting at the guy, then two gunshots in rapid succession. The witness moved to where he could see what was happening. Firefighters and the PMP medics came back and went to work on the man right away, as the police dropped back. He was on the ground, but someone was behind him propping him up, because his hands were cuffed behind him. They placed him on a spine board, cut off most of his clothing, and worked on him in other ways, before moving him onto a gurney and taking him to the ambulance, which stayed there briefly, then left.