

QUAIL LODGE AUCTION

Featuring the
Maranello Rosso Collection
August 14-15



Bonhams

59°F San Francisco

Search

Sign In Register

News Sports Business A&E Food Living Travel Columns Cars Jobs Real Estate Find&Save

Expert witness in toy-gun case has history of siding with police

Bob Egelko

Updated 5:17 pm, Friday, July 11, 2014

1 of 20

◀ PREV NEXT ▶



Lurdes Olvera, the godmother of Andy Lopez, sheds tears while holding a sign during a protest July 8, 2014 outside of the Sonoma County Hall of Justice in Santa Rosa, Calif. People gathered to protest D.A. Jill Ravitch to let her know that they are unhappy with the lack of charges in the case involving the death of Andy Lopez last year. Photo: Leah Millis, The Chronicle | [Buy this photo](#)



You Might Also Like



Statistically the Most Dangerous Dog Breeds
Puppy Toob



Here's a great new name for the Washington Redskins Fortune



Bet You Didn't Know These Celebrities Are Really Short
FindTheBest



George Clooney and Katie Holmes' Relationship Status Confirmed
Blinkx

Protesters Outraged After No Charges Filed In...

Citizens protested the District Attorney's decision [SF Bay Area](#) charges against a Sonoma County Sheriff's Deputy who



(07-11) 17:15 PDT SAN FRANCISCO --

Called on to investigate the fatal shooting of a toy-gun carrying 13-year-old boy by a sheriff's deputy, Sonoma County District Attorney [Jill Ravitch](#) chose a consultant she described as "an independent, outside expert on human performance in high-stress encounters, such as officer-involved shootings."

One quality of William Lewinski that Ravitch didn't mention was his reliability to side with police.

Lewinski, whose website describes him as "one

San Francisco Chronicle

On [SFChronicle.com](#)

9 289 4 0

[Tweet](#) [Share](#) [+1](#)

[Larger](#) | [Smaller](#) [Email This](#)

[Printable Version](#) [Font](#)

Related Stories

[Inside the final minutes before Andy Lopez's toy-gun death](#)

[Sonoma County outrage lingers after decision in toy-gun death](#)

[Boy with toy gun said to be high when shot by cop](#)

[No charges for Sonoma County deputy in toy-gun killing](#)

[Ruling on prosecuting Sonoma deputy could spark protests](#)

[No answer yet in killing of boy with toy gun](#)

of the nation's foremost authorities on reaction times and shooting dynamics," divides his time between training police officers, researching their conduct and testifying on their behalf, usually to dispute accusations of wrongful shootings.

Since 1990, he has testified for police in more than 75 cases in the United States and several in Canada and Great Britain. The [Police Firearms Officers Association](#) in Britain honored him in 2009 with its first life-member award for his "commitment to firearms officers in the U.K.," particularly two he helped to exonerate of murder charges.

One courtroom adversary, Pasadena attorney [John C. Burton](#), who has clashed with Lewinski in two police-shooting cases, describes him as "an uncredentialed police expert who will say

whatever they need to justify the situation."

Had to keep firing

In the Sonoma County case, Deputy [Erick Gelhaus](#) shot [Andy Lopez](#) seven times on Oct. 22 as the teenager walked near his Santa Rosa home, carrying a plastic AK-47 rifle, its distinctive orange tip removed by a friend.

In his 14-page report, Lewinski found Gelhaus' explanation supportable "to a high degree of scientific certainty."

The rifle, he wrote, looked like the real thing from a distance, and Gelhaus had good reason to think his life was in danger when the boy started to turn toward him after being told to drop his gun. "From a behavioral science perspective and an action/reaction paradigm," Lewinsky said, Gelhaus couldn't wait until the gun was pointed at him, but had to fire, and keep firing, until the perceived threat was removed.

Lewinski said he reviewed statements by other witnesses, but interviewed only Gelhaus.

Likewise, he interviewed only one person - former BART police Officer [Johannes Mehserle](#) - before testifying at Mehserle's murder trial for fatally shooting unarmed passenger [Oscar Grant](#) on an Oakland transit platform in January 2009.

Brought in as an expert witness on police psychology, Lewinski wasn't allowed to say whether he thought the shooting was justified. But he told the jury in 2010 that factors such as "inattention blindness" and "muscle memory" can cause an officer under stress like Mehserle to mistake his gun for a Taser, carried on the opposite hip, and to perceive that his captive may be armed and dangerous, even though he was lying facedown with another officer kneeling on his shoulder.

The jury acquitted Mehserle of murder and convicted him of involuntary manslaughter.

Weighed against other evidence in the two cases, Lewinski's opinions don't appear to be extreme. While protesters in Sonoma County continue to demand criminal charges against Gelhaus, they haven't come up with evidence to contradict Lewinski's conclusion that the officer thought Andy Lopez was carrying a real gun.

Stacking the deck?

The question that's now being raised is whether Ravitch, the district attorney, was trying to stack the deck with her choice of consultants.



Mission artists struggle to return to building after fire

S.F. Greenagers tidy up parks, reap civic, activism skills

Warriors' Festus Ezeli can't wait to return to the court

California drought: El Niño not likely to bring much rain

Subscriber? It's yours!

Activate for access to SFChronicle.com!

[Activate!](#)

Photo Galleries

Displaying 1-3 of 40



Street style at Paris Haute Couture Fashion Week 2014



Protests over possible eviction of 98-year-old in S.F.



Supermodels, then and now

Most Popular

1. The best worst president ever
2. Actor Dave Legeno dies during hiking trip
3. Comfort foods of every state in America
4. Landlord will not evict 98-year-old woman, after all
5. Yacht where Google exec died for sale — \$345K
6. From Imogen to Asher: Top baby names for 2014 (so far)
7. Comfort foods of every state in America



FROM OUR HOMEPAGE

"He's an opportunist who will say whatever is expedient to get the cop off, so why in the world would any reputable district attorney's office rely on someone like him?" asked Oakland attorney [Michael Haddad](#), who tangled with Lewinski over a 2000 police shooting in Oakland. Haddad is president of the National Police Accountability Project, a group of lawyers who sue police, often with the aid of their own experts.

Ravitch responded to an inquiry by listing Lewinski's academic credentials.

Lewinski didn't respond to requests for comment, but he's replied to similar criticisms in the past, most recently after an office that reviews complaints against police in British Columbia said it would stop using him as an expert consultant. One official said Lewinski's reports seemed biased.

"The science I share in the context of my work is held in the highest regard by top experts in the legal, academic and criminal justice communities worldwide," Lewinski said in an August 2013 e-mail quoted by [CBC News](#).

Pioneered the field

A native of Canada, Lewinski earned a doctorate from Union Institute, taking his courses online. He then pioneered - or, his critics would say, invented - the field of police psychology, founding a research center now called the [Force Science Institute](#) at [Minnesota State University](#) at Mankato, where Lewinski was also a professor for 28 years.

Asked at last month's Mehserle trial about the fees he charges as an expert witness, Lewinski did not give an exact figure, but said the payments include \$475 an hour that goes to the institute.

He regularly testifies that police are justified in opening fire as soon as they perceive a potential threat and can't wait until they see a gun pointed at them. If Gelhaus, in the Santa Rosa case, had waited until Andy Lopez had fully turned toward him, Lewinski wrote, "he could be shot at multiple times before he could respond."

'Shoot-first doctrine'

Lewinski's shoot-first doctrine led to what he described as a major victory in the case of [Anthony Dwain Lee](#), a Hollywood actor who was fatally shot in the back by a Los Angeles police officer at a Halloween party in 2000 after showing up in costume and pulling out a real-looking toy gun. After Lewinski's research on reaction times showed that the officer could have been acting in self-defense, he said on his website, the family's \$100 million suit against the officer and the [Los Angeles Police Department](#) was settled for \$225,000.

But there have also been defeats, like the case of [Willie Wilkins](#), an undercover Oakland police officer shot to death by fellow officers as he tried to arrest a suspect in 2001.

Lewinski, hired as an expert by the city in a damage suit by Wilkins' family, cast doubt on the testimony of other officers who claimed to have heard Wilkins identify himself before he was shot. Stress, he asserted, may have confused them or clouded their memories. Haddad, the family's lawyer, challenged Lewinski at a lengthy deposition and said the witness wound up admitting that his confusion-under-stress theory would apply equally to the officers who fired the fatal shots.

The city settled the suit for \$3.5 million.

Lewinski is "charming," Haddad said in a recent interview, but "his opinions can be pretty flaky."

*Bob Egelko is a San Francisco Chronicle staff writer. E-mail: begeko@sfgate.com
Twitter: [@egelko](#)*



Sale: Yacht where exec died

Big price tag for boat tied to alleged killing by prostitute.



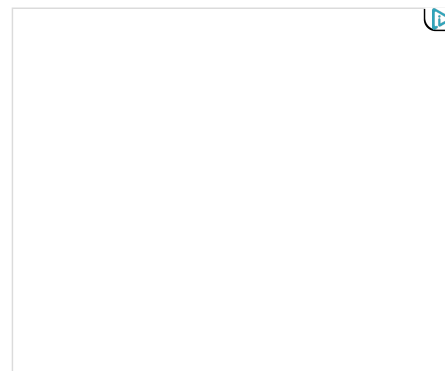
Fave comfort foods, by state

Fifty not-so-gourmet delights, from South Dakota (worst) to California (best).



Hottest baby names

Asher, Imogen, and Isla are among the most popular midway through 2014. [Others](#)



You Might Also Like



10 Slowest-Selling Cars of April
Wall Street Cheat Sheet



9 Money Habits That Can Help You Build Wealth
LearnVest



Teenage Girl Murdered By Her Boyfriend Found With Cement Blocks Tied...



Signs Kim Kardashian's Marriage to Kanye West Is Already Over

From Around the Web

- **10 Short Jokes Anyone Can Remember** (Reader's Digest)
- **Top 10 World Cup WAGs** (Dailymotion)
- **Living Life Full-Throttle After Cancer. See Justin's Story** (Discover Boating)
- **Remembering Jessica Savitch 30 Years After Her Death** (AARP)
- **Acquitted of Murder, Rapper Is Convicted on Weapons Charge** (The New York Times)
- **Lindsay Lohan Forgets to Wear Pants & Offers a Very Revealing View (PHOTO)** (Stirring Daily)

We Recommend

- **Central Washington wildfire grows dramatically** (News)
- **Latin Americans reluctantly rally behind Argentina** (News)
- **Argentine reporter covering WCup killed in Brazil** (News)
- **Man stabbed in restaurant in San Francisco's North Beach** (News)
- **2 older planes that customers won't let fly into oblivion** (Business)
- **Dubai to build world's biggest shopping center** (Business)

Recommended by

(555) Comments

powered by: **viafoura**



Write your comment here

[Record video](#) [Upload video](#) [Upload image](#)

Submit

Follow

Show: 10 | 20 | 50 **Newest** ▼



mcalifornia Rank 246

"D.A. witness an expert in protecting police?"

Were you perhaps thinking that police call a witness to testify against them?

1 hour ago 0 Likes

[Like](#) [Reply](#) [Share](#)



ACP1911 Rank 1288

The cop is completely justified. If you point a gun or have one in your possession and don't drop it upon verbal command. You will be dead. And rightfully so. The kid was stupid. And died because of that. He had zero common sense. You have it or you don't. Oh and don't try the kid kid lived a hard life thing. I grew up with no dad and had plenty of hardship as a kid. Kid was an idiot . And that's that

1 hour ago 0 Likes

[Like](#) [Reply](#) [Share](#)



cabin41 Rank 1735

@ACP1911 your post is cold. And that's that.

36 minutes ago 0 Likes

[Like](#) [Reply](#) [Share](#)



SweetThang Rank 2810

Of course. Sonoma County DA is the biggest invertebrate in the state. She is way too emotional.

1 hour ago 2 Likes

[Like](#) [Reply](#) [Share](#)



qwertybnm Rank 743

Totally bizarre that the DA would rely on a guy whose job it is to say that police shootings are justified to tell her whether to prosecute. Thank you Mr. Egelko for revealing this sickening miscarriage of justice.

1 hour ago 3 Likes

[Like](#) [Reply](#) [Share](#)



doghtr Rank 543

How about that "Justice for all" thing? It was a big pain in the neck, so it's got to go.

2 hours ago 3 Likes

[Like](#) [Reply](#) [Share](#)

R

therichmond Rank 42

SFGate: keeping the story alive for clicks.

3 hours ago 0 Likes

[Like](#) [Reply](#) [Share](#)



SweetThang Rank 2810

@therichmond SFGate thanks you.

1 hour ago 1 Like

[Like](#) [Reply](#) [Share](#)



docholiday Rank 7474

I applaud Bob Egelko for making the effort to expose the dubious merits of this 'expert' witness. It's far too easy in our society for law enforcement officials to exercise excessive force and hop merrily through these Kangaroo Courts of justice. Recall, this was a 13 year old boy walking through a field with a gun that may or may not have appeared to be a real weapon who didn't respond to the initial warning to drop his weapon. And he was shot 7 times and killed. Even if he was high as a kite... » more

3 hours ago (edited) 3 Likes

[Like](#) [Reply](#) [Share](#)



PitBoss Rank 7247

@docholiday "In other words, did they have probable cause to end his life ??"

Yes, they did. Any reasonable police officer placed in exactly the same situation would have thought that someone carrying an AK-47 who refused two commands to drop it and then began to turn to face him was a deadly threat. Only a suicidal person would assume that A: It was a kid, B: that he was carrying a plastic pellet gun, and C: that he was either too stoned or stupid or both to recognize what a pickle he had got... » more

2 hours ago 1 Like

[Like](#) [Reply](#) [Share](#)



hunternomore Rank 1030

Maybe better screening

3 hours ago (edited) 0 Likes

[Like](#) [Reply](#) [Share](#)



motherlover__ Rank 1103

Sad that a cop who pulls his firearm on routine traffic stops, posts on social media about his blood lust and teaches cops on how to justify a shooting (now how to avoid one) is seen as some sort of hero for shooting a kid seven times and then hand cuffing the corpse ...

3 hours ago 5 Likes

[Like](#) [Reply](#) [Share](#)



PitBoss Rank 7247

@motherlover__ Sad that someone who can type more than fifty words with only a single error can nonetheless get everything wrong.

2 hours ago 0 Likes

[Like](#) [Reply](#) [Share](#)

R

therichmond Rank 42

@motherlover__ I don't think anyone sees this guy as a "hero". There are so many attacks on this guy that I think people are overcompensating. The reality is that he encountered a person who had what appeared to be a gun to numerous people and that person failed to respond to THREE different people asking/ordering him to drop the apparent weapon.

1 hour ago 0 Likes

[Like](#) [Reply](#) [Share](#)



mariosavio Rank 882

Everyone should be ashamed to be involved in this case, even all posters who take sides as if this were the World Cup. The DA should be ashamed for using the same expert witness who testified in the Oscar Grant case-- for the defense. The cop who teaches classes on gun safety should be ashamed for putting bullets into somebody's kitchen for no good reason. The 13 year old should have been ashamed for getting kicked out of school and wanting to be a dope smoking gangster, and last but not... » more

4 hours ago 3 Likes

[Like](#) [Reply](#) [Share](#)



motherlover__ Rank 1103

@mariosavio "wanting to be a dope smoking gangster" ? Perhaps YOU need some shame ...

3 hours ago 2 Likes

[Like](#) [Reply](#) [Share](#)



cabin41 Rank 1735

@mariosavio you're the same as every other poster

32 minutes ago 0 Likes

[Like](#) [Reply](#) [Share](#)

SHOW MORE

Inside SFGate

Displaying 1-4 of 12



Mission battle brewing over 'Local' eateries



'Planet of the Apes' depicts blighted S.F.



Morford: The best worst president ever



Charles James gowns to be part of S.F. exhibit



[Home](#) [News](#) [Sports](#) [Business](#) [Entertainment](#) [Food](#) [Living](#) [Travel](#) [Find&Save Local Shopping](#) [Find Bay Area Jobs](#) [Real Estate](#) [Cars](#) [Site Index](#)

Company Info: [Contact Us](#) [SFGate staff](#) [Hearst](#) [Privacy Policy](#) [Your California Privacy Rights](#) [Terms & Conditions](#) [Join our Team](#) [Chron in Education](#) [Events & Promotions](#) [Submissions](#)

Advertising Services: [Advertise with us](#) [Place a Classified](#) [About Our Ads](#) [Public Notices](#) [Local Businesses: Business Directory](#)

Reader Services: [Subscribe Now](#) [Manage Your Subscription](#) [iPad](#) [E-Edition](#) [Mobile Site](#) [RSS](#) [Newsletters](#) [Feedback](#) [FAQ](#) [Corrections](#) [Get Us](#)

