

MIKE BUMCROT CONSULTING

REPORT OF INVESTIGATION

DATE: May 6, 2014

CASE: Riverside Police Department File #P130026517, CPRC# 13-003

SUBJECT: Officer Involved Shooting Death of Lorenzo J. Ciaramella, Which Occurred on February 25, 2013

LOCATION: The Pepper Tree Place Apartments, 7911 Arlington Ave., Riverside

On April 26, 2014, I was asked by Frank Hauptmann, Manager of the Community Police Review Commission, to review the circumstances surrounding the Officer Involved Shooting Death of Lorenzo Ciaramella by Riverside Police Department Patrol Officers Brent Fast and Cory Oakes. I was also asked to provide my expert opinion in a written report on the manner in which the case was investigated by Riverside Police Department Detectives. I reviewed several hundred pages of police reports, photographs, and other documents contained in the presentation by Riverside Police Detectives to the Community Police Review Commission. I also researched legal issues and officer involved shootings involving suspects using an automobile as a weapon. I had earlier responded to the location to canvass the apartment complex for possible witnesses and to better understand the police reports.

It is my conclusion that Officers Oakes and Fast acted in lawful self defense and defense of others at the time each fired his weapon. Both Officers provided a statement to detectives, which were considered as part of my analysis.



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FACTUAL ANALYSIS

At approximately 2049 on February 25, 2013, the Riverside Police Department received a telephone call from a man who stated that, earlier in the day, his sister's automobile had been stolen from the parking lot of the Ross store in Riverside. The informant drove to the store to pick up his sister and transported her home to the Pepper Tree Place Apartments located at 7911 Arlington Ave., Riverside. Upon arrival at the apartment complex, they observed the recently stolen vehicle, drive into the parking lot of the apartments, driven by Lorenzo Ciaramella, who parked in the main parking lot. The informant quickly blocked in the stolen car and demanded to know why Mr. Ciaramella was driving his sister's vehicle. Mr. Ciaramella stated that since he was driving the vehicle, it belonged to him. Ciaramella began attempting to enter several other vehicles parked in the parking lot and then ran into the apartment complex through a pedestrian gate. All of this information was provided to the Riverside Police Department and several patrol officers, in full police uniform, driving marked police cars, responded to the location regarding an auto theft call.

As officers spoke with the auto theft victim, Mr. Ciaramella, having apparently stolen another car from inside the gated area of the complex, appeared at the electronic gate and appeared to ram it in an attempt to escape. Officer Disla ordered Ciaramella to exit the vehicle, but instead, he made a u turn and drove back inside the gated complex. Officer Disla chased Ciaramella on foot and radioed assisting units that he was in pursuit.

Mr. Ciaramella drove completely around the large apartment complex to the only other electronic gate. As the gate opened, two Riverside Police cars blocked Ciaramella's path. Again, Mr. Ciaramella was ordered to exit his vehicle. Instead, Ciaramella placed his vehicle in reverse and sped backwards into the complex at a speed ranged by both police officers and civilian witnesses at 30-50 MPH, in complete disregard for the safety of everyone inside the gated apartments. Mr. Ciaramella raced backwards the entire



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length of the complex and as the electronic gate opened, police vehicles, as well as civilian vehicles quickly boxed him in.

Officer Oakes, who had driven his police car completely through the complex in pursuit of Ciaramella, suddenly found himself stopped, facing head on with Ciaramella. Officer Oakes also observed several officers approaching Ciaramella's vehicle on foot. Suddenly the stolen vehicle's engine revved and sped towards Officer Oakes' police vehicle. Fearing for his life, Officer Oakes fired from a seated position, at Ciaramella, as the vehicles collided. The suspect's vehicle struck the driver's door of Officer Oakes police car, trapping Officer Oakes inside of his unit.

Officer Fast, who was one of the officers approaching Ciaramella on foot, saw the stolen vehicle suddenly accelerate towards Officer Oakes police car. He would later tell detectives that he knew Officer Oakes and his partner, Officer Wilder, had not gotten out of their vehicle, and he 'feared for their safety' and fired 3 shots through the right, front door of Ciaramella's vehicle. He also told detectives that the collision into the driver's door of the police car was an "intentional act".

Mr. Ciaramella was struck by gunfire, removed from the stolen vehicle, and transported to the hospital where he died. Crime scene photographs reveal considerable collision damage to the stolen vehicle driven by Ciaramella including the front bumper hanging off and the left, front tire being flat. The police car had damage to the driver's door.

EVIDENCE

Charting of Officer Oakes' pistol revealed that he fired a total of 8 gunshots. Charting of Officer Fast's pistol revealed that he fired a total of 5 gunshots. Recovered in Ciaramella's hand, as well as within the stolen vehicle, were shaved keys, used by car thieves to steal motor vehicles.



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EXPERT QUALIFICATIONS

I was employed as a peace officer for the Los Angeles Sheriff's Department for 34 years. I worked as a jail deputy, 18 months as a patrol officer, and four years assigned to the Special Enforcement Bureau (SWAT team). My last 27 years on the department, I was assigned to the Detective Division, including over 22 years assigned to the Homicide Bureau. I investigated over 450 homicides and suspicious deaths and over 100 Officer Involved Shootings, including the murders of ten police officers.

In 1994, I assisted in writing the LASD Homicide Bureau Investigative Manual. I was also selected to be a member of the Joint LASD/LAPD Crime Lab Development Committee as well as the JET Committee to develop Homicide Bureau job standards and selection criteria. In 1995, I was selected as California's Deputy Sheriff of the Year by the California Organization of Police and Sheriffs (COPS) for the investigation, arrest, and conviction of a suspect in the murders of two local policemen.

For over 15 years, I have taught "High Profile Murder Investigations", "Homicide Scene Management", and Officer Involved Shooting Investigations" for the Robert Presley Institute of Criminal Investigation, police academies, advanced training classes, supervisor training, college classes, Homicide School, and in-service training. I am currently on staff with the Police Policy Studies Council where I teach and consult nationally on officer involved shooting, homicide, and suspicious death investigations. I am currently the investigator for the Riverside Police Review Commission. Although I retired from LASD in 2002, I was immediately signed to a contract to train newly assigned homicide detectives. In 2006, I was also assigned to the LASD Cold Case team where I have reviewed over one thousand unsolved murders and specifically work the unsolved DNA and latent print cases.



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INVESTIGATION AND REVIEW

The investigation into the Officer Involved Shooting Death of Lorenzo Ciaramella was conducted by the Riverside Police Department and the Riverside County District Attorney's Office. I reviewed all the reports submitted to the Community Police Review Commission and researched deadly force legal issues as well as cases where a vehicle was used as a weapon to instigate an officer involved shooting. The District Attorney found there was no criminal liability.

LEGAL ANALYSIS

California law permits the use of deadly force in self-defense or in the defense of others if it reasonably appears to the person claiming the right of self-defense or the defense of others that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code Section 197; People v. Randle (2005) 35 Cal.4th 987, 994; People v Humphrey (1996) 13 Cal.4th 1073, 1082; California Criminal Jury Instructions (CALCRIM) No. 505.

In protecting himself or another, a person may use all 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 the person's beliefs were reasonable, the danger does not need to have actually existed.

"When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." People v. Collins (1961) 189 Cal.App.2nd 575-589.



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“The reasonableness of a particular use of force must be judged from a perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight... The calculus of reasonableness must embody allowance 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”.
Graham v. Conner (1989) 490 U.S. 386, 396, 397.

The test for whether an officer’s actions were objectively reasonable is “highly deferential to the police officer’s need to protect himself and others”. Munoz v. City of Union City 16 Cal.Rptr 3d 521, 540 (Ct. App.1st Dist. 2004)

CONCLUSION

The evidence examined in this investigation suggests that Mr. Ciaramella was a prolific car thief. He drove a stolen car to the Pepper Tree Apartments, and when confronted by the victim of his most recent car theft, his reaction was to attempt to steal yet another car, by producing multiple “shaved car keys”, and trying to start several cars that were parked at the location.

After successfully stealing another vehicle, Mr. Ciaramella sped through the very large apartment complex with no regards to the residents in the area. He was in complete control of the situation from the time he arrived at the location until the shooting incident. When confronted by the car theft victim, Mr. Ciaramella could have run from the scene but it was his decision to steal another vehicle. When Riverside Police Officers arrived at the scene, he was ordered out of his vehicle. His response to these lawful commands was to speed backwards, at speeds estimated to be between 30 -50 MPH, until he was blocked by both civilian and police cars. Once again, Mr. Ciaramella was ordered to show his hands and exit his vehicle. Once again, his response was to ignore these lawful commands and his decision was to accelerate his vehicle and intentionally strike an occupied police vehicle in an obvious attempt to injure Officer Oakes.



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I find that the actions of Mr. Ciaramella, the evidence recovered at the scene, and the statements of civilian witnesses, as well as all Riverside Police Officers at the scene, suggests that Officer Oakes had a reasonable fear of imminent death or serious bodily injury and Officer Fast reasonably feared for Officer Oakes safety and both believed Mr. Ciaramella posed a lethal threat and their response with deadly force was justified.

I also find that the investigation into the Officer Involved Shooting Death of Lorenzo Ciaramella was completed in a fair and impartial manner and met or exceeded POST standards of practice.



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