

INTEROFFICE MEMORANDUM



DATE: April 18, 2013
PHONE: (760) 243-8639
FROM: Suzanne Patton, DDA
Victorville Office
TO: Gary Roth, Assistant Deputy District Attorney
Mary Ashley, Chief Deputy District Attorney

SUBJECT: Fatal Officer Involved Shooting
Officers Involved: Deputy Kent Watson, Deputy Jonathan Andersen
San Bernardino County Sheriff's Department
Decedent: Alexander Maurice Calamaco (DOB 11/01/73)
Tracy Street, Victorville CA
Incident Date: October 15, 2011 at 0747 hrs
Case Agent: Detective Robert Warrick
San Bernardino County Sheriff's Department
Special Investigations: DR# 171113043
Location of Incident: 12297 San Dimas Street
Victorville, CA 92301

Summary

The following statement of facts is derived from interviews of the involved parties, belt recordings, call logs, photographs and other information and evidence as gathered by the San Bernardino County Sheriff's Specialized Investigation Division, Homicide Unit, during the course of their investigation.

Alexander Calamanco and Witness 1 had been involved in a relationship on and off for approximately 15 years. They had been married for 3 years and had a four year-old child together. Witness 1 described Calamanco as controlling during periods of their relationship and reported he had become increasingly violent and possessive.

On October 15, 2011, Witness 1 was staying with her parents because she and Calamaco were having domestic issues. Witness 1 told detectives that she had had been staying with friends and relatives for two days because of Calamanco's recent abusive behavior. Witness 1 stated that on October 12, 2011, Calamanco was jealous over an incident and handcuffed Witness 1 to a fixture on a wall so he could question her. While she was handcuffed, Calamanco tried to cut Witness 1's hair off with clippers. When the clippers did not work Calamanco retrieved scissors and cut Witness 1's hair with them. Witness 1 said during that time Calamanco punched and slapped her. Witness 1 left for work the next day and did not want to return home to Calamanco. Witness 2, also told detectives she had received some disturbing text messages from Calamanco regarding his plans to "cage" Witness 1 in "the dungeon," "give her an involuntary haircut" and "put her on lockdown." Detectives copied those text messages which were sent on or about October 8, 2011. Additional witnesses described incidents involving Calamanco's controlling and abusive behavior towards Witness 1 which are also part of the reports.

On October 15, 2011, at around 7:15 a.m., Calamanco arrived at Witness 1's parents' house to see Witness 1 and his daughter. Witness 4, Calamaco's father-in-law allowed Calamaco to come inside the house and Witness 3, Calamaco's mother-in-law, told Calamaco she would go and wake Witness 1 who was asleep in the room with her daughter. Shortly thereafter, Calamaco went into the bedroom where Witness 1 and her daughter had been sleeping and began talking with Witness 1. Witness 1 told detectives that Calamanco told her that she was coming home with him and that she better not leave him. He grabbed Witness 1's hand and placed it under his coat on his left side where she could feel he had a gun.

As Calamaco and Witness 1 continued talking Witness 1 became increasingly afraid of Calamanco and wanted to get him out of the house. She told Calamanco to go outside with her so she could smoke and they walked to the backyard. Before she walked outside, Witness 1 told her mother, Witness 3, that Calamaco had a gun and to call the police. After Witness 1 told Witness 3 about the gun, Witness 3 went into her garage and found that her other daughter, Witness 5, was already in the garage with her child because she was afraid of Calamaco. Witness 3 called the police and advised that Calamaco was there creating a disturbance and was armed with a gun.

Call history logs show a 9-1-1 hang up call was received by dispatch at 0728 hours and that a follow up call was made at 0735 hours at which time Witness 3 reported the disturbance with Calamaco.

Deputy Kent Watson and Deputy Jonathan Andersen both arrived at the location in separate patrol cars at 0744 hours. Deputy Andersen activated his belt recorder when he arrived and the incident was captured on audiotape.

The deputies went to the front door and spoke to Witness 4, Witness 1's father. Witness 4 told the deputies Calamaco was in the backyard with his daughter Witness 1 and they were arguing. Witness 4 warned the deputies Calamaco had a "short trigger,"

that he was armed with a gun and that the deputies should “be careful.” Witness 4 suggested that the deputies enter the back yard through the side yard gate which was unlocked.

Watson and Andersen were cautious in their approach to the backyard based on the information they had received. They entered the back through the side gate as suggested by Witness 4 and saw Calamaco and Witness 1 on the far side of a kidney shaped swimming pool. Calamaco had his back to the deputies and was between the rear block wall of the backyard and the pool. Witness 1 said in her interview that she was standing near Calamaco and could see the deputies arriving but did not alert Calamaco that the deputies were there. Calamaco was telling Witness 1 that he would shoot the first person he saw and he would even shoot Witness 1’s parents. He also dared Witness 1 to call the police saying he would not go without a fight and they (the police) would take him out dead. Calamaco had started unbuttoning his shirt to expose the gun he had and told Witness 1 he would use the gun.

Deputy Watson positioned himself at the northeast edge of the pool while Deputy Andersen went to the southeast edge of the pool. Calamaco and Witness 1 were on the other side of the pool at that time. Deputy Andersen said as he and Deputy Watson approached they could hear Calamaco and Witness 1 talking but not arguing. Deputy Andersen said he could see Calamaco before Calamaco saw him, but when Calamaco did spot the deputies, Calamaco looked as though he was trying to decide what to do and turned to his right while reaching into his clothing for something. Calamaco did not follow the deputies’ commands to put his hands up and continued reaching into his clothing. Deputy Andersen feared Calamaco was reaching for a weapon and Deputy Andersen began to fire his weapon at Calamaco. Deputy Andersen saw Witness 1 running towards the house away from Calamaco prior to Deputy Andersen firing his weapon. As Deputy Andersen began to fire, he said he could see the gun Calamaco had reached for in Calamaco’s hand.

In Deputy Watson’s interview, he said as he approached the backyard area with Deputy Andersen, he had drawn his weapon which he was holding down at his side near his leg. Deputy Watson said he and Deputy Andersen were initially not seen by Calamaco but when Calamaco turned and saw them he looked surprised and began reaching under his clothing. Deputy Watson said Calamaco did not comply with their commands and he saw Calamaco reach under his jacket and pull out a gun, pointing it towards him and Deputy Andersen. At that time, Deputy Watson said he immediately fired his weapon at Calamaco and saw Calamaco fall and drop the gun he was holding.

In Witness 1’s interview she said when the deputies arrived she heard one of them call out to Calamaco. Calamaco turned and said, “What the fuck?” Calamaco then began reaching into his jacket for his gun. Witness 1 ran from Calamaco towards the house and said she yelled, “He has a gun.” At that time Witness 1 did not see that the deputies had their guns drawn. Witness 1 said Calamaco said, “No, I don’t,” as he reached for the gun he had under his jacket. Witness 1 heard the deputies tell

Calamanco to put his hands up as she ran and then heard the shots being fired. Witness 1 told investigators Deputies Andersen and Watson “did what they had to do” and that they “had to shoot [Calamanco]” because she had no doubt Calamanco was going to use his gun.

In addition to the witness statements Deputy Andersen’s belt recording captured the incident. From the belt recording, one of the deputies can be heard yelling out to Calamaco and then Witness 1 can be heard yelling, “He has a-“ which is when she stated she began running from Calamanco. Deputy Andersen yelled twice for Calamaco to put his hands up. Deputy Watson yelled a command as well. Multiple rounds are heard being fired by the deputies.

The investigation revealed deputies fired a total of 10 rounds. Calamaco was struck in the head and body and fell to the ground. As he fell, he dropped a Llama .32 semi-automatic handgun. There was one round in the chamber of the gun and seven rounds loaded in the magazine which dropped near the gun. Calamanco was pronounced dead at the scene.

Other Relevant Information

An autopsy was performed on October 18, 2011. The coroner determined Calamanco died as a result of multiple gunshot wounds to the head and torso. The Autopsy Protocol indicates Calamanco was wearing a gun holster positioned on his left side under his jacket. Blood samples were taken from Calamanco at the time of autopsy. The blood analysis revealed Calamanco had amphetamine and methamphetamine in his system at the time of his death.

Applicable Legal Standards

Use of Reasonable Force

Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to affect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance. (*Penal Code Section 835a*).

If a person has knowledge, or by the exercise of reasonable care, should have knowledge, that he is being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest. (*Penal Code Section 834a*)

Self-Defense

It is lawful for a person who is being assaulted to defend himself from attack if he reasonably believed that he or someone else was in imminent danger of suffering bodily injury, he reasonably believed that the immediate use of force was necessary to defend against that danger, and he used no more force than was reasonably necessary to defend against that danger. (*Penal Code Sections 692, 693 and 694; People v. Myers (1998) 61 Cal.App.4th 328; CALCRIM 3470*).

Use of Deadly Force

A killing is justified when a peace officer has probable cause to believe that the decedent posed a threat of death or great bodily injury to the officer or another. A person has probable cause to believe that someone poses a threat of death or great bodily injury when facts known to the person would persuade someone of reasonable caution that the other person is going to cause death or great bodily injury to another. (*Penal Code Sections 197-199; People v. Humphrey (1996) 13 Cal.4th 1073; CALCRIM 507*).

Retreat Not Required

A person is not required to retreat. He is entitled to stand his ground and defend himself and, if reasonably necessary, to pursue and assailant until the danger of death/bodily injury has passed. This is so even if safety could have been achieved by retreating. (*People v. Hughes (1951) 107 Cal.App.2d 487; CALCRIM 3470*).

Analysis

Deputies Watson and Andersen were investigating a potential domestic violence situation and were told that Calamanco was armed. They proceeded with caution into the backyard where Calamanco was with Witness 1. Because they had been told Calamanco was armed, Deputy Watson already had his duty weapons drawn. As soon as Calamanco realized deputies were nearby he reached for his weapon. The deputies saw Calamanco reaching into his shirt and the deputies yelled at Calamanco to show his hands several times. Calamanco continued reaching into his shirt, grabbed his gun and began to pull it out. The deputies felt they were in imminent danger of Calamanco shooting them or others and the deputies fired their weapons at Calamanco striking him several times.

Conclusion

As to the shooting by Deputy Jonathan Andersen, it was a justifiable use of force in self-defense and in defense of others, and no criminal liability results therefrom. His right to act as he did in self-defense and defense of others is corroborated by independent witnesses.

As to the shooting by Deputy Kent Watson, it was a justifiable use of force in self-defense and in defense of others, and no criminal liability results therefrom. His right to act as he did in self-defense and defense of others is corroborated by independent witnesses.

Suzanne K. Patton
Deputy District Attorney
Victorville Office

Date

Mary Ashley
Chief Deputy District Attorney
Victorville Office

Date

Gary Roth
Assistant District Attorney
Criminal Operations

Date