



Sacramento County District Attorney's Office

ANNE MARIE SCHUBERT
District Attorney

Stephen J. Grippi
Chief Deputy

Michael A. Neves
Assistant District Attorney

March 29, 2016

Sheriff Scott Jones
Sacramento County Sheriff's Department
711 G Street
Sacramento, CA 95814

Chief Michael Goold
Rancho Cordova Police Department
2897 Kilgore Road
Rancho Cordova, CA 95670

RE: Officer-Involved Shooting: Case No. SSD/RCPD-15-0086849
 Shooting Officer: Deputy Marcos Camacho #538
 Person Shot: Arthur Mirzoyan (DOB 7/19/67)

Dear Sheriff Jones and Chief Goold:

The District Attorney's Office has completed an independent review of the above-referenced officer-involved shooting. Issues of civil liability, tactics, and departmental policies and procedures were not considered. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Arthur Mirzoyan. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other items, including: Sacramento County Sheriff/Rancho Cordova Police Department report number 2015-0086849; 911 recordings; dispatch logs; radio traffic recordings; witness interview recordings; scene video, diagram, and photographs; Sacramento County District Attorney Criminal Investigative and Laboratory of Forensic Services reports; and private investigator witness interview reports.

FACTUAL SUMMARY

On April 10, 2015, at 11:45 p.m., Catia Segura called 911. She reported that her boyfriend's father, Arthur Mirzoyan, was on medication, "very drunk," had a "psychology problem," and was "physically trying to fight his son" inside their residence located at 9905 Zion Way. She requested that her call be anonymous. She stated that she was outside of the residence with Mirzoyan's wife. She said that his wife was scared and requesting psychological help, not the

police. The dispatcher informed Ms. Segura that she had to send police officers first because Mirzoyan was trying to fight his son.

Sacramento Sheriff's Department Deputies Carlos Cabrera and Marcos Camacho, working for the Rancho Cordova Police Department, responded to the call. They were both driving marked police cars and dressed in full Rancho Cordova Police Department uniforms. They pulled up to the residence almost simultaneously. Several of Mirzoyan's family members were outside in front of the house waving them down. The family looked terrified and frantic. Immediately upon their arrival, the deputies tried to determine whether anyone was hurt and what was occurring inside the residence. Deputy Cabrera heard the family members say, "Don't shoot him! Don't shoot him!"

As the deputies attempted to obtain information from the family on the sidewalk and the street just east of the house, one of Mirzoyan's adult sons ran out of the residence and toward the deputies. Mirzoyan then came outside and stood at the top of the driveway near the front door. He was visibly agitated. He began yelling at his family in a language the deputies did not understand. Deputy Cabrera told Mirzoyan to calm down. He told Mirzoyan that the deputies were there to help him and were not there to hurt him. Deputy Camacho saw a shiny metal object in Mirzoyan's hand. Believing it was a knife, he drew his firearm. He directed Mirzoyan to "put it down" and to "come here." Mirzoyan did not comply with Deputy Camacho's commands. He ignored the deputies and continued to yell at his family. Mirzoyan raised the object up as if to throw it at his family, but then went back inside the residence.

Mirzoyan's family told Deputy Cabrera that Mirzoyan had mental issues and was drunk. They told Deputy Camacho that Mirzoyan is violent, but that it generally manifested in him throwing and breaking things. They indicated that Mirzoyan needed help and that, although they did not believe he would hurt her, a woman they referred to as their grandmother was still in the house.

Mirzoyan came back outside and again stood near the front door at the top of the driveway. He continued yelling and screaming. Deputy Cabrera instructed him to calm down. Mirzoyan did not comply. Mirzoyan was extremely agitated and paced back and forth on the driveway. He raised his hand up as if to throw something at the deputies, then put his hand back down. He walked aggressively down the driveway towards the deputies. Deputy Camacho ordered Mirzoyan to stop, but Mirzoyan did not comply. Based upon his aggressive approach, Deputy Cabrera believed Mirzoyan wanted to fight. Deputy Cabrera pulled his Taser from its holster. Mirzoyan stopped at the sidewalk, approximately ten to fifteen feet from the deputies. The deputies could clearly see that Mirzoyan was armed with two knives, one in each hand.

Deputy Cabrera repeatedly commanded Mirzoyan to drop the knives. Mirzoyan ignored the commands and yelled at the deputies. He repeatedly brandished the knives in a threatening manner by motioning as if he was going to throw a knife at them. Deputy Cabrera did not believe he could safely detain Mirzoyan with his bare hands, so he pointed his Taser at Mirzoyan. Mirzoyan turned around and began to walk towards the residence. Although the family members told him they did not believe Mirzoyan would hurt the grandmother, Deputy Cabrera was concerned for the grandmother's safety because the family also stated that Mirzoyan had mental problems and was drunk. Moreover, Deputy Cabrera observed firsthand

Mirzoyan's aggressive, erratic, and threatening behavior. As a result, Deputy Cabrera fired his Taser at Mirzoyan, striking him in the back.

Mirzoyan withstood the Taser's effect, and turned around. He was extremely agitated. He focused on Deputy Cabrera and raised one of his knives over his head. Mirzoyan's family was standing near Deputy Cabrera. Deputy Camacho commanded Mirzoyan to put the knife down, but Mirzoyan did not comply. Mirzoyan threw the knife at Deputy Cabrera, striking him in the leg. Deputy Camacho believed that Mirzoyan threw the knife at Deputy Cabrera as hard as he could. Deputy Cabrera backpedaled away from Mirzoyan. Deputy Camacho believed Mirzoyan was going to kill Deputy Cabrera with the knife. He was also concerned that Mirzoyan could kill him or the family, who were standing near Deputy Cabrera. As Mirzoyan continued towards Deputy Cabrera and raised his other knife over his head,¹ Deputy Camacho shot Mirzoyan with his handgun, striking Mirzoyan in the chest and abdomen.² Mirzoyan bent over, went down to the ground, and dropped his other knife.

Deputy Camacho holstered his firearm and kicked the knife away. The deputies then administered first aid and applied pressure to Mirzoyan's gunshot wounds until paramedics arrived. Deputy Cabrera's leg was uninjured; however, the knife cut his pant leg.

Deputy Jesus Arambula responded to the scene following the shooting. He saw Mirzoyan's family standing very close to Deputies Cabrera and Camacho. The family was screaming at the deputies as they rendered first aid to Mirzoyan. Deputy Arambula was able to move the distraught family members away from the deputies.

Additional deputies arrived and contacted Mirzoyan's family members. The family was initially resistant and uncooperative. They refused to provide identification. Deputy Arambula spoke to Mirzoyan's son, Hayk Mirzoyan, who identified himself solely as "Sam." He told Deputy Arambula that his father had been drinking and they got into an argument. He said that Mirzoyan had a knife in his hand when the deputies arrived. He told them not to shoot Mirzoyan. He explained that Mirzoyan told the deputies not to shine their flashlights in his face, but he did not know if the deputies understood because Mirzoyan did not speak English very well. He summarized the events by telling Deputy Arambula that the deputies instructed

¹ Deputy Cabrera described that Mirzoyan was approximately five feet away from him when Deputy Camacho fired. Deputy Camacho said he thought Mirzoyan was approximately twenty feet away from Deputy Cabrera when he fired. Deputy Camacho had in mind at that moment from his training the particular dangers that exist dealing with a subject armed with a knife at a distance of twenty-one feet or less. Sometimes called the "Tueller Rule" because its origin is based on the research of Sgt. Dennis Tueller of the Salt Lake City Police Department, various law enforcement research and training resources demonstrate that, from a standing start, a subject with an edged weapon can cover a distance of twenty-one feet or less to an officer (or indeed any person) in less than two seconds.

² Deputies Camacho and Cabrera initially thought that Deputy Camacho fired three shots. However, an examination of Deputy Camacho's handgun after the shooting indicated only two rounds had been expended. Moreover, two casings were located at the scene. Mirzoyan suffered three apparent gunshot wounds, one to his chest and two to his abdomen. Considering all of the evidence, it appears that Deputy Camacho shot Mirzoyan two times, resulting in a chest-wound and a through-and-through abdomen wound (totaling three wounds).

Mirzoyan to drop the knife, tased him, and then shot him. In his opinion, the responding officers should have shot his father in the leg because he was only armed with a knife and not a gun. Mirzoyan was transported to U.C. Davis Medical Center. He survived his wounds.³

As Deputy Arambula stood by with family members pending the arrival of detectives, Hayk Mirzoyan told Deputy Arambula that he would not provide a statement to detectives. He did say that it would have been understandable had Mirzoyan been shot in the leg, but not in his heart.

Deputy Colin Mooney also arrived on-scene following the shooting. Mirzoyan's wife, Anna Mirzoyan, told Deputy Mooney that Mirzoyan is a sick person who has medical problems and a "psychology problem." She stated he had been drinking and became aggressive. She stated she was outside of the house with some of her family members when the deputies arrived. She said they told the police not to shoot Mirzoyan and that Mirzoyan became angry when the police shined their lights on him. She stated that Mirzoyan had something in his hand, although she did not know what it was. She demonstrated by holding her right arm out, bent at the elbow, with her right forearm and hand straight up with her hand held as though she was holding a cylindrical shaped object. She made two stabbing or throwing motions. She said the officers shot Mirzoyan three to four times, and asked why they did not shoot him in the leg.

On April 16, 2015, in the Sacramento County Superior Court, Mirzoyan was charged with felony assault with a deadly weapon upon Deputy Cabrera, a peace officer engaged in the lawful performance of his duties. Almost three months later, Anna Mirzoyan and her two sons provided statements inconsistent with those they made on the day of the offense. They told Mirzoyan's private investigator that they called 911 because their father was having medical problems. However, the 911 call recording confirms that Ms. Segura called 911 from outside the residence because Mirzoyan was "very drunk," he had a "psychology problem," his wife was scared, and he was "physically trying to fight his son."

The family members' subsequent statements to Mirzoyan's investigator also portrayed Mirzoyan's knife throw as an involuntary physical reaction to the effects of the Taser. Mirzoyan's wife stated that when Deputy Cabrera struck Mirzoyan with the Taser, he started shaking and "then the knife flew." She added, "The knife flew while he was shaking from being tasered." His son, Hayk Mirzoyan, said that when the deputy struck Mirzoyan with the Taser, Mirzoyan turned around and the knife in his left hand fell to the ground, "and the other knife landed about thirty feet to the east after the Taser hit him." He claimed the knife did not hit Deputy Cabrera. His other son, Vardan Mirzoyan, said his father came out of the house with knives in each hand. He said the deputies yelled at Mirzoyan to drop them, but that Mirzoyan did not understand the deputies' commands. He stated he believed the Taser struck his father in the chest. He said Mirzoyan "reached up to grab the Taser and the knife in his left hand dropped and he seemed to start to have a seizure and that is when the knife flew from his other hand."

³ No alcohol was detected in a sample of his blood drawn at the hospital; however, that sample was not drawn until seven and a half hours after he arrived. During that amount of time, an average person could eliminate an alcohol level twice the legal limit for operating a motor vehicle.

On September 24, 2015, Mirzoyan pled guilty to the felony assault with a knife on Deputy Cabrera. He was placed on five years formal probation and ordered to serve 364 days in county jail.

LEGAL ANALYSIS

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. Additionally, an officer who has reasonable cause to believe a person has committed a public offense or is a danger to others may use reasonable force to affect arrest or detention, to prevent escape, or to overcome resistance. (*Tennessee v. Garner* (1985) 471 U.S. 1; *Graham v. Connor* (1989) 490 U.S. 386; *Kortum v. Alkire* (1977) 69 Cal.App. 3d 325; California Penal Code Section 835a; CALCRIM 2670.) A peace officer may detain a person where reasonable cause exists to believe that the person has a deadly weapon in violation of any provision of law relating to deadly weapons. (California Penal Code Section 833.5.) An officer who attempts to arrest or detain a person need not retreat or desist from his efforts by reasons of the resistance or threatened resistance of the person; nor shall the officer be deemed an aggressor or lose the right to self-defense by use of reasonable force. (California Penal Code section 835a.) Police may use some degree of physical coercion or threat thereof to accomplish an arrest. The force used must be objectively reasonable, considering such issues as the severity of the crime, whether the suspect posed an immediate threat to police or others, and whether the suspect actively resisted arrest or attempted flight. (*Graham v. Connor* (1989) 490 U.S. 386.) The reasonableness inquiry takes into account those facts known to the officer at the moment he or she uses deadly force to apprehend a fleeing suspect. (*Ford v. Childers* (7th Cir. 1988) 855 F.2d 1271, 1275; *Sherrod v. Berry* (7th Cir. 1988) 856 F.2d 802, 804.)

The person being detained or arrested may be subjected to such restraint as is reasonably necessary for his arrest and detention and has a concomitant duty to permit himself to be detained. (*People v. Allen* (1980) 109 Cal.App.3d 981, 985; CALCRIM 2670, 2671, 2672.) The rule “requires that the officer’s lawful conduct be established as an objective fact; it does not establish any requirement with respect to the defendant’s mens rea.” (*People v. Jenkins* (2000) 22 Cal.4th 900, 1020.)

California law permits the use of deadly force if the officer actually and reasonably believed he was in imminent danger of death or great bodily injury. (CALCRIM 3470.) An officer who uses deadly force must actually believe that force is necessary. The appearance of danger is all that is necessary; actual danger is not. (*People v. Toledo* (1948) 85 Cal.App.2d 577; *People v. Jackson* (1965) 233 Cal.App.2d 639.) Thus, the officer may employ all force reasonably believed necessary. (CALCRIM 3470.) The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with 20/20 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. Connor* (1989) 490 U.S. 386.)

Here, Deputy Cabrera was lawfully engaged in the performance of his duties when he attempted to detain Mirzoyan, who was brandishing a deadly weapon. He applied an objectively

reasonable level of force in using his Taser, given that Mirzoyan was armed with knives and acting in an aggressive and threatening manner. Mirzoyan had a duty to comply with the detention. He instead threw a knife at Deputy Cabrera, striking him in the leg. When Mirzoyan raised the second knife over his head, Deputy Camacho actually and reasonably believed Deputy Cabrera was in imminent danger of death or great bodily injury. He likewise believed that there was an immediate threat to himself and Mirzoyan's family based upon where they were standing. Accordingly, Deputy Camacho fired his weapon at Mirzoyan to prevent Mirzoyan from seriously injuring or killing Deputy Cabrera, Mirzoyan's family, or himself.

Mirzoyan's family members' statements to the contrary are not persuasive. On the night of the shooting, none of them stated that the knife unintentionally "flew" from Mirzoyan's hand as a result of being tased. Those statements were not made until after criminal charges were filed against Mirzoyan for throwing the knife at Deputy Cabrera. Moreover, the family's statements to the private investigator also inaccurately portrayed Mirzoyan's conduct leading up to Ms. Segura's 911 call. They claimed that the 911 call was made because Mirzoyan was having medical problems inside the residence. However, it is clear from the 911 recording that Mirzoyan's wife was outside with Ms. Segura "because she [was] scared," and that the 911 call was made to seek psychological help because Mirzoyan was "very drunk and "physically trying to fight his son."

CONCLUSION

Deputy Camacho was justified in shooting Mirzoyan in defense of Deputy Cabrera, Mirzoyan's family, and himself. Under the circumstances, his conduct was reasonable. Accordingly, we find the shooting to be lawful and will take no further action in this matter.

cc: Detective Chris Baker #324
Deputy Marcos Camacho #538
Rick Braziel, Office of Inspector General