



Sacramento County District Attorney's Office

THIEN HO
District Attorney

DATE: June 26, 2024

TO: Sheriff Jim Cooper
Sacramento County Sheriff's Office
4500 Auburn Boulevard
Sacramento, CA 95841

FROM: Sacramento County District Attorney's Office

SUBJECT: Officer-Involved Shooting Case No. SSO-22-310918

Shooting Officers: Sacramento Sheriff Deputy Brian Bell #867
Sacramento Sheriff Deputy Alexander Spencer #984

Person Shot: Vincent Martinez (D.O.B. 5-1-1967)

The District Attorney's Office, as an independent agency, has completed its investigation and review of the above-referenced officer-involved shooting. We only address whether there is sufficient evidence to support the filing of a criminal action in connection with the shooting of Vincent Martinez. For the reasons set forth, we conclude that the shooting was lawful.

The District Attorney's Office received and reviewed written reports and other documentary items. These items include Sacramento County Sheriff's Office (SSO) Report 22-310918, video and audio recordings, dispatch calls, witness interviews, photographs, diagrams, evidence logs, Sacramento County District Attorney's Office Laboratory of Forensic Services reports, and the Sacramento County Coroner's Final Report of Investigation.

FACTUAL SUMMARY

On October 18, 2022, at approximately 10:11 a.m., a call was placed to 9-1-1 from outside a residence on 41st Street in Sacramento. The caller told the 9-1-1 operator that her father, later identified as Vincent Martinez, was armed with a shotgun and just assaulted his girlfriend. The caller further advised that before she left the residence, her father threatened her and her three-year-old son with the shotgun.

Multiple Sacramento County Sheriff's Office deputies were dispatched to the scene. They arrived at approximately 10:24 a.m. and contacted the complainant. She provided the deputies with additional information about the incident and residence.

The complainant notified the deputies that her father's girlfriend remained inside the residence

and was unable to leave. She further stated she believed her father appeared to be drunk or high on methamphetamine.

The deputies realized the incident was a potential hostage situation. They established a perimeter around the residence and called for additional units to respond. Additional deputies, crisis team negotiators, and special enforcement detail deputies were dispatched to the scene.

Members of the Critical Incident Negotiation Team arrived at approximately 10:55 a.m. They broadcast messages via loudspeaker to Martinez directing him to surrender peacefully. Martinez did not respond.

At approximately 11:09 a.m., the original complainant told Deputy Andrew Swift that she was on the phone with Martinez. She handed Deputy Swift the phone. Martinez told Deputy Swift he would harm his girlfriend unless they allowed him to speak with Ernesto M., Martinez's daughter's boyfriend. He told Deputy Swift that they had three minutes to comply, or he would kill his girlfriend.

Sergeant Nathaniel Grgich of the Critical Incident Negotiation team began speaking with Martinez by telephone at approximately 11:11 a.m. Sergeant Grgich described Martinez's tone as angry. Sergeant Grgich heard Martinez's girlfriend screaming in the background that Martinez would not let her leave the residence.

Members of the SSO Special Enforcement Detail (SED) team arrived at approximately 11:11 a.m. SED is a Special Weapons and Tactics (SWAT) unit tasked with responding to high-risk incidents.

While en route to the scene, SED Deputies Brian Bell and Alexander Spencer received updates, including a suspect description and notification that Martinez had threatened his daughter with a shotgun. They further learned Martinez threatened to shoot his girlfriend and had a prior criminal arrest history for domestic violence and being a felon in possession of a firearm. As Deputies Bell and Spencer arrived on scene, they learned Martinez threatened to shoot his girlfriend in three minutes.

The SED deputies, including Deputies Bell and Spencer, were dressed in dark green uniforms with department patches visible on their sleeves. They wore ballistic helmets and tactical ballistic vests displaying the word, "SHERIFF." The deputies were equipped with .223 caliber rifles and body-worn cameras. SED deputies were positioned to both sides of the residence and behind an SSO armored vehicle parked in front. Deputies Bell and Spencer stood at the corner of the residence to the right of the front door.

At approximately 11:15 a.m., Sergeant Grgich heard Martinez tell his girlfriend he would shoot her.

At approximately 11:19 a.m., Martinez told Sergeant Grgich that he had a clear shot at one of the deputies outside the residence. He again demanded Ernesto M. be brought to the residence.

At approximately 11:23 a.m., Martinez threatened to “kill every cop I see.” Martinez claimed he was armed with a sawed-off shotgun and a 9mm handgun.

At approximately 11:26 a.m., Martinez told Sergeant Grgich that he was going to start shooting. Sergeant Grgich heard Martinez tell his girlfriend that he would not shoot her. Sergeant Grgich relayed the contents of Martinez’s threats to the other deputies present on scene.

At approximately 11:27 a.m., the front door to the residence opened. Martinez walked out the front door, with his girlfriend slightly in front of Martinez and to his left. Martinez held a sawed-off shotgun in his right hand, pointing the barrel into the air.

Deputy Bell was to the right of the front door. As Martinez exited the residence, his girlfriend stood between him and Deputy Bell. Deputy Bell believed Martinez’s girlfriend was in immediate danger of death or suffering great bodily injury based on Martinez’s numerous statements threatening to kill her.

Further, Deputy Bell was fearful for the safety of himself and other deputies on scene, as Martinez held his shotgun and began walking towards them. He knew Martinez could lower the shotgun and begin firing in fractions of a second, and he knew Martinez had threatened to shoot “every cop I see.”

Deputy Bell moved out from the corner of the house and to his left, seeking to create a clear sight of Martinez so that Martinez’s girlfriend would not be in his line of fire. Deputy Bell fired one round from his rifle, aiming for Martinez’s head.

As the front door opened and Deputy Bell moved out from the corner of the house, Deputy Spencer moved out from that position behind him. In accordance with their SED training, Deputy Bell moved in “first position,” and Deputy Spencer followed behind.

Deputy Spencer could not yet see Martinez, but he saw Deputy Bell moving left and levelling his rifle towards the front door. Deputy Spencer knew there were approximately six more deputies moving behind him. He knew Martinez threatened to kill deputies and his girlfriend. As Deputy Spencer continued to move left behind Deputy Bell, he saw Martinez holding a shotgun with his girlfriend standing to his left.

Deputy Spencer knew from prior experience that holding a shotgun is inconsistent with an intent to surrender. He knew if Martinez lowered the barrel of the shotgun, he could begin firing in fractions of a second and endanger the lives of the entire response team or his girlfriend. Deputy Spencer also knew if Martinez did so, he would be unable to react quickly enough to stop Martinez before he could fire. Therefore, Deputy Spencer aimed his rifle at Martinez and fired five rounds. Deputy Spencer stopped firing when Martinez fell to the ground. Martinez’s girlfriend ran back inside the house.

Deputy Bell and Deputy Spencer approached Martinez, placed him in handcuffs, and requested medical assistance. The SED entry team entered the house to secure the residence and ensure Martinez’s girlfriend was safe. Deputies noted that Martinez’s girlfriend had several abrasions and red marks on her wrists and arms.

A Sacramento Metro Fire Department paramedic was on scene as a member of the SED team. He evaluated Martinez and pronounced Martinez deceased at approximately 11:28 a.m.

Deputy Spencer collected Martinez's shotgun and handed it to another deputy. The shotgun was a Remington 12-gauge shotgun with a 12-inch barrel and no stock. The shotgun was loaded with three rounds.

A glass narcotic pipe with burnt residue was recovered in Martinez's front left pants pocket.

A round count and examination of casings recovered at the scene established that Deputy Bell fired one round and Deputy Spencer fired five rounds.

The original complainant, Martinez's daughter, was interviewed. She told detectives she woke up to the sound of someone being assaulted in the next room. She went downstairs with her boyfriend, Ernesto M.

Shortly thereafter, her father came downstairs with a short-barreled shotgun. Her father acted like he was on methamphetamine. Her father pointed the shotgun at her and her boyfriend.

She was afraid her father would shoot her, her boyfriend, and her three-year-old son. They left the house and went to her grandmother's house to call 9-1-1.

The complainant's boyfriend, Ernesto M., was interviewed. He told detectives that he was on the couch when Martinez came downstairs holding a shotgun. He stated Martinez pointed the gun at everyone present and told them all to line up against the wall.

Ernesto believed if he complied, Martinez would shoot them all. He believed Martinez was on methamphetamine. He grabbed his son and the three of them ran out the front door.

Martinez's girlfriend was interviewed. She stated that she lived at that address for three years with Martinez, his daughter, his daughter's boyfriend Ernesto, and his daughter's two children. She stated she believed Martinez was undiagnosed bi-polar and he used methamphetamine. She added Martinez believed she was having an affair with Ernesto.

Martinez's girlfriend stated on the night of the incident, Martinez came home at approximately 2:30 a.m. Martinez turned on the light and held a gun she had never seen before. Martinez pointed it at her before she went to sleep. Martinez stated, "I am going to kill all of you." He also said to let the cops come and he will "go out like a soldier."

When she woke up, Martinez was still holding the gun. He resumed pointing it at her. Martinez was drinking vodka straight from the bottle and threatened to kill her and himself. Martinez then left the bedroom and went downstairs with the gun.

She heard Martinez arguing downstairs with his daughter. She heard Martinez's daughter tell Martinez she was leaving.

She exchanged texts with Martinez's daughter after the daughter left the house. Martinez's daughter told her that she called the police because Martinez threatened her with the gun.

Martinez was upset the police were on their way. Martinez put the gun into his own mouth, then told his girlfriend he would kill her first. He would then kill himself. He also told his girlfriend he believed Ernesto's cousins were coming after him.

Martinez's girlfriend explained she did not leave the residence because she believed Martinez would shoot her if she tried to leave. When Martinez decided it was time to leave the house, she stated Martinez used her as a shield between Martinez and the deputies. When the deputies fired their rifles, she was scared and ran back inside the house.

Body-worn camera videos from Deputies Bell and Spencer were reviewed, along with additional videos taken at the scene. The videos depict the events consistently with the description above.

An autopsy was performed by Dr. Jason Tovar, a pathologist with the Sacramento County Coroner's Office. Dr. Tovar found Martinez had suffered methamphetamine intoxication, and the cause of death was multiple gunshot wounds.

A sample of Martinez's femoral blood was taken during the autopsy. The sample was tested by a criminalist at the Sacramento County District Attorney Laboratory of Forensic Services. The results of the testing confirmed the presence of methamphetamine and amphetamine. Martinez's blood alcohol level was .026%.

LEGAL ANALYSIS

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, 11; *Graham v. Connor* (1989) 490 U.S. 386, 396; *Kortum v. Alkire* (1977) 69 Cal.App.3d 325; California Penal Code section 835a(b); CALCRIM 2670.) 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.) Officers do not need to retreat or desist their efforts if the person they are arresting or detaining resists or threatens resistance; 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(d).)

Here, Sheriff deputies were dispatched to the scene in response to a 9-1-1 call made by Martinez's daughter. His daughter advised that Martinez threatened her and her three-year-old child with a shotgun, and Martinez prevented his girlfriend from leaving the home.

As deputies arrived on scene and received additional information from Martinez's daughter, it became apparent they were responding to a hostage situation. Crisis negotiators and SWAT team deputies were requested. Multiple commands were broadcast to Martinez by loudspeaker

directing Martinez to surrender peacefully. Those commands were ignored by Martinez.

Deputies had a legal duty to take Martinez into custody for threatening his daughter with a gun and holding his girlfriend hostage. Similarly, Martinez had a legal obligation to allow himself to be detained. However, Martinez refused to surrender. For approximately twenty minutes, Martinez spoke on the phone with crisis negotiators from the Sheriff's Office. Martinez threatened to shoot "every cop I see," and made multiple other statements threatening to shoot responding deputies and his girlfriend. Further, Martinez claimed to be armed with a shotgun and a 9mm handgun.

At approximately 11:27 a.m., Martinez exited the front door of the residence. His girlfriend was positioned to Martinez's left, as a shield between Martinez and the SWAT team deputies. Martinez carried a sawed-off shotgun in his right hand, with the barrel pointing in the air.

A peace officer may use deadly force under circumstances where it is reasonably necessary for self-defense or defense of another. 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 505, 507, 3470; California Penal Code section 835a(c)(1)(A).) 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. (California Penal Code section 835a(a)(4); *Graham v. Connor* (1989) 490 U.S. 386.)

Here, Deputies Bell and Spencer believed Martinez presented an immediate danger of death or great bodily injury to Martinez's girlfriend, based on his multiple threats to kill her, his refusal to let her leave the residence, and his positioning of her as a human shield between him and the deputies present.

Further, Deputies Bell and Spencer believed Martinez presented an immediate danger of death or great bodily injury to themselves and other deputies present at the residence. Martinez made multiple threats over the preceding twenty minutes to kill deputies present, including a direct threat to kill "every cop I see." Martinez then left the front door of the residence, with a human shield to his left for protection, carrying a sawed-off shotgun in his right hand.

Although the barrel was pointed in the air, both Deputies Bell and Spencer knew Martinez could lower the barrel of the shotgun and begin shooting in fractions of a second and could do so before the deputies could take action to stop him. Both deputies believed immediate action was necessary to subdue the deadly threat Martinez was currently presenting. They moved left from the corner of the residence as a team, in accordance with their SWAT training, and fired at Martinez until Martinez fell to the ground. Deputies Bell and Spencer then approached Martinez, placed him in handcuffs, collected his shotgun, and called for medical assistance.

These decisions by Deputies Bell and Spencer were reasonable under the circumstances they faced. Martinez had threatened to kill his own daughter and his daughter's boyfriend, who fled the house to call 9-1-1. Multiple deputies responded and directed Martinez to surrender peacefully. Martinez refused. He refused to allow his own girlfriend to leave the home, holding her hostage, and threatened to kill her. He then threatened to shoot at law enforcement deputies present, before leaving the home while carrying a loaded sawed-off shotgun.

Martinez declined multiple opportunities and directions to surrender peacefully. Instead, Martinez continuously elevated the danger of the situation and threatened to kill his own family members, his girlfriend, and responding deputies.

Given those facts, the lethal actions of Deputies Bell and Spencer were justified.

CONCLUSION

Vincent Martinez threatened his daughter and her boyfriend with a shotgun. They believed Martinez intended to shoot them after Martinez ordered them to line up against a wall. They fled the residence and called 9-1-1.

When law enforcement deputies arrived, Martinez refused to surrender peacefully. He threatened to kill his girlfriend, held her hostage, and made multiple threats to kill deputies present on scene.

Martinez then left the home with a shotgun in his right hand and his girlfriend positioned to his left, between him and the deputies, as a human shield. Deputies Bell and Spencer reasonably believed Martinez had no intention of surrendering. They feared Martinez would lower the barrel of the shotgun and begin shooting. Therefore, Deputies Bell and Spencer fired their rifles at Martinez to prevent him from harming anyone present. Under these circumstances, their decision to do so was justified.

Accordingly, we will take no further action in this matter.

Cc: Detective Vitaly Prokopchuk, Sacramento County Sheriff's Office
Deputy Brian Bell, Sacramento County Sheriff's Office
Deputy Alexander Spencer, Sacramento County Sheriff's Office
Rosa Vega, Sacramento County Coroner's Office
Kevin Gardner, Sacramento County Office of Inspector General