

Fatal Officer Involved Shooting of Rodney Hunter

Cal Poly Pomona Police Department

Officer Marc Simpson, #S014

Pomona Police Department

Officer Frank Sacca, #41873

J.S.I.D. File #18-0279



GEORGE GASCÓN

District Attorney

Justice System Integrity Division

July 15, 2021

MEMORANDUM

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FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Fatal Officer Involved Shooting of Rodney Hunter
J.S.I.D. File #18-0279
L.A.S.D. File #018-00049-3199-011
Cal Poly Pomona Police Department File #18-454
Pomona Police Department File #18-73935

DATE: July 15, 2021

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the June 29, 2018, fatal shooting of Rodney Hunter by Cal Poly Police Department (CPPD) Officer Marc Simpson and Pomona Police Department (PPD) Officer Frank Sacca. It is our conclusion that Officers Simpson and Sacca acted in lawful self defense when they fired their duty weapons.

The District Attorney's Command Center was notified of this shooting on June 29, 2018 at approximately 6:38 p.m. The District Attorney Response Team responded to the location. They were given a briefing and walk-through of the scene by Los Angeles County Sheriff's Department (LASD) Sergeant Richard Biddle.

The following analysis is based on reports, recorded interviews, and photographs submitted to this office by LASD Homicide Bureau Sergeants Mike Rodriguez and Howard Cooper. The voluntary statements of Officers Simpson and Sacca were considered as part of this analysis.

FACTUAL ANALYSIS

On July 2, 2018, Mark Manlapaz was murdered by Rodney Hunter on the Cal Poly Pomona Campus. When Simpson and Sacca arrived at the scene, they were unaware of who murdered Manlapaz.

Officer Marc Simpson Interview

On July 2, 2018, Officer Marc Simpson of the CPPD was on duty scheduled to work from 7:00 a.m. to 5:00 p.m. At about 4:30 p.m., Simpson heard a radio call of an unidentified incident on campus that had occurred at the Lantenman Facility. Simpson assigned himself to the call and responded to the location.

When he arrived on scene he observed Corporal Rios standing next to a vehicle. Rios had a shocked look on his face and asked Simpson, "Marc, what do I do?" Simpson approached the passenger side of the vehicle and observed a human leg extended out of the passenger's front window. Simpson looked inside the vehicle and observed Manlapaz, a parking control officer, lying on his back in the front seat with his upper chest soaked in blood.

Simpson walked around and looked into the driver's side of the vehicle. Simpson noticed that Manlapaz had deep slicing-type wounds that ran the entire length of his throat. Simpson recognized that Manlapaz was deceased, and per protocol, he requested a fire department representative to respond to the location and make the official death determination. At approximately 4:42 p.m., Captain Monical from the Los Angeles County Fire Department arrived on scene and pronounced Manlapaz dead.

The Chief of CPPD arrived, as well as several members from the PPD, and some LASD deputies. About ten to 15 minutes passed and Simpson heard an additional call for service from CPPD Dispatcher. The caller, who identified herself as a campus staff member, stated that a male janitor was covered in blood and acting "bizarre/strange." The man was refusing to answer any questions as to what happened to him. Simpson immediately recognized that this second call could be related to the murder.

The area referred to in the second call was located at The Regenerative Studies Building. Simpson was aware of this location and knew it was a difficult location to find on the campus. As such, Simpson utilized the Chief's vehicle, and escorted members of the Pomona Police Department to the new location.

Simpson estimated there were about three to four Pomona police vehicles following him. As they approached the building, they stopped their vehicles at a row of barriers that ran across the entire roadway. They all exited their respective vehicles, walked across the barrier, and immediately made contact with Jillian G. and Malik R. Jillian G. informed the officers that the person in question, Rodney Hunter, was last seen in the janitor's closet inside the building.

Simpson positioned himself on the walkway leading directly to the entry doors. He estimated he was approximately 15 yards from the front door when Hunter exited the building. Simpson heard a Pomona officer yell, "He's coming out!" Simpson immediately saw Hunter, who was covered in blood.

Simpson explained to investigators that he was concerned that Hunter was responsible for Manlapaz' death. Simpson stated he was unaware of what types of weapons were used to murder Manlapaz and did not know whether Hunter was still armed. Simpson was also concerned for additional staff members or students who were potentially located inside the building.

When Hunter exited the building, Simpson unholstered his firearm. Hunter let out a loud growl, dropped his hands towards his waistband, leaned his body forward, and charged at Simpson. Simpson stated he initially retreated a step or two as Hunter began his charge. Simpson described Hunter's movements, besides his hands being down by his waistband, as similar to a football player's movements when running to tackle an opponent on the football field.

As Hunter closed the distance, Simpson became fearful that Hunter was going to attack him with an unknown weapon. When Hunter got to within one to two feet of Simpson, Simpson fired his duty weapon at Hunter, striking him. Hunter immediately fell down and Simpson used his radio to request medical aid for Hunter.

Officer Frank Sacca Interview

On July 2, 2018, Officer Frank Sacca of the PPD was on duty scheduled to work from 1:00 p.m. to 2:00 a.m. He was at the PPD, assigned as a member of a Major Crimes Task Force, when he was notified by his supervisor that CPPD had requested units respond "Code Three" regarding a parking control officer who had been assaulted.¹ Sacca stated that his whole team, approximately ten police officers, responded to the location in several unmarked police vehicles.

Upon his arrival, Sacca was informed that Manlapaz had been pronounced dead by responding paramedics. Within two to three minutes of his arrival, Sacca received information that a possible suspect armed with a knife, acting erratically, was located at a different area of the campus.

Sacca and his partners followed Simpson to the suspect's location approximately one to one and a half miles north of the homicide scene. All the vehicles stopped at the base of the hill due to raised parking poles that restricted vehicle traffic.

As Sacca exited his vehicle, he retrieved his duty rifle from the rear cargo area and chambered a round. Sacca then followed Simpson up the hill. As he made his way up the hill, he saw Jillian G. and Malik R. on the roadway. Both individuals appeared to be distraught.

Moments later, Sacca received information that the suspect was located inside the building. At this moment Sacca became concerned that other people could potentially be inside the building and at risk.

Sacca positioned himself approximately 20 feet from the glass entrance doors and pointed his weapon towards the doorway. He then heard someone yell, "He's coming out!" and observed Hunter forcibly push the door open using his left hand. Sacca stated that Hunter's "body mechanics" were "aggressive." His body mechanics "weren't calling for help. They were ok yeah it's me and I'm here type of thing." As the door swung open, Sacca could not see Hunter's right hand, however, he was able to observe that Hunter was covered in blood.

¹ "Code Three" is also known as responding with lights and sirens activated.

Hunter began walking towards Sacca. As Hunter took three to four steps, Sacca repeatedly commanded Hunter to stop and go to the ground. As Hunter advanced towards Sacca, Sacca observed Hunter's left hand move towards his rear pocket area. Hunter, approximately 15 feet away at this time, put his head down and started running towards Sacca and yelled a "war cry."²

Sacca believed that if Hunter got any closer, Hunter was going to stab Sacca or any of the other officers on scene. Hunter ignored Sacca's commands and kept charging at him. When Hunter was approximately ten feet away, Sacca fired approximately seven to eight rounds from his duty weapon. Sacca stated he "fired all the way until he stopped moving which was when he fell to the ground and he was at my feet." Hunter was not armed at the time of the shooting.

Hunter immediately fell to the ground and Sacca yelled out for someone to get a medic bag.

DNA Analysis

Hunter's vehicle was located at the scene where the shooting occurred. Inside his vehicle was a knife with blood on it. Subsequent DNA testing revealed that Hunter and Manlapaz' blood was on the knife.

Postmortem Examination

On July 16, 2018, Deputy Medical Examiner Scott Luzi performed a postmortem examination of Hunter's remains. An autopsy confirmed Hunter died as a result of multiple gunshot wounds. Subsequent toxicology analysis revealed Hunter had .41 micrograms per milliliter of fluoxetine in his blood.³

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code § 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146.

California law permits any person to use deadly force in self defense or in the defense of others if that person actually and reasonably believes that he or others are in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *See also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082.

In evaluating whether a police officer's use of deadly force was reasonable in a specific situation, it is helpful to draw guidance from the objective standard of reasonableness adopted in civil actions alleging Fourth Amendment violations. "The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with

² There exists no audio or video recording of the OIS. This is how Sacca described Hunter's scream before he charged at the officers.

³ Fluoxetine is also known as Prozac and is prescribed to treat depression.

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. Connor (1989) 490 U.S. 386, 396-397

Actual danger is not necessary to justify the use of deadly force in self defense. If one is confronted by the appearance of danger which one believes, and a reasonable person in the same position would believe, would result in death or great bodily injury, one may act upon those circumstances. The right of self defense is the same whether the danger is real or merely apparent. People v. Toledo (1948) 85 Cal.App.2d 577.

In protecting oneself or another, a person may use all the force that they believe is reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury that appears to be imminent. CALCRIM No. 3470

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 effect the arrest, to prevent escape or to overcome resistance. Penal Code § 835a. California law permits the use of deadly force by police officers when necessary to affect the arrest of a person who has committed a forcible and atrocious felony which threatens death or serious bodily harm. People v. Ceballos (1974) 12 Cal.3d 470, 477-484. Forcible and atrocious crimes are those crimes whose character and manner reasonably create a fear of death or serious bodily injury. *Id.* at 479.

In this case, Simpson and Sacca responded to Hunter’s location with a heightened sense of caution. Both officers observed Manlapaz and reasonably believed he was recently murdered with a sharp object due to the condition of his deceased body. Then, based upon the new dispatch call describing Hunter’s bloody clothes and odd disposition, the officers reasonably and correctly believed that Hunter was likely responsible for murdering Manlapaz.

Upon arrival, both officers positioned themselves outside the building in which Hunter was suspected of being. Hunter aggressively exited the building. Hunter was covered in blood. Sacca ordered Hunter to surrender, but Hunter ignored Sacca’s commands. Hunter lowered his arms to his waistband, let out a scream or “war cry,” and charged at both officers. When Hunter was within ten feet of the officers, both officers, reasonably in fear for their lives, fired their weapons.

Based on Hunter’s actions, and the fact that he had likely recently murdered another person, it was reasonable for Sacca and Simpson to believe that Hunter was reaching for a deadly weapon as he charged both officers. As such, Sacca’s and Simpson’s decision to fire their duty weapons at Hunter was reasonable.

CONCLUSION

We conclude that Sacca and Simpson acted lawfully in self defense when they used deadly force.