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June 27, 2022

Sheriff Donny Youngblood
Kern County Sheriff's Office
1350 Norris Road
Bakersfield, CA 93308

Re: KCSO Officer-Involved Shooting of Fidel Bedolla on October 5, 2021
Deputies Andrew Bassett, Adrian Benavides, Robert Gonzales, Nicholas Rocha, and Sergeant Adrian Olmos
Texas Street, Bakersfield, CA. Case documented in 2021-00130040.

Dear Sheriff Youngblood,

The Kern County District Attorney's Officer-Involved Shooting (OIS) Review Committee has reviewed reports, body worn camera footage, audio recordings, and other materials submitted by your agency regarding the shooting noted above. The OIS Review Committee reviews cases for criminal liability under state law. The OIS Review Committee has completed its review. The findings are noted below.

Summary

On October 5, 2021, at approximately 8:35 PM law enforcement was dispatched to a residence on Knotts street regarding a domestic violence report. The reporting party stated her husband, Fidel Bedolla, pushed her down and threatened to kill her while pointing a handgun at her head. She stated her husband's addiction to methamphetamine had become progressively worse since she informed him of her intent to seek a divorce this past month. She fled the residence to avoid being killed by her husband. Deputies arrived on scene and conducted a protective sweep of the residence. Deputies observed clear signs of a physical altercation. The reporting party was visibly upset and fearful. Fidel Bedolla and the firearm were not located in the residence. The victim told law enforcement that this was not the first domestic violence incident, but was afraid to report because Fidel Bedolla told her that if she ever attempted to make a report, he would kill her and any law enforcement that contacted him, and soon after himself. It was determined Fidel Bedolla fled from the residence in his wife's gold 2005 Ford Explorer and likely fled to a friend's house on Texas Street. The KCSO helicopter flew over the Texas Street location and located the suspect vehicle parked on the north curb line of the street. The victim positively identified a photo of Fidel Bedolla.

Deputies were briefed on the incident and responded to a safe area near the target in order to formulate a plan to locate and apprehend Bedolla while the KCSO helicopter was over head maintaining visual observation on the suspect vehicle. At 12:04 a.m., deputies arrived at the Texas Street scene. At 12:06 a.m., it was confirmed that Fidel Bedolla was inside the Ford Explorer. K9 Deputy Fisher parked his fully marked patrol vehicle at a 45-degree angle just east of the suspect vehicle. Sgt. Olmos parked his fully marked patrol vehicle next to Deputy Fisher's. Multiple fully marked patrol vehicles had their overhead emergency lights activated. All the deputies on scene were wearing department issued uniforms. Deputy Benavides used the patrol vehicle public announcement system to identify himself as law enforcement and to issue commands to Fidel Bedolla in both English and Spanish. Deputy Benavides also shouted the same commands. K9 Deputy Fisher identified himself as law enforcement and warned that Fidel Bedolla could be bitten by his dog if he did not comply. Deputy Gonzales identified himself as law enforcement and shouted for Fidel Bedolla to show him his hands. Bedolla was seen reclined in the driver's seat of the vehicle, sitting up and looking back at deputies, and refusing to comply with commands to surrender. Approximately 5 minutes after deputies arrived on scene, the front driver's side door of Bedolla's vehicle was flung open. Bedolla quickly exited the vehicle while brandishing a firearm. Bedolla raised his arm, pointed the firearm at deputies, at which point deputies fired multiple shots at Bedolla, striking him multiple times and resulting in his death.

Legal Principles and Analysis

Bedolla's actions demonstrated a clear threat to the lives of deputies on scene. A firearm is an inherently deadly weapon in the ordinary use for which it was designed. California law permits the use of deadly force by any person in self-defense or defense of a third person, if [1] the individual reasonably believed that he or she (or a third party) was in imminent danger of being killed or suffering great bodily injury; [2] the individual reasonably believed that the immediate use of deadly force was necessary to defend against that danger; and [3] the individual used no more force than was reasonably necessary to defend against that danger. California Penal Code (PC) §§ 196 and 835a outline the circumstances under which a peace officer is authorized to use force, including deadly force. Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use objectively reasonable force to effect the arrest, to prevent escape, or to overcome resistance. (PC § 835a(b)). PC § 196 reads in relevant part: "Homicide is justifiable when committed by peace officers and those acting by their command in their aid and assistance, […] when the homicide results from a peace officer's use of force that is in compliance with Section 835a."

Peace officers may use deadly force only when necessary in defense of human life. (PC § 835a(2)). When determining whether deadly force is necessary, officers shall evaluate each situation in light of the particular circumstances of each case, and shall use other available resources and techniques if reasonably safe and feasible to an objectively reasonable officer. (PC § 835a(2)).

The legislature mandated in PC§ 835a(2) that officers shall use de-escalation tactics if objectively reasonable based on the particular circumstances of each case. Additionally, when feasible, peace officers shall make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, before the use of force, unless the officer has objectively reasonable grounds to believe the person is aware of those facts. (PC § 835a(c)(1)(B)). The decision to use force shall be consistent with law and agency policies. (PC § 835a(3)).

Here, deputies responded to an individual who was in possession of a firearm that he used to threaten to kill his wife earlier in the evening. Multiple deputies arrived on scene, outnumbering the suspect in an effort to have him peacefully surrender. Four fully marked patrol vehicles were positioned in immediate proximity to the defendant's vehicle. Multiple patrol vehicles had their emergency lights activated as to

clearly indicate law enforcement was on scene. Every deputy on scene was wearing a department issued uniform, signifying they were law enforcement. Multiple deputies loudly shouted commands to the suspect in both English and Spanish, telling him to show them his hands while identifying themselves as law enforcement. Deputy Benavides used the patrol vehicle's public announcement system to provide instructions to the suspect. K9 Deputy Fisher shouted commands and a warning that if the suspect did not comply with his commands his dog would apprehend the suspect and may bite him. K9 Hannes was out of the vehicle barking at the suspect, in an effort to gain the suspect's compliance for a peaceful surrender. Deputy Bassett was armed with a non-lethal impact weapon to effectuate a safe surrender. Deputies took cover behind vehicles and did not approach the suspect's vehicle, allowing him space to not feel threatened. Deputies allowed time to pass in an effort to gain the suspect's compliance, which was unsuccessful.

"A peace officer is justified in using deadly force [...] only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary [...]: [A] to defend against an imminent threat of death or serious bodily injury to the officer or to another person; [B] to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended." (PC § 835a(c)(1)). "A threat of death or serious bodily injury is 'imminent' when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the peace officer or another person [... and] from appearances, must be instantly confronted and addressed." (PC § 835a(e)(2)). The decision by a peace officer to use force shall be evaluated from the perspective of a reasonable officer in the same situation, based on the totality of the circumstances known to or perceived by the officer at the time, rather than with the benefit of hindsight [...]." (PC § 835(a)(4)). A peace officer does not have a duty to retreat. (PC 835a(d)).

Here, Fidel Bedolla quickly exited his vehicle, leading with his firearm. At no time did he attempt to drop his weapon or surrender. Bedolla raised his arm and pointed his loaded firearm at the deputies. Law enforcement officers had probable cause to arrest Fidel Bedolla for felony charges arising from the domestic violence incident. Deputies were working with knowledge that Bedolla was previously armed with a firearm during the domestic violence incident hours before and the firearm was not recovered. Deputies were also aware that Bedolla had threatened to kill his wife and any law enforcement that attempted to contact him.

Deputies utilized several de-escalation tactics that were not successful in gaining compliance without resorting to deadly force. However, when Bedolla abruptly exited the vehicle with a gun drawn and proceeded to point that weapon directly at deputies, he presented himself as an imminent threat of serious injury or death to all of the deputies tasked with affecting his arrest. Deputies are not required to wait until a suspect begins firing shots to take actions to defend their own lives and the lives of others.

Conclusion

Based upon a review of the evidence submitted by Kern County Sheriff's Department, Deputies Andrew Bassett, Adrian Benavides, Robert Gonzales, Nicholas Rocha, and Sergeant Adrian Olmos all responded reasonably to a lethal threat in self-defense and defense of others. There is no state criminal liability for their uses of deadly force under the circumstances of this case because the shooting is legally justified.

Sincerely,

Cynthia Zimmer

Cynthia Zimmer
Kern County District Attorney