



OFFICE OF THE DISTRICT ATTORNEY
C O U N T Y O F K E R N

CIVIC CENTER JUSTICE BUILDING
1215 TRUXTUN AVENUE
BAKERSFIELD, CALIFORNIA 93301
(661) 868-2340, FAX: (661) 868-2700

ANDREA S. KOHLER
ASSISTANT DISTRICT ATTORNEY

CYNTHIA J. ZIMMER
DISTRICT ATTORNEY

JOSEPH A. KINZEL
ASSISTANT DISTRICT ATTORNEY

April 4, 2025

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

Chief Greg Terry
Bakersfield Police Department
1601 Truxtun Avenue
Bakersfield, CA 93301

Re: Officer-Involved Shooting of Ramiro Molina by Bakersfield Police Department Sargent Andrew Ferguson on May 31, 2023

Dear Sheriff Youngblood and Chief Terry:

The Kern County District Attorney's Officer-Involved Shooting Committee has reviewed the reports and other materials submitted by your agency regarding the shooting noted above. The Officer Involved Shooting Committee reviews cases for criminal liability under state law. The Committee has completed its review. The findings are noted below.

Summary

On May 31, 2023, Sargent Ferguson was working with a team comprised of five Bakersfield Police Officers occupying three marked Bakersfield Police Department vehicles, in an attempt to interdict a transaction involving five pounds of methamphetamine. While investigating this transaction, officers learned that the subjects were known to traffic firearms, narcotics, and recklessly evade law enforcement during vehicle pursuits. On May 31, 2023, at approximately 2:00 p.m. undercover officers reported that the primary suspect had left his residence, was on the move, and appeared to be conducting counter surveillance with two other vehicles. Based upon this information, Sergeant Ferguson and his team received orders to take the occupants of the two vehicles into custody. The five-officer team contacted these vehicles in the AMPM parking lot located at Beale and Monterey. As officers entered the parking lot, Officer Dominguez, a member of the five-person team, activated his overhead lights and sirens. The marked Bakersfield Police Department vehicles then positioned themselves near the two suspect vehicles.

While officers were attempting to block in the two vehicles, Ramiro Molina drove his vehicle

toward Sergeant Ferguson almost colliding with him. Molina then reversed his vehicle almost colliding with Officer Dominguez's vehicle. Molina then again, drove his vehicle toward Sergeant Ferguson, at which point Sergeant Ferguson fired one round from his department issued firearm through the driver's side window of his vehicle toward Molina. The bullet penetrated Molina's windshield and struck Molina in the right shoulder. The bullet remains lodged in his shoulder. Molina was treated on the scene and at a local hospital. His injury was not life threatening, and he survived the shooting. Officers searched Molina's vehicle and did not locate any firearms.

Legal Principles and Analysis

In this case, Sergeant Ferguson used deadly force in response to the threat Molina posed to himself and other officers that were present at the time of the incident.

A peace officer includes any deputy sheriff of a city or county, who is employed in that capacity (Penal Code section 830.1). That peace officer's authority extends to any place in the state where any public offense is committed in the peace officer's presence and with respect to which there is immediate danger to person or property or of the escape of the perpetrator of the offense (Penal Code section 830.1(3)). Sergeant Ferguson is an officer employed by the city of Bakersfield. Thus, he is a peace officer within the meaning of Penal Code section 830.1. In this case, not only did Molina drive his vehicle at Sergeant Ferguson twice, he also drove his vehicle at Officer Dominguez who was working with Sergeant Ferguson. Due to the positioning of the vehicles at the time, there was a high likelihood that had Molina actually rammed into Sergeant Ferguson, as it appeared he was planning to do, Sergeant Ferguson could have been pushed into a busy road and faced being injured or killed by unrelated traffic. Furthermore, at the time of the shooting, Sergeant Ferguson had information that the subjects, including Molina, were committing serious felonies and were likely armed.

Since Sergeant Ferguson was acting as a peace officer and was on duty as a peace officer at the time of the incident, his conduct is judged by the same standard used for all peace officers. An officer with reasonable cause to believe a crime is committed or a person 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; *see also* Penal Code section 835a(b). An officer may use deadly force upon another person only when the officer reasonably believes, based on the totality of the circumstances, that such force is necessary to defend against an imminent threat of death or serious bodily injury to the officer or another person. (CA Penal Code section 835(c)(1)(A)).

When evaluating the use of deadly force, one must decide whether the officers' beliefs and actions were objectively reasonable under all the circumstances known to him or her, as they appeared at the time. "The calculus of reasonableness must embody allowance for the fact that peace 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*, *supra* at pp. 396-397.

The law does not impose a duty to use less lethal options. "Requiring officers to find and choose the least intrusive alternative would require them to exercise superhuman judgment. In the heat of battle with lives potentially in the balance, an officer would not be able to rely on training and common sense to decide what would best accomplish his mission. Instead, he would need to ascertain the least intrusive alternative (an inherently subjective determination) and choose that option and that option only. Imposing such a requirement would inevitably induce tentativeness by officers, and thus deter police from protecting the public and themselves." *Scott v. Henrich* (9th Cir. 1994) 39 F.3d 912, 915). The

appearance of danger is all that is necessary; actual danger is not. *People v. Toledo* (1948) 85 Cal.App.2d 369 (*overruled on other grounds*); *People v. Jackson* (1965) 233 Cal.App.2d 639. “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight.” *Graham v. Connor*, *supra*, 490 at p. 396.

Based on the totality of the circumstances, as well as the information available to Sergeant Ferguson at the time of the shooting, Sergeant Ferguson’s use of deadly force was reasonable. Sergeant Ferguson was in the process of potentially concluding a lengthy ongoing investigation regarding the trafficking of several pounds of narcotics by individuals that are known to also traffic firearms and recklessly evade law enforcement. When law enforcement initially attempted to contact Molina, he did in fact begin to recklessly attempt to get away by driving his vehicle at two different marked Bakersfield Police Department vehicles. At the time of the shooting, Sergeant Ferguson was in a very compromising position as his vehicle was positioned very closely to the road outside of the AMPM. Had Molina been successful in ramming his vehicle into Sergeant Ferguson he could have been severely injured. Sergeant Ferguson specifically stated that he was unable to use less lethal means due to how rapidly the events unfolded. At the time he fired, Sergeant Ferguson was concerned for his safety both due to the actions of Molina as well as the fact that he could not see both of Molina’s hands. When Sergeant Ferguson fired, Molina quickly threw both hands in the air. At that time Sergeant Ferguson knew there was no longer a threat and did not fire any additional shots. Under the totality of the circumstances and the information that Sergeant Ferguson had available to him at the time, his decision to shoot was reasonable to protect himself.

Conclusion

Based upon a review of the evidence submitted by the Bakersfield Police Department, Sergeant Ferguson responded reasonably in self-defense to defend against an imminent threat of death or serious bodily injury posed by Molina. There is no state criminal liability for his use of deadly force under the circumstances of this case and the shooting is legally justified.

Sincerely,

Cynthia J. Zimmer
District Attorney