



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
SHARON J. MATSUMOTO • Chief Deputy District Attorney
JOSEPH P. ESPOSITO • Assistant District Attorney

SCOTT K. GOODWIN • Director

December 5, 2013

Captain Duane Harris
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Commerce, California 90040

RE: J.S.I.D. File #13-0350
L.A.S.D. File #013-07722-2171-013

Dear Captain Harris:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 18, 2013, fatal shooting of Terry Laffitte by Los Angeles County Sheriff's Department (LASD) Deputies Oscar Barrios and Jason Zabala. We have concluded that Deputies Barrios and Zabala acted lawfully in self-defense and defense of others.

The District Attorney Command Center was notified of the shooting at approximately 10:27 p.m., on May 18, 2013. The District Attorney Response Team, comprised of Deputy District Attorney Jason Lustig and District Attorney Supervising Investigator Larry Dimmick, responded to the location. They were given a briefing of the circumstances surrounding the shooting and a walk-through of the scene.

The following analysis is based upon investigative reports, analyzed evidence reports and witness statements taken during the investigation by the LASD and submitted to this office by LASD Homicide Bureau Detective Angus Ferguson. Compelled statements were not considered in this analysis.

FACTUAL ANALYSIS

On May 18, 2013, at approximately 9:10 p.m., LASD Deputies Oscar Barrios and Jason Zabala were on uniformed patrol in a marked patrol car driving east on 60th Street approaching Miramonte Avenue in the Florence/Firestone area of Los Angeles County. They saw Terry Laffitte riding a bicycle without lights south on Miramonte Avenue from 60th Street. Deputy Barrios turned south on 60th Street to follow Laffitte. When the deputies shined the patrol car's spotlights at him, Laffitte looked at the patrol car, swerved east in front of the deputies and continued riding south in the northbound lanes of Miramonte Avenue. Ignoring the deputies'

Clara Shortridge Foltz Criminal Justice Center
210 West Temple Street
Los Angeles, CA 90012-3210
(213) 974-3888
Fax: (213) 620-1208
WEBSITE: <http://da.co.la.ca.us>

orders to stop, Laffitte continued riding south to [REDACTED] Miramonte Avenue where he turned into the driveway of his residence. The deputies stopped in the driveway apron, exited the patrol car and followed Laffitte down the driveway. While riding down the driveway, Laffitte collided into a parked car and fell. He picked up the bicycle and staggered to the rear of the residence where the deputies tried to detain him. Laffitte appeared to be intoxicated.

When Deputy Barrios walked up to him, Laffitte turned and punched Barrios in the chin, knocking him backwards. Deputy Zabala stepped forward and punched Laffitte once in the face. Zabala's blow had no apparent effect on Laffitte who grabbed both deputies in a bear hug, causing all three to fall to the ground.¹ While on the ground, Laffitte ignored the deputies' orders to stop resisting and physically resisted their efforts to handcuff him. During the struggle, several of Laffitte's family members exited the residence and began yelling profanities at the deputies. Zabala tried to place a choke hold on Laffitte. Barrios hit Laffitte in the legs several times with a small baton known as a "sap." At the same time, Zabala pointed his service weapon at the hostile individuals from the residence to keep them away. Barrios put his sap back in his pocket, removed his service weapon and ordered the residents to step back at gunpoint. While Laffitte was on his hands and knees trying to stand, he grabbed Zabala's pistol. Zabala yelled that Laffitte was trying to take his gun. After a brief struggle, Zabala regained control of the firearm. During the struggle, a male grabbed Zabala from behind and a female kicked him in the shoulder. In response, Zabala kicked the female in the stomach, knocking her through a doorway. Barrios felt someone push his back several times.

Barrios managed to get Laffitte's left hand behind his back and attached a handcuff. While trying to control Laffitte's right hand, Barrios saw a gun in Laffitte's left hand. Barrios yelled several times, "He's got a gun! He's going to shoot!"² In fear for their lives, Zabala fired one round into Laffitte's head and Barrios fired one round into the rear of his right leg.³ Laffitte dropped the gun and the deputies handcuffed him. Once Laffitte was handcuffed, Zabala saw the revolver on the ground next to him.⁴ Barrios saw one of the males from the residence moving toward the gun. Barrios ordered the male to step away, picked up the gun and put it in his pocket for safekeeping. Shortly thereafter, Barrios gave the gun to a responding sergeant. The struggle with Laffitte lasted about four minutes.

At 9:30 p.m., paramedics pronounced Laffitte dead at the scene. On May 21, 2013, Los Angeles County Deputy Medical Examiner Jeffrey Gutstadt performed a postmortem examination of Laffitte's remains and determined the cause of death to be two gunshot wounds to the head and right leg. His blood showed evidence of relatively recent marijuana consumption and an alcohol level of approximately .07 percent. His blood also contained therapeutic levels of tramadol, a

¹ Laffitte was 49 years old, 6'1" tall and weighed 361 pounds, according to the Coroner's Report.

² Responding to the primary deputies' request for assistance, Deputies Martinez and Gomez saw the two deputies wrestling with Laffitte on the ground. They heard someone yell, "Gun, gun, gun!" followed by two to three gunshots.

³ The deputies were armed with Beretta, model 92Fs, 9mm semiautomatic pistols.

⁴ Laffitte was armed with an unloaded, Smith & Wesson, model 38, .38 special caliber revolver. An LASD firearms examiner determined the gun to be functional. It had been stolen in a residential burglary in the City of San Bernardino in 2007.

narcotic-like pain reliever, and cyclobenzaprine, a muscle relaxant pain reliever sold under the brand name Flexeril. At the scene, a coroner's investigator recovered a loaded, black plastic BB handgun from the front pouch pocket of Laffitte's sweatshirt. Near Laffitte's bicycle, investigators recovered a small baggie of marijuana. In his shorts pocket, Laffitte had a portion of a nylon stocking, commonly used as a disguise by criminals.

LEGAL ANALYSIS

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

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person's beliefs were reasonable, the danger does not need to have actually existed. *Id.*

"When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety." *People v. Collins* (1961) 189 Cal.App.2d 575.

"The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 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. Conner* (1989) 490 U.S. 386, 396-397.

CONCLUSION

The evidence examined in this investigation shows that Deputies Barrios and Zabala attempted to contact Laffitte regarding a traffic violation. Laffitte ignored the deputies' orders to stop and instead rode his bicycle on the wrong side of the street to his residence. When the deputies tried to detain him, Laffitte punched Barrios, then grabbed the deputies and brought them to the ground. He ignored the deputies' orders to put his hands behind his back and physically resisted their attempts to handcuff him. When Laffitte momentarily grabbed Zabala's pistol and the verbally abusive residents began pushing and pulling them, the danger to the deputies escalated significantly. When Barrios saw the revolver in Laffitte's hand, he reasonably believed that Laffitte intended to shoot them and warned his partner. In imminent fear of great bodily injury

Captain Duane Harris
December 5, 2013
Page 4 of 4

or death to themselves and each other, Barrios and Zabala each fired one round from their service weapons, striking Laffitte in the leg and head, respectively, ending the threat.

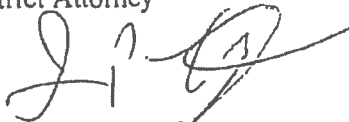
The deputies had no way of knowing that Laffitte's revolver was unloaded. Their belief that Laffitte was about to shoot them was eminently reasonable. Legally justified self-defense does not require that the danger actually existed. CALCRIM No. 3470.

Given the rapidly evolving, life threatening situation that confronted Deputies Barrios and Zabala, we conclude that they acted lawfully in self-defense and defense of others. We are therefore closing our file and will take no further action in this matter.

Very truly yours,

JACKIE LACEY
District Attorney

By



JASON P. LUSTIG
Deputy District Attorney
(213) 974-3888

c: Deputy Oscar Barrios, #502193
Deputy Jason Zabala, #489661