

Miami's last cop shooting conviction, 25 years ago, left legal legacy

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Miami Police Officer William Lozano testifies at his 1989 manslaughter trial for shooting motorcyclist Clement Lloyd. Lloyd and his passenger Allan Blanchard were both killed. Lozano was the last officer in Florida convicted in a police shooting but the verdict was later overturned. JON KRAL HERALD FILE

In a city long torn by racial tension, a uniformed police officer fatally shot a black man. Days of upheaval and rioting riveted the nation.

A series of investigations scrutinized the officer's use of deadly force. He claimed self-defense. Would the cop face criminal charges?

The case that exploded in Miami in 1989 still resonates today, echoing the murky, racially charged confrontation that has put a 24/7 media spotlight on the small Missouri town of Ferguson.

Twenty five years ago Sunday, after a trial that lives on in local legal lore, jurors convicted Miami Police Officer William Lozano for shooting and killing a motorcyclist. It was the last time any police officer in Florida was convicted for an on-duty shooting.

Unlike in Ferguson, Miami-Dade prosecutors did make an arrest, charging Lozano with manslaughter in a criminal case that sharply divided the city. But for Miami's African-American community, any sense of justice proved short lived. Lozano was acquitted after an appeals court granted him a new trial.

And the legal opinion that gave Lozano a second chance also barred prosecutors from revealing to jurors the details of internal police procedures and training. The ruling set a powerful precedent, all but dooming prosecutions in a state that already affords wide latitude for cops to use deadly force to protect themselves and others.

"That ruling and that opinion has come back to haunt us," said Miami-Dade Chief Assistant State Attorney Don Horn, one of the prosecutors who convicted Lozano on Dec. 7, 1989.

Lozano could not be reached for comment, but his famed Miami defense attorney Roy Black sees a positive legal legacy. The case, he said, ensured police officers, tasked with protecting the community, remain able to act quickly in the face of danger.

"Those rulings really worked to the benefit of the cops on the street," Black said.

As in many cities, racially charged riots wracked Miami in the 1960s and 1970s. The most notorious disturbance came in 1980, after jurors acquitted a group of Dade police officers for the beating death of motorist Arthur McDuffie.

In the aftermath of that infamous case, the grand jury and prosecutors in Miami turned unusually aggressive. Before Lozano, they went after four officers in separate on-duty shootings of unarmed black men.

The only successful prosecution: Dade Officer Robert Koenig, a white rookie who fatally shot Donald Harp as fellow cops tried pulling him from a car in 1983. Jurors convicted Koenig of manslaughter. He got a 5-year prison term.

But convicting a police officer for manslaughter, an unintentional death caused by “gross negligence,” proved tough.

It was against that backdrop that Lozano, a 30-year-old patrolman who hailed from a family of officers, encountered Clement Lloyd and Allan Blanchard.

The night was Jan. 16, 1989, the Martin Luther King Jr. holiday. Miami was set to host the Super Bowl days later, an important event for a tourist city banking on the national spotlight.

Lloyd, 23, a car-wash manager, was speeding his high-powered Kawaski Ninja motorcycle through the streets of Overtown. His passenger: Allan Blanchard, 24, an unemployed construction worker who had just moved to Miami from the Virgin Islands.

Activating his car’s lights and siren, a Miami patrolman tried pulling them over. Lloyd sped up Northwest Third Avenue toward Lozano, who just happened to be stopped on the side of the road taking a report from a citizen.

Lozano squeezed off one shot. The bullet struck Lloyd in the head. The motorcycle plowed into a Buick Regal, hurling Blanchard to the pavement.

Both men died. As investigators and local city officials arrived at the scene, Overtown residents began angrily hurling bottles and rocks.

Within hours, television news vans were torched. A meat market was looted. As police in Ferguson would do a quarter of a century later, officers with riot shields and shotguns streamed to the chaos.

“We’ve been victimized all our lives, and now they’re treating us like animals, with no respect, and especially on this day, Martin Luther King Day,” one Overtown resident said.

When the violence subsided, officials launched a slew of investigations. The Rev. Al Sharpton, already a polarizing civil rights activist, visited Overtown to decry Lozano’s actions — raising many of the same concerns he has repeated with the Ferguson shooting of an unarmed teenager by a white officer.

Ultimately, Dade State Attorney Janet Reno bypassed the grand jury. Instead, prosecutors directly filed two counts of manslaughter with a deadly weapon against Lozano.

Her decision tore Miami apart. Many cops and Hispanics defended Lozano, a Colombia-born patrolman with a clean record.

“The political influence was extremely heavy,” said Black, Lozano’s attorney. “Everybody was concerned about further disturbances and, of course, with the image of Miami and the Super Bowl. That was more important than justice.”

The trial was set to begin in November, just 10 months after the shooting. Despite defense requests, Dade Circuit Judge Joseph Farina refused to move the trial from Miami.

Tension mounted as rallies were staged on both sides. Dade’s community relations board predicted 25 people might die in riots were Lozano acquitted.

“It was a horrible responsibility,” said then-Dade prosecutor John Hogan, who scored a conviction against Koenig and led the state’s efforts against Lozano. “It’s hard to imagine how much stress it caused.”

Courthouse observers predicted a win for Lozano. His lawyers were the prominent and eloquent Black and former cop Mark Seiden. The duo had just won the acquittal of Luis Alvarez, a Miami cop who fatally shot an unarmed man inside an Overtown arcade.

Black and Seiden, however, knew the trial was an uphill battle.

Every day, jurors walked into a Miami-Dade courthouse teeming with heavily armed police officers in the stairwells and snipers on the roof.

“Jurors had a real fear, in my opinion, that a not guilty verdict would cause the city to burn again,” Seiden said.

At trial, five eyewitnesses told jurors that Lozano aimed his pistol at Lloyd, tracking him in a dual-handed combat stance before firing the one calculated shot.

In a halting performance, Lozano took the stand in his own defense. He insisted he stepped onto the street to pull Lloyd over and only fired — a hasty shot from the hip — after the motorcycle bared down on him with no time to spare.

“You ended up, for lack of a different way of putting it, with the black folks with one version of what happened, and the police officers with a different version,” prosecutor Horn recalled.

But Lozano’s account cut against him. The forensic evidence was key. The bullet’s trajectory was downward, which contradicted the hip shot, prosecutors argued.

And over objections, the state was allowed to introduce Lozano’s departmental training that forbid shooting at a moving vehicle. At trial, three expert witnesses also testified that a cop should not enter a street with his gun drawn to pull someone over.

“He knew other options because he had been trained in other options,” Hogan said. “That was an important thing for the jury to know.”

Testimony lasted 13 tense days. And after eight hours, 13 minutes of deliberations, the six-person jury declared Lozano guilty of all counts.

Worried citizens, watching the trial live on television, exhaled. No violence. But that did not end the divide. Some police officers wore black wristbands to protest.

Farina sentenced Lozano to seven years in prison. He was allowed to remain free on bond pending an appeal.

In June 1991, the Third District Court of Appeal reversed Lozano’s conviction. Farina, they ruled, was indeed wrong to have not properly considered moving the trial from Dade County amid fears of violence.

More critically for future cases in Florida, Farina should have never allowed into evidence that Lozano violated internal procedures and training, the court ruled.

“The opinion reaffirmed the fact that police officers are in a unique situation,” Seiden said. “They have to make split life or death decisions, and they don’t have the luxury of reflection.”

Hogan still believes the original Miami trial was fair.

“It’s something that really bothers me a great deal because I really do not think the jury confused training as a substitute for the law,” he said.

The 1993 retrial was held in Orlando. The odds shifted in favor of Lozano — during jury selection, some candidates named their “local police officers” as heroes.

Jurors acquitted Lozano. Four years removed from Lloyd’s and Blanchard’s deaths, Miami’s streets remained calm.

Since then, controversial police shootings have not stopped, nor criminals wielding high-powered weaponry. But not a single state prosecutor in Florida since Lozano has charged an officer with an on-duty shooting.

Florida law does not require officers — or even regular citizens, thanks to the 2005 Stand Your Ground law — to retreat in the face of mortal danger. And law enforcement can use deadly force to stop a “fleeing felon” who presumably could harm others.

In Miami-Dade, prosecutors stopped going to the grand jury, a secretive process that critics say sheds no light on how a shooting unfolds.

The office of State Attorney Katherine Fernandez Rundle also stopped much-criticized “inquest” hearings, in which judges, after hearing evidence, considered whether to recommend charges. Instead, a committee of senior prosecutors consider criminal charges, and whether an officer was justified in using deadly force under Florida law. They produce exhaustive memos detailing the evidence collected by police detectives.

One upcoming case in the works also involves a vehicle: the fatal shooting of motorist Raymond Herisse on South Beach at the hands of 11 officers. The case spurred Miami Beach police to forbid shooting at moving vehicles.

Few legal experts expect criminal charges.

The “close-out memo” reviews have drawn criticism for sometimes dragging out years. Although Fernandez Rundle’s office mostly rules shootings justified, some cases have come closer to criminal charges than others.

In March, prosecutors refused to justify the Miami-Dade Police Special Response Team’s 2011 fatal shooting of three of four home-invasion robbers during a botched sting in the Redland.

One slain man, a confidential informant named Rosendo Betancourt, had already dropped his weapon. He was laying on the ground when Sgt. Manuel Malgor ordered him to roll over on his back. Malgor fatally shot the informant, saying the man appeared to reach for his waistband.

“Greatly disturbing,” prosecutors said of Betancourt’s killing. But they could not disprove Malgor’s claim of fear, though they noted the sergeant could have easily handcuffed the man as he was on his belly.

In their final memo, prosecutors said jurors in a potential criminal case could never be told whether Malgor’s fateful command was “unorthodox or in violation of his training and procedures.”

The reason: the legal legacy of the Lozano case.

“We all understand police shootings better because of Lozano,” Fernandez Rundle said. “Lozano represented a conviction and an acquittal, and that tells the average person out there that there was an attempt at justice.”