

California: Police confiscate cellphones of witnesses after beating man to death

Tom Carter
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Nine police officers beat an unarmed man to death in Bakersfield, California, and then confiscated cellphones that witnesses had used to record the beating.

The police claim that around midnight on May 8, they responded to a report that there was a possibly intoxicated man near the Kern Medical Center. David Dal Silva, 33, was beaten to death on a sidewalk in front of the hospital while as many as seven horrified people looked on. He leaves behind four young children, ages 2 to 10.

Eyewitnesses say that Silva screamed and begged for his life. As the beating continued, more local deputy sheriffs and two California Highway Patrol officers arrived and joined in, bringing the total number of officers to nine plus one police dog. The beating continued until Silva was dead.

Ruben Ceballos, 19, was woken from his bed by the noises. "When I got outside, I saw two officers beating a man with batons and they were hitting his head so every time they would swing, I could hear the blows to his head," he told the *Bakersfield Californian*. A single blow to the head from a police baton can result in permanent or even life-threatening injuries.

Another witness, Jason Land told *Bakersfield Now* that the deputies behaved like "animals."

"They jumped out, reached for their bats. ... and beat that man until they killed him right in front of my face," Land said. "What are we supposed to do when we're witnessing a sheriff, police officer, or whoever it may be that, you know, works for the law, committing a crime like this? Who do we call?"

Melissa Quair and her boyfriend were standing outside next to the medical center and witnessed the entire scene. In an interview with Fox News Latino, Quair said that Silva was sitting on a curb in front of a house when a deputy pulled up and shined a spotlight

in his face.

"We saw the cop run out of his car towards him and smacked him on the head with his night stick up to four to five times," Quair told Fox News Latino. "Cars were coming left and right and officers were getting out with their sticks and beating him."

Quair videotaped the beating, and then in desperation called 9-1-1 to report what was happening. She told the 9-1-1 operator: "The guy was laying on the floor and eight sheriffs ran up and started beating him up with sticks. The man is dead laying right here, right now. I got everything on video tape, this man was doing nothing. These cops had no reason to do this to this man."

The information that Quair had recorded the beating was relayed to the deputies, who scrambled to confiscate the video. The police demanded that Quair and her boyfriend return to the scene and surrender their cellphones.

Quair and her boyfriend returned, but then refused to surrender their phones when the police failed to produce a warrant. When Quair and her boyfriend refused to surrender their phone, they were for all intents and purposes placed under arrest. The two were ultimately detained for 10 hours in their homes until officials could obtain a search warrant.

John Tello, an attorney specializing in criminal law, told reporters that he arrived on the scene to find Quair inside her home surrounded by officers, tired and scared. "When I arrived to the home of one of the witnesses that had video footage, she was with her family sitting down on the couch, surrounded by three deputies," Tello said.

He asked to speak to his client alone, but the officers refused. Quair's boyfriend surrendered a phone after being told he would not be allowed to leave for work

unless he handed it over, and that it would be taken from him “the easy way or the hard way.”

After four or five days, the phones were returned, one of them with the video recording of the beating missing. The attorney for the witnesses has vowed a forensic examination of the phones to determine what was accessed and deleted. Meanwhile, a grainy surveillance camera video has surfaced that appears to show the beating, including at least 20 swings.

Police violence is a daily occurrence in America, with between one and two people killed by the police every day. This statistic does not include beatings, taserings, bullying, and other police violence that does not result in death. As schools and workplaces are being shut down for lack of money, police departments around the country are awash in funds for military training, weapons, and equipment.

Another video posed on YouTube on May 11, 2012 shows a separate incident of Bakersfield police beating a man already in handcuffs, who screams for help. An officer approaches the man filming the beating on his cellphone and says, “Need to seize that as evidence.”

The city of Bakersfield, with a population of approximately 350,000, is located approximately two hours north of Los Angeles. The city’s police department has been repeatedly investigated for widespread use of excessive force, strip searches, and other misconduct.

According to well-established American constitutional law, citizens have a First Amendment right to film the police, including with cellphone cameras. Distributing that film, including online, is an exercise of the right to free speech.

Notwithstanding these existence of the right to film the police in theory, the reality—as demonstrated by countless videos available on sites such as YouTube—is that police often respond furiously and violently when they become aware that they are being filmed. Moreover, many local municipalities around the US have sought to pass laws prohibiting the filming of police.

Since Silva’s death, it has emerged that Silva got into an argument with his girlfriend the night he was killed. After visiting his parents’ house, Silva was on the way to the hospital to check himself in for emotional instability. After the hospital’s security guard turned him away, Silva fell asleep in front of a house.

“He asked for help, he was yelling for help, he was begging for help,” Silva’s brother told ABC News. “No one came, because the people that were supposed to help him were the ones killing him.”

The local authorities have promised an “investigation,” and have requested that the outraged public “be patient” and wait for the results. This is the standard damage control response of every police department in the country after a police killing. Invariably, the long-awaited result of the investigation is that the officers involved acted “within policy.”

Quair told Fox News Latino, “I can’t sleep because I know he wanted help and I couldn’t help him. I hear him begging, screaming for his life, pleading, and gargling blood.”

The official autopsy report indicates that Silva died from “heart disease,” a claim repeated by Kern County Sheriff Donny Youngblood. This is in line with the prevailing trend according to which victims of police beatings are ruled to have died from “natural causes.”



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