



Office of Inspector General

**OFFICER INVOLVED
SHOOTING REVIEW
MIKEL MCINTYRE**

Incident Date
May 8, 2017

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Inspector General

Officer Involved Shooting Review

Mikel McIntyre

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INTRODUCTION

The Inspector General reviews certain critical incidents involving the Sacramento Sheriff's Department personnel to evaluate their response to the incident, departmental policies, tactics, equipment, and training as compared to contemporary law enforcement standards. These reviews result in the identification of lessons learned regarding the incidents and specific recommendations for the Sheriff's Department intended to enhance the safety of the community and deputies. It is important to note that this review was conducted with the benefit of hindsight and the knowledge of all concurrent events. The ability to review reports, photographs, video, and audio allows for the critical review of the incident that is not available to deputies and witnesses at the time of the incident.

The findings and recommendations in this review are those of the Inspector General and do not represent the findings and recommendations of the Sacramento County District Attorney's Office or the Sacramento County Sheriff's Department. The District Attorney's Office is responsible for conducting a separate independent review to determine whether the officers involved committed any violations of criminal law. The Sheriff's Department's conducts a review to determine if there are violations of policy.

The District Attorney's review was not completed at the time of this report. The Sheriff's Department completes their administrative review after receiving the District Attorney's legal finding.

EXECUTIVE SUMMARY

This review concerns an incident where, on May 8, 2017, three Sheriff's Deputies used deadly force against Mikel McIntyre, resulting in his death. The use of deadly force, and the related tactics, departmental policies and practices were compared against best practices in policing. The review included crime reports, statements, evidence, video, audio, and applicable policies. The information and actions considered during this assessment indicate that the Sheriff's Department policies, equipment, and training related to use of deadly force, de-escalation, and administrative investigation need revision and update. Sixteen recommendations are offered for consideration.

The Sheriff's Department had two calls for service involving McIntyre on May 8, 2017. The first occurred at 3:32 p.m. when family members called the Sheriff's Department to a home in the Rosemont area because McIntyre was acting bizarre and attacking them. Deputies responded and determined the best course of action was for McIntyre to leave the home.

The second call was received at 6:47 p.m. when numerous witnesses called 911 to report McIntyre beating and choking a female in the parking lot of the Ross store on Olson Drive in Rancho Cordova. Deputy Wright responded and attempted to detain McIntyre near the Red Roof Inn across the street from the Ross store on Olson Drive. During the scuffle, Deputy Wright fell,

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and McIntyre threw a large river rock striking Deputy Wright on the head. Dazed and fearing for his safety, Deputy Wright fired two rounds at McIntyre but did not hit him.

In response to the assault of Deputy Wright, numerous law enforcement personnel responded and flooded the area including canine Deputy Becker and Deputy Rodriguez. Five minutes later, in his attempt to flee, McIntyre threw a large river rock striking Deputy Becker and his canine. Deputy Becker fired several rounds at McIntyre as McIntyre ran past him, then paused, and fired several more rounds as McIntyre fled along the shoulder of US 50 and Zinfandel Drive. Deputy Rodriguez, aware of the assault on Deputy Wright, and seeing the assault on Deputy Becker, fired 18 rounds at McIntyre as he fled along the shoulder of US 50.

This review offers 16 recommendations intended to improve situational awareness, improve decision making on when to transition from deadly force to less lethal force, increase less lethal options, improve decision making in stressful situations, improve command and control, and develop robust after action reviews.

METHODOLOGY

The Inspector General, with cooperation from the Sacramento County Sheriff's Department, gathered, reviewed, and analyzed documents from many sources to develop an understanding of these incidents. Policies, procedures, and training related to the activities leading up to and including the uses of deadly force were reviewed and compared to best practices in policing.

Document, Evidence, and Policy Review

To assist in the review, information was examined from the following:

- Documents related to the shooting including witness statements and crime scene diagrams, photographs of the scene, dispatch audio, and vehicle GPS locations.
- Review of involved officer and witness interviews.
- Direct observation of the general area and shooting scene.
- Review of Sacramento County Sheriff's Department policies and applicable International Association of Chiefs of Police model policies.¹ Sheriff's policies include:
 - General Order 2/01 (Rev 6/13) Authorized Firearms and Ammunition
 - General Order 2/03 (Rev 5/08) Firearms Training and Qualification Special Weapon Training
 - General Order 2/05 (Rev 12/12 Rev 9/17²) Use of Firearms
 - General Order 2/06 (Rev 10/07) Officer-Involved Shooting Incidents
 - General Order 2/11 (Rev 4/16 Rev 8/17³) Use of Force Policy

¹ <http://www.iacp.org/Model-Policies-for-Policing>

² Reviewed policies included the policy that was current at the time of the incident as well as any modifications made prior to the release of this report.

³ Ibid

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- General Order 2/16 (New 1/06) Weapons Discharge Reporting Incidents
- General Order 2/17 (Rev 3/13) Use of Force – Tactical Review Board
- General Order 10/10 (New 9/07) In-Car Camera Systems

INCIDENT SUMMARY

During the morning of May 8, 2017, Mikel McIntyre went to his aunt's home in the Rosemont area of Sacramento County. He had been stressed and went to the home to be around family. Shortly after 3:00 p.m., the Fire Department was called to the home by a family member to assess his behavior. The family thought he was acting bizarrely and might need medical help. He had locked himself in a car and was combative with the family. The Fire Department requested the Sheriff's Department as a precautionary measure, but the Sheriff's Department did not have any available units. The Fire Department cleared that McIntyre was ok and the Sheriff's call was cancelled by the Fire Department.

At 3:32 p.m., McIntyre's family called the Sheriff's Department and reported that he was getting physical and attacking the family. To keep him away, the family used pepper spray. The phone call to dispatch lasted about 30 seconds before it was disconnected. While deputies were responding to the home, the family reported that McIntyre was outside having a "nervous breakdown." When asked by the Sheriff's Department for McIntyre's description the family noted that he was wearing a Dallas Cowboy's jersey. A warrant check by a responding deputy revealed a warrant for possession of cannabis.

While at the residence, deputies learned that McIntyre did not live at the home but had come to visit family. During the visit, he became upset and sat in a family member's car, and refused to get out. When he eventually got out of the car, the doors were locked behind him. That made him upset and an argument started over the keys. The family used pepper spray to get him away and locked him outside of the house.

When deputies arrived, McIntyre was cooperative and declined medical aid for pepper spray exposure. The deputies, including Deputy Gabriel Rodriguez, assessed McIntyre and determined that he did not meet the criteria for a mental health hold. To resolve the argument, it was decided, with McIntyre's agreement, that it was best for everyone if he left for the day. Deputies advised McIntyre to take care of his warrant and deputies cleared the call at 4:11 p.m.

Later that same day, McIntyre and his mother, Brigett McIntyre, went shopping to get something to eat and buy McIntyre clothes. They parked at the Ross store on Olson Drive and went inside. While inside, McIntyre asked his mother for the cars keys, so he could get his wallet that was inside the car. She gave him the keys and the two returned to the car. While at the car McIntyre's mother asked for the car keys back but he would not give them to her. To allow him time to cool off, his mother went to the Target store. When she returned, she sat back in the car and slipped the car keys off the key ring and asked her son if he was ok. McIntyre asked for the keys back

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from his mother, and when she would not give them back, he became more irritated and then started pulling her hair.

At 6:47 p.m., the California Highway Patrol (CHP) and Rancho Cordova Police⁴ /Sheriff's Department started receiving 911 calls⁵ reporting a male beating and choking a female in the parking lot of the Ross Store at 10835 Olson Drive in Rancho Cordova. The callers described a black male in his 20's, thin build, wearing an "81" dark blue football jersey assaulting a black female and trying to pull her out of a vehicle. The vehicle was registered to Brigett McIntyre.

Deputy Jeff Wright was working patrol and responded to the call. Prior to his arrival, it was reported that the male suspect, later identified as Mikel McIntyre, walked over to the Famous Footwear at 10823 Olson Drive and his mother was still sitting in her car. When Deputy Wright arrived at 6:50 p.m., he saw McIntyre walking across the parking lot wearing a blue Dallas Cowboy's jersey with number 81 on it and blue jeans. At about the same time, a female witness pointed to McIntyre saying "That's him. He's the primary aggressor." McIntyre was walking south through the parking lot and Deputy Wright drove his marked patrol vehicle toward McIntyre and used his PA system and told McIntyre to stop. McIntyre looked at him, said something Deputy Wright could not understand, and kept walking. Deputy Wright parked his patrol vehicle and got out on-foot and followed McIntyre as he walked near Olson Drive toward Zinfandel Drive.

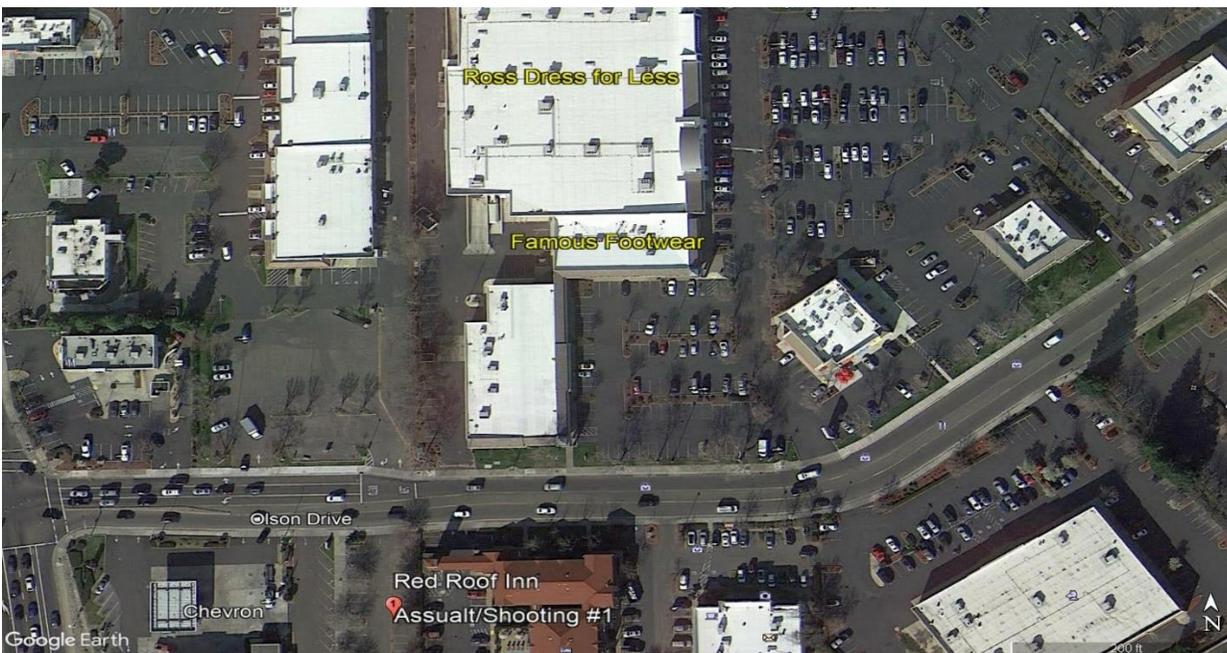


Figure 1- 911 call location

⁴ Sacramento County Sheriff's Department, through contract, provides policing services for the City of Rancho Cordova.

⁵ Multiple 911 cell phone calls were placed. Cell phone calls near that location were routed to CHP who then transferred to Rancho Cordova PD/SSD.

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Deputy Wright tried to get closer by walking faster, and in response, McIntyre sped up. While trying to catch-up to McIntyre, Deputy Wright told him several times to stop and that he needed to talk to him. Deputy Wright started to jog after McIntyre as they crossed Olson Drive toward the Red Roof Inn, 10800 Olson Drive. Reacting to Deputy Wright, McIntyre also started jogging appearing to keep Deputy Wright from getting closer. When they were in the parking lot between the Chevron Gas Station and Red Roof Inn, Deputy Wright ran after him to stop and detain him for the possible assault outside the Ross store.

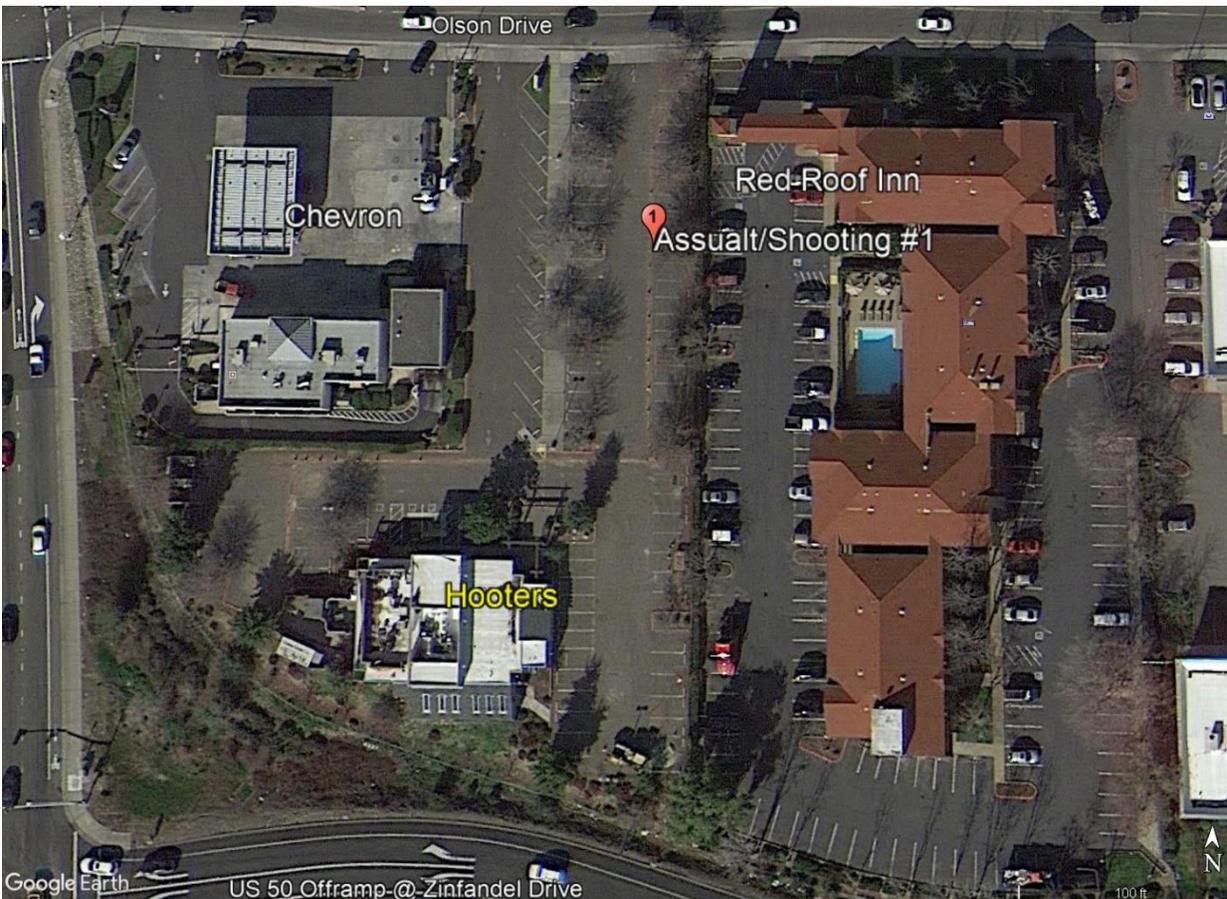


Figure 2- Location of assault on Deputy Wright and shooting scene #1.

When Deputy Wright caught up with McIntyre, he tried to grab him, but McIntyre started side stepping and spinning away while the two moved south through the parking lot toward the Hooters restaurant, 10750 Olson Drive. When McIntyre did not comply, Deputy Wright drew his handgun and told McIntyre to get on the ground. McIntyre turned toward Deputy Wright and screamed something like “Aagghh,” and started toward Deputy Wright.

Deputy Wright stated he realized that he had no cause to use deadly force, so he holstered his handgun and attempted to grab McIntyre as they moved around a truck in the parking lot. While attempting to grab McIntyre, Deputy Wright tripped and fell to the ground “pretty hard” on his

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left side. While Deputy Wright was on the ground, McIntyre went to the wrought iron fence separating the Red Roof Inn from the parking lot and picked up a “just smaller than a football” size rock. While Deputy Wright was still on his knees, McIntyre threw the rock from about five feet away, striking Deputy Wright in the head, and the rock then bounced off and hit a truck. While Deputy Wright struggled to get up, McIntyre picked up a second rock. Witnesses at the Red Roof Inn feared that McIntyre would use the second rock to again assault Deputy Wright, so they began yelling at McIntyre to leave the deputy alone. In response, McIntyre turned and started walking south toward the Hooters restaurant. Deputy Wright reported that immediately after being struck, he could not hear anything and that his vision “went really bright” and he temporarily could not see.

Dazed, Deputy Wright got to his feet and saw McIntyre seven to ten yards south of him. Deputy Wright yelled “stop” several times and then fired two rounds at McIntyre⁶ who fled toward the Hooters restaurant. As McIntyre fled, Deputy Wright stated the Hooters building become part of the background, so he stopped shooting, thus preventing potential bystander injury due to a stray round. McIntyre continued toward the front of Hooters, and slowed to a walk as he went around the front of the business before he turned south toward US 50.

Several witnesses assisted Deputy Wright until additional deputies and medical aid arrived. Deputy Wright was transported to an area hospital and treated for his head wound.

When Deputy Wright broadcast that he had McIntyre at gun point, several Sheriff’s patrol units started responding. Less than a minute later, when he broadcasted that he had been hit in the head with a rock and had fired shots, many more units responded, including Sheriff’s Department supervisors and patrol deputies, Sheriff’s Department gang units, air support from both the Sheriff’s Department and CHP, CHP patrol officers, and a Sacramento County Regional Parks ranger.

Law enforcement units flooded the area, as McIntyre had made his way south across the Zinfandel Drive off-ramp for westbound US 50 and the Zinfandel Drive on-ramp for northbound Zinfandel Drive to westbound US 50. This placed him on the inside loop of the northeast cloverleaf interchange. As he made his way through the vegetation, he was seen by a Sheriff’s patrol sergeant who was stopped on westbound US 50, along the center divider east of Zinfandel Drive. Less than a minute later, Deputy Rodriguez, who had stopped along the center divider of eastbound US 50 west of Zinfandel Drive, alerted others that he was also watching McIntyre.

⁶ McIntyre was about 20-25 yards away from Deputy Wright.

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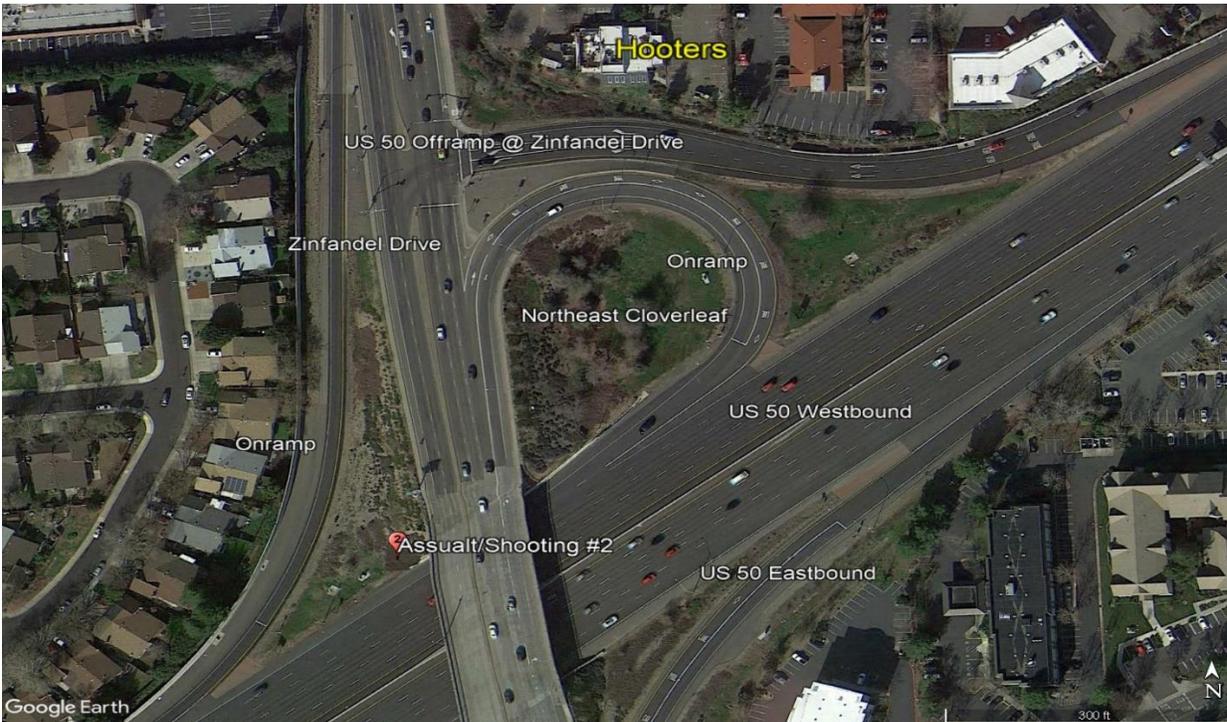


Figure 3- Zinfandel Drive US 50 Interchange

As additional deputies, CHP officers, and a County Park ranger arrived at US 50 and Zinfandel Drive, McIntyre walked up the east side berm of the Zinfandel Drive overpass along a retaining wall. The berm took him to a concrete path that runs under the entire overpass (Figure 4). As McIntyre reached the upper path, a Sheriff's deputy on-foot followed him up the berm. Not seeing any rocks in McIntyre's hands, the deputy holstered his handgun and drew his baton. McIntyre walked west on the path as patrol vehicles on US 50 trailed below along the shoulder.



Figure 4- Retaining wall and path

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Deputy Ken Becker and his canine had responded to the area and were on-foot on the west side of the Zinfandel Drive overpass near the west end of the retaining wall as McIntyre continued toward them. Deputy Becker was slightly up the side of the berm, in the vegetation, near the end of the retaining wall (Figure 5). Deputy Rodriguez, who was on the eastbound side of the center divider, climbed over the divider onto the westbound traffic side of the center divider. In addition to Deputies Becker and Rodriguez, there were three Sheriff's deputies, one Sheriff's sergeant, two CHP officers, and one County Parks ranger for a total of nine law enforcement officers and one police canine near US 50 westbound at Zinfandel Drive.



Figure 5- Zinfandel Drive overpass west side

As McIntyre got to the west end of the retaining wall, he raised his right arm up, and as he started to run down the steep embankment, he threw a softball size rock at Deputy Becker and his canine partner, striking the dog in the muzzle and Deputy Becker in the leg. Deputy Becker was caught by surprise that McIntyre was above him in elevation and not below at road level. When McIntyre threw the rock, Deputy Becker tried to back pedal in the rough terrain and lift his left arm to protect his face. As McIntyre ran past, Deputy Becker fired his handgun several times at McIntyre. A round he fired struck the asphalt in the right lane of westbound US 50. A subsequent round he fired also struck the asphalt in the right lane of westbound US 50, west of the first round.

After firing several rounds Deputy Becker paused briefly to adjust his aim then continued shooting as McIntyre ran away from him along the shoulder of westbound US 50. In his statement, Deputy Becker believed that he struck McIntyre because of the way McIntyre's body

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moved. When McIntyre was approximately 105 ft away from Deputy Becker he stopped firing, so he could holster his handgun and chase after McIntyre. Deputy Becker fired a total of 8 rounds.⁷

Prior to McIntyre throwing the rock at Deputy Becker, Deputy Rodriguez had watched McIntyre from the center divider. As McIntyre moved closer to the end of the retaining wall, Deputy Rodriguez started to move across the westbound lanes of traffic. When Deputy Rodriguez stepped into traffic, he observed several vehicles that began to slow as a Sheriff's sergeant, who was east of Zinfandel Drive, started to do a traffic break to stop traffic. When Deputy Becker fired the second round that ricocheted across US 50, Deputy Rodriguez was in the far-left lane (W-1)⁸ moving across the roadway. When Deputy Rodriguez was in the middle (W-3) lane, he started firing his handgun as McIntyre fled from Deputy Becker. The distance between Deputy Rodriguez and McIntyre was approximately 58 feet when he started firing (Figure 6). As McIntyre continued to flee westbound, Deputy Rodriguez continued to advance and fire while he moved. About halfway through his volley of rounds, Deputy Rodriguez stopped firing as a light-colored vehicle on the on-ramp passed behind McIntyre. Once the car cleared the area behind McIntyre, Deputy Rodriguez continued to fire until he ran out of rounds. While continuing to advance, Deputy Rodriguez ejected his empty magazine and reloaded. Deputy Rodriguez fired a total of 18 rounds.

McIntyre continued across the westbound US 50 onramp to the shoulder area adjacent to a sound wall as Deputy Becker sent his dog to stop McIntyre. Once at the wall, McIntyre looked back toward deputies, then stopped and started to get on the ground, but appeared to see the approaching canine and stood up. McIntyre continued moving slowly west along the sound wall as the canine bit him and he went to the ground. As the canine was biting McIntyre, multiple officers ran up and briefly struggled with McIntyre to get him handcuffed.

Once McIntyre was handcuffed, the fire department was requested for medical aid and McIntyre was transported to the UC Davis Medical Center where he later succumbed to his injuries.

⁷ The round count is approximate. Only four shell casings fired from Deputy Becker's could be located. He reports that he fully loaded his weapon with 18 rounds and 10 rounds were removed from his weapon after the shooting.

⁸ Traffic lanes are counted from left to right with the far-left lane designated as the #1 lane. On this section of US 50 there are six westbound lanes, lanes #1-#6.

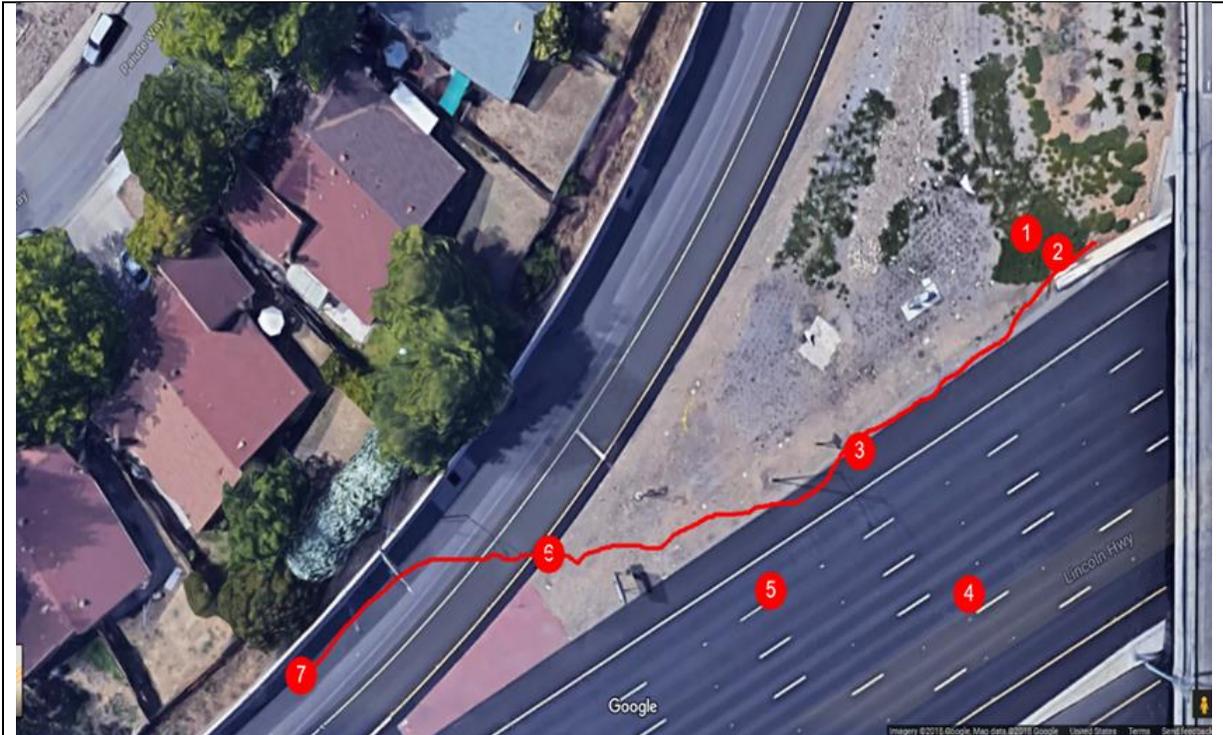


Figure 6- US 50 and Zinfandel Drive shooting scenes #2 & #3.

1. Deputy Becker when he fired (shooting #2)
2. McIntyre when Deputy Becker started firing.
3. McIntyre when Deputy Becker stopped shooting.
4. Deputy Rodriguez when he started firing (shooting #3).
5. Deputy Rodriguez when he stopped firing.
6. McIntyre when Deputy Rodriguez stopped firing.
7. Arrest location.

	Location	Distance	Time
•	2 – 3	105 ft	5 Seconds
•	3 – 4	58 ft	
•	3 – 6	106 ft	6 Seconds
•	5 – 6	79 ft	

Locations and distances are approximate and based on crime scene diagrams, photo and video evidence. Distance were measured using Google Earth.

PHYSICAL EVIDENCE

The following is a list of items discovered during the investigation, a summary of the Coroner's report, toxicology tests, and physical evidence report. This list does not include other items collected such as the rocks⁹ used to assault the deputies or personal property of McIntyre.

⁹ The report does not use crime scene photos and no reasonable like images were available.

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Weapons Involved

The following weapon was used by:

- Handgun - Glock 17 Gen 4 - 9mm pistol – Deputy Wright fired 2 rounds.
- Handgun - Glock 17 Gen 4 - 9mm pistol – Deputy Becker fired 8 rounds.¹⁰
- Handgun - Glock 17 Gen 4 - 9mm pistol – Deputy Rodriguez fired 18 rounds.¹¹



Figure 7- Glock 17 Gen 4

Coroner's Report

The Sacramento County Coroner's Office conducted an autopsy of Mikel McIntyre and determined the cause of death was multiple gunshot wounds. The information and descriptions below are taken from the Coroner's Report. Specifically, the report identified five gunshot entry wounds, three gunshot exit wounds, and two tangential wounds:

1. Gunshot entry wound to the right side of the back. The direction of the gunshot wound was back to front, slightly right to left and slightly upward. The projectile was recovered and preserved for testing.
2. Gunshot entry wound to the right arm. The direction of the gunshot wound was back to front. Multiple projectile fragments were recovered and preserved for testing.
3. Gunshot entry wound to the left forearm and exit wound in the left forearm. The direction of the gunshot wound was slightly back to front, right to left, and downward.
4. Gunshot entry wound to the right thigh and exit wound right thigh. The direction of the gunshot wound was back to front and left to right.
5. Gunshot entry wound to the left thigh and exit wound left thigh. The direction of the gunshot wound was back to front, right to left, and upward.

¹⁰ Only four shell casings fired by Deputy Becker's weapon were located, but he reported that he was fully loaded with 18 rounds prior to the beginning of shift and 10 rounds were removed from his weapon after the shooting.

¹¹ It was originally reported that Deputy Rodriguez fired 19 rounds. A review of the shell casings discovered at the scene, video and audio recordings from several patrol vehicles, the capacity of his magazines, and the number of live rounds in his possession after the shooting, it was determined that he fired 18 rounds.

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6. Tangential gunshot wound of the head. At the top of the head there was an elongated linear wound consistent with a tangential gunshot wound with no underlying skull fracture or intracranial injury. The direction of the gunshot could not be determined.
7. Tangential gunshot wound of the left little finger. The direction of the gunshot was front to back and right to left.

Toxicology Results

Blood alcohol and toxicology tests were conducted by the Sacramento County District Attorney's Office Crime Lab.

The toxicology report listed the presence of the following:

Diazepam¹² 7.6 ng/mL
Caffeine

Physical Evidence Examination Report

The Sacramento County District Attorney's Office Crime Lab conducted an analysis of the weapons possessed by Deputies Wright, Becker, and Rodriguez to determine which weapon fired the shell casings recovered from the shooting scenes, and the projectile and projectile fragments recovered from McIntyre. As noted from the Coroner's report, projectiles were recovered from only two of the wounds, wounds #1 and #2 above.

The report identified:

- Deputy Wright's weapon fired the two shell casings recovered from the scene near the Red Roof Inn on Olson Drive.
- Deputy Becker's weapon fired the four shell casings recovered from the vegetation area adjacent to the Zinfandel Drive overpass. Deputy Becker's weapon also fired the projectile and projectile fragments recovered from McIntyre (wounds 1 & 2 above).
- Deputy Rodriguez gun fired the 18 shell casings recovered from the westbound traffic lanes of US 50.

USE OF FORCE ASSESSMENT

Legal Issues - Background

The 4th and 14th amendments of the U.S. Constitution provide the foundation for deadly use of force policies in the United States. Federal court guidelines stem from the benchmark 1985 decision of the U.S. Supreme Court in *Tennessee v. Garner*. This ruling held that the Tennessee statute that permitted police officers to use deadly force in arresting non-dangerous fleeing felons was unconstitutional. This ruling sanctioned the use of deadly force only to "protect the officer and others from what is reasonably believed to be a threat of death or serious bodily harm," (or) "if it is necessary to prevent the escape of a fleeing violent felon whom the officer

¹² Common name is Valium. <https://www.webmd.com/drugs/2/drug-6306/diazepam-oral/details>

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has probable cause to believe will pose a significant threat of serious physical injury to the officer or others.”¹³

Injury from Thrown Objects

The rocks McIntyre used to assault Deputies Wright and Becker were weapons of opportunity. The evidence supports that he retrieved rocks from the surrounding area and used them to assault the deputies in an apparent attempt to escape. These types of rocks are occasionally used in landscaping and scattered along the sides of roadways in the area.

The risk of great bodily injury or death from a thrown rock has several variables including mass, velocity, and distance. The kinetic energy generated by mass and velocity, combined with the shape of the rock and location of the injury are associated factors in potential injury or death. A large thrown rock will lose speed and kinetic energy more quickly, and therefore have the greatest potential for serious injury or death at a close distance. Whereas a thrown smaller rock may have more initial velocity and greater potential distance, and therefore more kinetic energy at a certain point than a larger rock. In general, a somewhat lighter object traveling at high speed will cause more damage than a heavier object traveling at low speed.¹⁴

When McIntyre struck Deputy Wright in the back of the head with a large rock at a close distance, the likelihood of serious injury or death was high. This is because the severity of injuries inflicted by blunt force trauma is dependent on the amount of kinetic energy transferred and the tissue to which the energy is transferred¹⁵.

Although McIntyre had a smaller rock when he assaulted Deputy Becker, the momentum McIntyre had when he threw the rock allowed for greater velocity¹⁶ and the potential for great bodily injury or death.

Adding to the risk associated with a thrown object is the potential to daze or render an officer unconscious, thus leaving them vulnerable to having one or more of their weapons taken from them. The potential loss of a weapon would create a serious risk of death or great bodily injury to the officer, responding officers, and the community.

Incident Analysis

The purpose of this review is to determine issues related to tactics, policies, procedures and training. To complete a comprehensive review, this analysis relied on all information available including facts known and not known to the deputies at the time they used deadly force. This hindsight approach, while not appropriate to determine reasonableness of an officer's actions,

¹³ https://cops.usdoj.gov/pdf/e10129513-Collaborative-Reform-Process_FINAL.pdf

¹⁴ Batalis, Nicholas, *Forensic Autopsy of Blunt Force Trauma*. <https://emedicine.medscape.com/article/1680107-overview>

¹⁵ Batalis, Nicholas.

¹⁶ The kinetic energy associated with a moving object is equal to one half the mass of that object multiplied by the velocity of the object squared ($1/2 mv^2$).

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provides a more thorough examination of events resulting in recommendations for change that may not have been identified with a more limited review focused on determining reasonableness based on what an officer knew at the time.

At the center of this analysis is:

- Did McIntyre pose an imminent threat of serious bodily injury or death to officers or the community?
- Was there a likelihood McIntyre would escape and if so was it likely he would pose an imminent threat of serious bodily injury or death?

There are two distinctly different set of events and related facts associated with this officer involved shooting review. The first involves the use of deadly force near the Red Roof Inn. After arriving at the scene, Deputy Wright attempted to detain McIntyre while he investigated a reported assault. McIntyre resisted being detained causing Deputy Wright to stumble and fall to the ground. With Deputy Wright on the ground, McIntyre grabbed a large river rock and threw it from a short distance at Deputy Wright striking Deputy Wright in the head. While Deputy Wright was dazed, McIntyre picked up a second rock but did not further assault Deputy Wright when witnesses yelled at him. Deputy Wright stated he was able to get to his feet, and fearing that McIntyre would continue his assault, fired two rounds at McIntyre. Although dazed from a head wound, Deputy Wright had enough awareness to recognize the Hooters restaurant was in the background and stopped firing.

The second set of events surround the uses of deadly force on US 50 near Zinfandel Drive. When Deputy Becker first fired, McIntyre had just thrown a large rock at him with enough velocity that the assault could have resulted in serious injury or death. The immediate reaction from Deputy Wright to the assault was to fire his handgun at McIntyre. The first few rounds were fired as McIntyre passed from Deputy Becker's left to his right. When Deputy Becker fired, he was slightly above McIntyre shooting downward which resulted in two of his rounds travelling onto the roadway with the first round striking the right lane (W-6) of US 50 and ricocheting across the westbound lanes of traffic. The second of the two ricocheted rounds travelled in the direction of a westbound vehicle and Deputy Rodriguez.

After McIntyre passed by Deputy Becker there was a brief pause in his shooting. When Deputy Becker resumed shooting, he was still slightly above the roadway surface shooting toward McIntyre as he fled. Although westbound traffic had been stopped by responding officers, approximately five vehicles were travelling down range placing them in the general direction Deputy Becker was firing.

Deputy Becker stated that he fired the last 4-5 rounds at McIntyre because he assumed McIntyre choked a "random female," tried to kill Deputy Wright, assaulted him, and "this isn't going to stop unless he gets stopped." Although Deputy Becker believed that his shooting did not create

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a risk to other officers or the public, a review of available evidence suggests that multiple vehicles and Deputy Rodriguez were in the background of several rounds fired by Deputy Becker.

Deputy Rodriguez responded to the area because of the assault of Deputy Wright. He also recognized the description of McIntyre from the earlier call he handled in the Rosemont area. When he arrived and parked on the center median of eastbound US 50, he could see McIntyre and he recognized him from the interaction they had earlier that day. He also saw a Sheriff's sergeant stopped along the center divider of US 50, and he saw a patrol vehicle trailing along the retaining wall below McIntyre. Deputy Rodriguez continued to watch as McIntyre moved west along the top of the retaining wall under Zinfandel Drive. To assist in apprehending McIntyre, Rodriguez started to cross the six lanes of westbound US 50. At this point, he observed McIntyre throw a rock at Deputy Becker and flee west along the roadway shoulder. As McIntyre fled, Deputy Rodriguez began firing when he was in the W-3 lane and continued advancing and firing until he was in the W-5 lane.

Deputy Rodriguez stated in his interview that he was concerned that McIntyre would be able to escape, and based upon the information about the assault on Deputy Wright, and the assault he just witnessed on Deputy Becker, he used his firearm to "disable the threat." Deputy Rodriguez stated he was worried McIntyre may continue to flee south across the westbound lanes of traffic, into the eastbound lanes, and potentially into the area south of US 50.

After McIntyre passed by Deputy Becker, he reached a distance where options existed to avoid the additional use of deadly force. The distance in this situation was enough to allow the officers to react to any new threats of a thrown rock without placing themselves or others in jeopardy.

The evidence supports that McIntyre was at times an imminent threat to deputies. He was clearly violent in his attempts to escape, and he injured two deputies and a canine. However, his weapon was one of opportunity, and the potential for lethality was influenced by proximity and velocity. He used rocks from the surrounding landscape to throw at deputies in an attempt to escape. When McIntyre was close, and armed with a rock in his hand ready to throw, his was an imminent threat of great bodily injury or death. As the distance between McIntyre and the deputies increased, the risk of serious injury or death decreased, and with it, the need for deadly force. If McIntyre had been able to stop and retrieve another rock from the ground, or while running reached into his pocket and grabbed a rock^[1], the deputies had enough distance and time to assess the new set of facts and determine if deadly force was reasonable or if less lethal options were more appropriate.

Additionally, there were adequate resources on the ground with three officers on foot, six officers driving marked vehicles, and a canine for a total of nine law enforcement officers, to isolate and contain McIntyre without firing additional shots, as is evident from the fact that this is how the situation was resolved. There was also a CHP fixed wing aircraft above, a Sheriff's Department helicopter responding, as well as additional officers. With the number of officers and

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police vehicles at the scene, the barriers provided by the freeway sound wall, and the distance McIntyre would have to run to get across the freeway or up the on-ramp, an escape was unlikely.

Not all of these facts were known to the deputies, with each deputy focused on their own actions and unique surroundings. However, continuing to use deadly force and not using the resources available to contain McIntyre demonstrates a need to improve situational awareness, improve decision making on when to transition from deadly force to less lethal force, increase less lethal options, improve decision making in stressful situations, improve command and control, and develop robust after action reviews.

The events surrounding the uses of deadly force were fast and chaotic. From the moment Deputy Wright arrived near the Ross store to the time McIntyre was taken into custody was seven minutes. During that time, McIntyre traveled approximately one-third of a mile, resisted and assaulted Deputy Wright, assaulted Deputy Becker and his canine, and fled until he was arrested. During that time, three deputies fired a total of 28 rounds, striking McIntyre seven times. There are instances where the number of rounds fired at McIntyre were excessive, unnecessary, and put the community at risk. While chaos in these situations is a reality, the ability to make sound and reasonable decisions is essential.

RECOMMENDATIONS

The information considered during this review indicates that Sheriff's Department policies, equipment, and training related to use of deadly force and de-escalation need update and change.

After Action Review

An after-action review (AAR) is a professional discussion of an event, focused on performance standards, that enables deputies to discover for themselves what happened, why it happened, and how to sustain strengths and improve on weaknesses.¹⁷ With a goal of improving future performance the AAR requires:

- Candid insights into specific deputy, supervisor, and department strengths and weaknesses from various perspectives.
- Feedback and insight critical to performance improvement.
- Details often lacking in the current review processes.

The process itself is an active discussion centered around four key questions:

1. What did we intend to accomplish?
2. What actually happened?
3. Why did it happen that way?

¹⁷ www.au.af.mil/au/awc/awcgate/army/tc_25-20/tc25-20.pdf

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4. What will we do for a better outcome in the future?

“An after action review allows you to think better because their purpose is to question any and all previously held assumptions and beliefs, inciting greater curiosity.”¹⁸

An AAR of this incident would seek to identify why some deputies assessed the risk of shooting in a public place differently than others, or why a deputy who observed McIntyre fleeing without a rock in his hand, chose to holster his firearm and transition to less lethal force, while others chose deadly force. Each of the circumstances was different for each deputy, and discussing the differences and similarities would help to better understand the totality of events, and identify areas of strength as well as areas needing improvement or change.

Recommendation

1. The Sheriff’s Department conduct robust after action reviews of critical incidents, including officer involved shootings. The after action review is not a Tactical Review Board, but a review designed to analyze what happened, why it happened, and how it can be done better. Included in the after action are participants, supervisors, leaders of the incident, and independent experts.

Video and Audio

This review was aided by the ability to view video including in-car camera, aircraft video, videos posted to YouTube, and private surveillance video. While all Sheriff’s patrol vehicles are equipped with in-car video, none of the deputies involved wore the body worn microphones hence, audio was limited to microphones in the vehicles. Body worn cameras would have greatly enhanced the thoroughness of this review.

Recommendation

2. The Sheriff’s Department issue body worn cameras to all sworn personnel.

Training

Law enforcement is a profession that requires officers to make decisions under rapidly changing conditions, with limited information, that potentially could result in serious injury or death. How officers respond in these situations is influenced by patterns formed through education, training, and experience. The Sheriff’s Department currently requires all sworn personnel attend Crisis Intervention Training (CIT) which includes a 90-minute block of de-escalation training.

¹⁸ <https://www.forbes.com/sites/jeffboss/2016/12/01/dont-skimp-on-the-after-action-review-6-reasons-why/#113ed1f3ba3d>

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Recommendations

3. The Sheriff's Department review training curriculum to increase the use of Tactical Decision Games¹⁹ that challenge participants to successfully resolve problems through quick, effective decision making.
4. The Sheriff's Department review training to ensure the following decisions are included in training sessions involving the use of deadly force:
 - What is the original crime, and would the use of deadly force be justified?
 - What was the weapon and is the weapon still available to the assailant?
 - What is the likelihood of escape?
 - When is the use of deadly force no longer necessary to prevent escape?
5. The Sheriff's Department use this incident as a case study and increase the number of hours dedicated to de-escalation during CIT courses, or create separate training dedicated to de-escalation. CIT is critical, but it is not always sufficient to produce the best outcomes in situations involving people who have a mental illness, under the influence of alcohol and/or drugs, or are otherwise in crisis and behaving erratically or dangerously toward themselves or others. De-escalation training should focus on recognition of persons in crisis, tactical communication, and safe tactics as part of an overall integrated strategy designed to slow the incident and produce better outcomes.
6. The Sheriff's Department should include scenarios across training curriculum that requires deputies to transition frequently between use of force options. This would include less lethal decisions during firearms training.
7. The Sheriff's Department should create scenarios during use of force training that include backgrounds that potentially put others at risk.

Equipment

During the investigation, it was determined that both Deputies Becker and Rodriguez had spare ammunition magazines that were not loaded to capacity. While not common, there are instances that the springs in some magazines interfere with a deputy's ability to fully load the magazine to capacity. Deputy Becker had a spare magazine in his magazine holder that was one round short of capacity. After Deputy Rodriguez ejected an empty magazine and reloaded, his handgun had one round in the chamber and 15 rounds in the magazine. The number of rounds in the weapon implies that Deputy Rodriguez either fired a single round from the second magazine, or failed to fully load the second magazine. Physical evidence supports that Deputy Rodriguez did not fire a single round from the second magazine but failed to fully load that magazine.

¹⁹ Tactical Decision Games developed for the military have been used successfully in a variety of professions including law enforcement, fire service, and medicine.

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Recommendations

8. The Sheriff's Department establish a policy that requires verification and documentation that firearms and magazines are either fully loaded, or are not fully loaded, before personnel leave the range or go in-service.

Following the February 2, 2016, fatal shooting of Justin Prescot, the OIG recommended that the Sheriff's Department should broadly deploy less lethal devices that provide a distance greater than the Taser and pepper spray. Potential options may include impact munitions as well as longer distance applications of chemical agents such as pepper balls. That recommendation was accepted by the Sheriff's Department and the Department is currently transitioning to less lethal shotguns which will be mandatory for all field personnel to carry once fully trained. General Order 2/15 (Less Lethal Force Weapons) has been revised and training is on-going.

9. The Sheriff's Department include less lethal options, including shotguns, in all aspects of force training.
10. The Department track the use of all less lethal weapons and conduct regular assessments of their use and effectiveness across the entire department.

Command and Control

Vehicles with data terminals, the communications center, and others can use GPS to locate and track deputies and their vehicles. During a critical incident, the practice is for an uninvolved deputy to use GPS locators to establish perimeters to contain a fleeing suspect. While useful in more stable situations, the dynamic nature of this event required that someone with more information be tasked with assisting the on-scene supervisor with additional situation status, such as the arrival of the CHP airplane, locations of units responding, and any additional information so that field unit awareness is improved.

Recommendation

11. The Sheriff's Department review protocols and processes to improve overall command and control of complicated events that includes enhanced situational status and awareness.

Administrative Review

The Sheriff's Department completes two reviews when deadly force is used. The first is an administrative review designed to identify misconduct. This review is conducted by Internal Affairs and initiated by executive staff. There is no written policy requiring an administrative investigation when deadly force is used. In instances when the Sheriff's Department has conducted an Internal Affairs Investigation related to an officer involved shooting, the Department has waited for the District Attorney office to complete their review of the shooting before completing the internal investigation.

Additionally, the Sheriff's Department has a Use of Force - Tactical Review Board. The policy clearly states the review board "...is in no way intended to be construed as an Administrative

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Investigation. No portion of any finding or recommendation by the Board shall be used in any disciplinary process to establish fault or rebut allegations of fault. This shall also apply to any criminal or civil process.”²⁰

The Tactical Review Board is to determine:

1. *The need for revisions to policy, procedure, or training;*
2. *Whether or not there was proper management of the situation by command and supervisory staff;*
3. *If there is a need for changes or modifications to equipment;*
4. *Whether or not commendatory actions are warranted.*

The Sheriff’s Department also asserts in policy that the review board has privilege under Evidence Code section 1151 and is not subject to public disclosure under government Code section 6254.

Recommendations

12. The Sheriff’s Department require an Internal Administrative Investigation in all uses of deadly force by Sheriff’s personnel, whether on or off-duty. This recommendation is not intended to infer blame or fault, but intended to establish a level of review commensurate with the significances and consequences associated with the use of deadly force.
13. The Sheriff’s Department revise General Order 2/17 *Use of Force – Tactical Review Board*, so that the Tactical Review Board may consider all relevant information including information discovered during any review or investigation, including administrative, and if the Tactical Review Board determines additional information is required to make a recommendation, it should be allowed to make that request. Additionally, the Tactical Review Board should have an emphasis on the following:
 - Assurance of compliance to all department policies and procedures.
 - Identification and management of liability exposure created by the incident in a manner consistent with the best interests of the community, county, department, and involved personnel.
 - Identification of risk management and training issues that are identified from the incident.
 - Identification and examination of supervision and procedure.
 - Identification and examination of training, tactics, equipment used by employee, and reasonableness of the force.
14. The Sheriff’s Department publish the Tactical Review Board’s findings while complying with the confidentiality requirements mandated in the Public Safety Officers Procedural Bill of Rights.²¹

²⁰ General Order 2/17 (Rev 3/13) Use of Force – Tactical Review Board

²¹

https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=GOV&division=4.&title=1.&part=&chapter=9.7.&article=

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General Policy Considerations

Recommendations

15. Most of the policies reviewed for this report have not been revised in over three years. The Department should establish a policy review cycle that requires all policies be reviewed and reissued or revised on a cycle no longer than three years.²²
16. The Sheriff's Department establish a centralized policy unit with full time staff assigned the responsibility of coordinating, writing, reviewing, and disseminating policies.

²² The Sheriff's Department is reviewing this recommendation to determine a process to ensure a timelier review of policies.

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APPENDIX

Timeline of Events²³

TIME	ACTION
	First Incident
3:16:26 p.m.	Call received from Fire dispatch requesting SSD as precautionary about an ill psych patient in his 30's (McIntyre) who locked himself in a vehicle being slightly combative.
3:25:52 p.m.	Call cancelled by Fire dispatch
3:32:30 p.m.	Call received from family reporting that McIntyre was getting physical, attacking family members, and they sprayed him with pepper spray
3:47:14 p.m.	SSD called back to the house and the family reported McIntyre was outside trying to get inside the house and that he was having a nervous breakdown.
3:48:33 p.m.	Deputies arrived and contacted McIntyre
4:11:17 p.m.	Deputies cleared the call. McIntyre and family agreed it was best if he left. McIntyre was evaluated and did not meet the criteria for a mental health hold and he was advised of a misdemeanor warrant. McIntyre left without further issues.
	Second Incident
6:47:57 p.m.	<p>The first of several calls received by SSD reporting a male assaulting a female, choking her and trying to pull her out of the car. The assault was reported in the parking lot of the Ross Store at Olson Drive and Zinfandel Drive.</p> <p>The male was described as a black adult, 20's, thin build, wearing a dark blue football jersey with number "81" on the back and front, and jeans. The male was later identified as Mikel McIntyre</p> <p>The female was described as a black adult in a vehicle that was registered to Brigett McIntyre.</p>
6:48:58 p.m.	A caller reported that McIntyre walked over to the Famous Footwear.
6:50:30 p.m.	Deputy Wright arrived and reported that he was with McIntyre.
6:50:56 p.m.	Deputy Wright reported that McIntyre was walking away towards Zinfandel Drive and Olson Drive.
6:51:26 p.m.	Deputy Wright reported that McIntyre was fighting, and he had him at gunpoint.
6:52:12 p.m.	Deputy Wright reported shots fired, he had been hit in the head with a rock and needed code three fire. McIntyre ran from the scene west through the

²³ All times are approximate and based on store video time indicators, 911 phone audio time stamps, and Sheriff's dispatch logs.

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	Hooters restaurant front parking lot (10750 Olson Drive) and then south along the west side of Hooters toward US 50.
6:53:26 p.m.	A deputy arrived to assist Deputy Wright and reported that McIntyre was last seen behind the Hooters restaurant. He also reported that Wright had a large laceration to the back of his head.
6:54:06 p.m.	A witness reported that McIntyre was on the freeway.
6:55:30 p.m.	A patrol sergeant who was parked on US 50 radioed that he was watching McIntyre along the freeway near the Zinfandel Drive overpass
6:56:20 p.m.	Deputy Rodriguez who had stopped his patrol vehicle along the center divider of eastbound US 50 just west of Zinfandel Drive reported on the radio that he was watching McIntyre.
6:56:32 p.m.	McIntyre was walking up a berm from the roadway level of westbound US 50 on the east side of the Zinfandel Drive overpass to the top of a retaining wall under the Zinfandel Drive overpass. Multiple Sheriff's Deputies in patrol vehicles, including a sergeant, CHP officers, and a Sacramento County Park ranger were near the overpass
6:56:38 p.m.	McIntyre was at the top of the retaining wall under the Zinfandel Drive overpass of US 50.
6:56:41 p.m.	A uniformed deputy exited a patrol vehicle and followed McIntyre up the embankment while his partner trailed in the patrol vehicle below.
6:56:42 p.m.	McIntyre started trotting westbound under the overpass on top of the retaining wall.
6:56:51 p.m.	Deputy Rodriguez climbed over the concrete center divider onto the center median of westbound Highway 50. McIntyre was still on the retaining wall above the roadway below the overpass moving west.
6:56:53 p.m.	McIntyre leaned over the wire security railing toward a patrol vehicle below.
6:56:54 p.m.	McIntyre neared the west end of the retaining wall and threw a rock at Deputy Becker and his canine, striking both, as McIntyre ran down the steep embankment past Deputy Becker. Deputy Becker was on-foot, partway up the west side embankment of the Zinfandel Drive overpass.
6:56:57 p.m.	Deputy Rodriguez Started crossing the six westbound lanes of US 50.
6:56:58 p.m.	Becker fired at McIntyre as he ran past. A ricochet round was observed hitting the ground in the right lane of US 50 (W-6) with a southern trajectory across the traffic lanes. A second ricochet round was observed hitting the ground west of the first round with a trajectory toward a vehicle in the W-2 lane and Deputy Rodriguez.
6:57:00 p.m.	McIntyre was clear of Deputy Becker and continued to run west along the shoulder of US 50. Deputy Becker continued to fire with possibly up to six vehicles in the background in the westbound lanes.
6:57:01 p.m.	Deputy Rodriguez was in the center (W-3 lane) when he started firing at McIntyre as he fled away from deputies.

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6:57:02 p.m.	When McIntyre was approximately 105 ft from Deputy Becker, near a “merge” traffic sign, Deputy Becker stopped firing.
6:57:04 p.m.	Deputy Rodriguez stopped firing as a vehicle passed behind McIntyre.
6:57:05 p.m.	Deputy Rodriguez resumed firing his handgun at McIntyre after the car passed.
6:57:09 p.m.	McIntyre continued running west along the shoulder of US 50 and as he reached the Zinfandel on-ramp for westbound US 50, Deputy Rodriguez stopped firing.
6:57:10 p.m.	McIntyre crossed over the on-ramp and slowed to a trot as he looked back at the deputies.
6:57:12 p.m.	Deputy Becker sent his canine to stop McIntyre.
6:57:18 p.m.	McIntyre stopped along the sound wall of US 50.
6:57:19 p.m.	McIntyre started to get on the ground and looked at the approaching dog then stood up.
6:57:20 p.m.	Deputy Becker’s dog contacted McIntyre, biting him as McIntyre moved farther west along the sound wall.
6:57:22 p.m.	McIntyre went to the ground with the dog continuing to bite him.
6:57:50 p.m.	A deputy requested the Fire Department.
7:01:41 p.m.	Sacramento Metro Fire Department arrived.
7:14:00 p.m.	McIntyre was transported to the UC Davis Medical Center by Sacramento Metro Fire Department
7:24:30 p.m.	McIntyre arrived at UC Medical Center.

Table 1 Timeline