



ADMINISTRATIVE REVIEW – AUDIT

Case Details	
Complainant Name	SCSO Self-Initiated
Case No.	18-AR-0007
Type of Investigation	SCSO Administrative Review Pursuant to 93-1 Critical Incident Protocol—Officer Involved Shooting (OIS)
Incident Date	May 13, 2018
Date/Origin of Complaint	Administrative Review Assigned May 15, 2018
Date IA Sent to IOLERO	Unknown
Date Audit returned to SCSO	August 15, 2022

TABLE OF CONTENTS

SUMMARY	1
MATERIALS REVIEWED	1
FACTUAL BACKGROUND.....	1
I. The Initial Call for Service	1
II. Attempts to Clarify Nature of the Weapon	2
III. The Deputies' Arrival on Scene.....	2
IV. Shots Fired by the Suspect and by Dep. Matelli.....	4
V. Injury to Bystander and Damage to Vehicle.....	5
THE AR INVESTIGATION.....	6
I. Critical Incident Protocol and the Administrative Investigation	6
A. Criminal Investigation	6
B. Administrative Review	7
II. Scope of SCSO's Administrative Review	7
III. Investigative Record	8
IV. Investigator's Conclusions.....	8
A. Use of Deadly Force.....	8
B. Body Worn Camera.....	9
C. Patrol Function	9
DISCUSSION AND CONCLUSIONS	10
I. Use of Deadly Force	10
II. Body Worn Camera	11
III. Patrol Function—Deputies' Response to the Call for Service.....	12
APPENDIX A	14



SUMMARY

This Audit addresses an SCSO Administrative Review of an Officer Involved Shooting (OIS) that occurred on May 13, 2018. The incident involved a deputy who returned fire against an employee of a car wash who shot at the deputy with a handgun. The Administrative Review Report (AR Report) was issued on February 5, 2019.

As discussed below:

1. We **AGREE** that Dep. Michael Matelli acted within SCSO Policy 300 regarding the use of deadly force, when he fired two rounds at the person who had just shot at him.

2. [REDACTED]

3. [REDACTED]

MATERIALS REVIEWED

We reviewed all materials provided by SCSO in the AIM system in connection with the Administrative Review. We also reviewed BWC video from the three deputies involved in the incident. A full list of these materials is attached as **APPENDIX A**.

FACTUAL BACKGROUND

I. The Initial Call for Service

At 10:57 a.m. on May 13, 2018, SCSO received a call for service at the Jolly Washer car wash in the town of Sonoma. The car wash is actually part of a larger facility consisting of gas pumps, a convenience store, and a separate building through which vehicles drive for a car wash after employees have pre-soaped them.

[REDACTED], a manager at the facility, told dispatch that one of the employees, Ryan Pritel, had come to work with a “BB” gun in his waistband and was acting “crazy”. According to the AR Investigator, [REDACTED] was “very difficult to understand” on the audio recording of the

call. (AR Report at 3). BWC video shows that [REDACTED] is not a native English speaker and is difficult to understand. (Hals BWC # 1 at 3:18–5:48; Matelli BWC at 1:40–1:56).¹

II. Attempts to Clarify Nature of the Weapon

Deputy Michael Matelli and Deputy Gregory Hals were initially dispatched to the call at 10:58:47 a.m. as a “415” involving a female employee refusing to leave.² Deputy Michael Schemmel also separately responded. (AR Report at 4).

The call was updated a couple of minutes later stating that it was a *male* employee named Ryan who had come to work with a BB gun, was told to leave and had refused to do so, and was now outside washing cars. (AR Report at 4). The employee was later identified as Ryan Pritel.

A couple of minutes later, Deputy Hals asked dispatch via radio whether the reporting party knew it was a BB gun, or was assuming or taking the employee’s word that it was a BB gun. The dispatcher called the reporting party back and spoke with a female, identified later as [REDACTED], to clarify if the gun was real or a BB gun. [REDACTED] described the gun as being “tucked into [the employee’s] waistband” and stated “I don’t know if it’s a real gun or a BB gun, it’s real concerning.” Both [REDACTED] and [REDACTED] assumed it was a BB gun, but neither “had information to confirm that it was or was not.” (AR Report at 4).

In an interview after the incident, Dep. Hals stated he had asked dispatch to confirm whether it was a BB gun or a real gun, explaining that if it was a BB gun his “awareness” in responding to the call may have been “lowered some” but that he “knew well enough not to take someone’s word for it completely” because “we’ve all been there where you get [dispatched] to something and it turns out to be completely different”. In the end, Dep. Hals stated that it was just “speculation” that it was a BB gun and not a real gun. (AR Report at 14–15).

Dep. Jon Anderson, arriving after the shooting, stated in the Incident Report that he heard Dep. Hals ask the dispatcher whether the reporting party was certain the firearm was a BB gun or if the employee had said it was a BB gun, and the dispatcher stated that the reporting party only assumed it was a BB gun. The dispatcher also advised that [REDACTED] had told the employee he could get shot carrying the gun, and the employee stated “I don’t care”. (Incident Report No. 18-0000577 at 4).

III. The Deputies’ Arrival on Scene

After arriving at the car wash, Deputies Hals, Matelli and Schemmel walked to the main convenience store on the car wash complex. While walking up the ramp to the front door, Dep. Schemmer inquired about who the person of interest was, and Dep. Hals stated it was probably the person wearing his hat backwards (later identified as Mr. Pritel). At this point the car wash and Mr. Pritel were visible from where the deputies were walking. (Hals BWC # 1 at 2:46–2:49). Dep. Hals later recounted that when he and the other deputies arrived, he saw a pickup and a line of cars at the car wash. “One guy kind of gave us a weird look, which turned out to be

¹ Where there is more than one BWC video for a particular deputy, the BWC video is identified chronologically as “[Deputy Name] BWC # 1”, “[Deputy Name] BWC # 2”, etc.

² A “415” appears to refer to Penal Code § 415 prohibiting “disturbing the peace”.

him. He was just, kind of like, had a little smile on his face, a little smirk. Hat around backwards. Was kind of just watching us. But nothing out of the ordinary.” (Hals BWC # 2 at 19:25–19:43).

Inside the store, Dep. Schemmer asked the manager (believed to be ██████████) where the person of interest was, ██████████ pointed out the window towards the car wash, and Dep. Hals verbally confirmed that it was the person wearing his hat backwards. (Hals BWC # 1 at 3:08–3:12).

Dep. Hals asked ██████████ “You guys told him to leave, I mean.” ██████████ responded that Mr. Pritel “came to work like that, he had the BB gun like”—██████████ put a hand inside his waistband to demonstrate—“I don’t know if it is a BB gun or not.” ██████████ then stated something unintelligible but from the context it appeared to be a suggestion he had made to Mr. Pritel to leave the gun by the “wall”, to which Mr. Pritel responded “oh no, I keep it”. ██████████ then recounted having said to Mr. Pritel “OK, you can’t work like that because all, everybody, you know” [gesturing to the car wash area]. ██████████ continued “And he say oh no, f*** you, you wanna shot or something?” and ██████████ then lifted both hands in a gesture of resignation showing that he had decided not to further challenge Mr. Pritel, and stated (as if speaking to Mr. Pritel) “And so, ok, whatever you want”. (Hals BWC # 1 at 3:18–3:48).

During this exchange, one of the deputies (possibly Dep. Matelli) asked “Did you see it today?”—in apparent reference to the gun—to which ██████████ responded “Yeah.” (Hals BWC # 1 at 3:44–3:48). Dep. Hals then asked ██████████ “So do you know it’s a BB gun or did he tell you that.” ██████████ responded “I don’t know exactly, but I can hear somebody say BB gun. You know? I’m not sure”. (Hals BWC # 1 at 3:49–3:58).

At this point, Dep. Schemmer asked ██████████ “You want him arrested?” and Dep. Hals followed asking “What do you guys want done?” ██████████ responded “I don’t need this person like that here working. You want arrest him or, I don’t know, you want to tell him go home, or . . .” Dep. Schemmer then said to Dep. Hals “whatever you want to do”, and Dep. Hals said to ██████████ “Well, I mean, I’m not his boss so, I mean, if you guys told him he needs to go home, then if he doesn’t want to then, I mean, you got a few options but, I mean, you want him arrested for trespassing or anything?” ██████████ responded “Well, I think so.” Dep. Hals replied “Well, you kind of have to know. So, I mean, how do you want to handle this [be]cause, I mean, obviously you can’t have a gun in his waistband, BB gun or not, so.” ██████████ responded “So, the only thing if [unintelligible] take the BB gun here [pointing to the back of the store] can keep an eye, right? That’s the only option.” (Hals BWC # 1 at 4:00–4:53).

Dep. Matelli then asks “He has it on him right now, though? *** He has the gun on him right now?” ██████████ responded “Yeah.” Dep. Hals responds “well, we’ll contact him and see what his deal is.” (Hals BWC # 1 at 4:54–5:04). ██████████ then says something unintelligible and Dep. Hals asks “So who’s the people that says he has a gun?” and ██████████ responds that it was someone “working in the back”. (Hals BWC # 1 at 5:04–5:22).

Dep. Matelli then asked “You want him fired? No more working here?” ██████████’s reply is hard to hear but he appears to say “I think so.” Dep. Schemmer then asks “How can we

help you today. I don't understand." Dep. Hals follows up saying "That's the thing, I can't, it's not my job to fire him. If you fired him or you don't want him working here, then you have to go tell him that." [REDACTED] then says "Alright, let me go tell him" and he turns and starts to walk to the back of the store. [REDACTED] then says "I don't think it's safe that he has a gun. We don't know if it's a gun" Dep. Hals responds "Right. No, you're right but if he" (Hals BWC # 1 at 5:23–5:48; Matelli BWC at 1:40–1:56).

At this point, Dep. Matelli stated "F*** it, let's contact him and f***ing" The BWC audio is difficult to discern, but the full sentence appears to be "F*** it, let's contact him and f***ing go." (Matelli BWC at 2:03–2:06).

After the shooting, Dep. Hals recounted to a supervising officer that inside the store "we were kind of discussing what, what do you want done. Because, did you fire him? Do you want him off the property? Um, how, I mean I put out a dispatch over the air 'how do we know it's a BB gun? Did someone verify that, see it?' Um, so, nobody inside could tell this was a BB gun, nobody knew. So, we decided let's just go talk to him, see what's going on." (Hals BWC # 2 at 19:54–20:19).

IV. Shots Fired by the Suspect and by Dep. Matelli

All three deputies exited the store through the front door and began walking towards the car wash area. Dep. Matelli was wearing a "clearly marked Sonoma Police patrol uniform and tactical vest with a cloth badge displayed, and he was wearing his patrol motorcycle helmet." (Incident Report at 14 (Supplement of Sgt. James Percy)). The other deputies were wearing clearly identified SCSO deputy uniforms. Employees and customers were also present.

As Dep. Matelli and the two other deputies were walking towards the car wash area, Dep. Matelli called out to the employee "Hey Ryan, come here real quick, man. Keep your hands where I can see them, alright". (Matelli BWC at 2:10–2:14). During his subsequent interview with the Santa Rosa Police Department, Dep. Matelli stated that at this point he saw Mr. Pritel's hand go to a "black handgun" in his waistband. (AR Report at 8). The BWC video is grainy, but Mr. Pritel's right arm can be seen crossing his body toward his waist at this moment. (Matelli BWC at 2:15). Dep. Matelli then raised his gun and said in a louder voice "Hey, keep your hands where I can see them!" (Matelli BWC at 2:17).

At this point Mr. Pritel ducked behind the bed of the pickup and Dep. Matelli yelled out "Drop it right now!" In a frame-by-frame review of the BWC video, Mr. Pritel's head can be seen rising just above the center of the pickup bed. A gun is then discharged and Mr. Pritel's head ducks back below the pickup bed. Dep. Matelli fired two shots back at Mr. Pritel. (Matelli BWC 2:17–2:20). Dep. Matelli turned away from the car wash and walked back to the front of the store saying "F***, I'm hit." (Matelli BWC 2:22–2:23).

Mr. Pritel then appears to throw his handgun over or around the front of the pickup onto the asphalt driveway. (Hals BWC # 1 at 6:08–6:09). Mr. Pritel was ordered to show his hands and lay on the ground, which he did. Dep. Hals and Dep. Schemmer handcuffed Mr. Pritel. (Hals BWC # 1 at 6:10–6:52).

After being handcuffed and while lying on the ground, Mr. Pritel was screaming repeatedly, among other things, “f***ing kill me”, “just f***ing kill me please”, and “just shoot me please”. (Hals BWC # 1 at 7:55–8:30). Later while being moved to a patrol car Mr. Pritel stated “kill me now, please”, “you’re the ones who started the f***ing fires”, “I’m just f***ing scared of everyone. You guys are all trying to kill me. You’ve been trying to kill me, everyone has been the whole time. I don’t know what the f*** is happening. *** Everyone’s been trying to kill me the whole time.” (Hals BWC # 1 at 10:23–11:36; Schemmel BWC 2:08–6:11).

Dep. Hals retrieved Mr. Pritel’s handgun from the ground. (Hals BWC # 1 at 8:23–8:26; 9:00–9:07). The weapon was a 9-millimeter with an extended magazine. (Hals BWC # 1 at 14:27–14:50). The casing of the round fired at Dep. Matelli by Mr. Pritel was deformed and stuck in the handgun barrel, causing the weapon to jam. (Hals BWC # 1 at 20:16–21:50). The weapon contained “snake shot” rounds (similar to shotgun ammunition) in addition to full jacketed bullets. (Hals BWC # 1 at 22:10–22:30; 29:34–30:03; Incident Report at 5 (Dep. Anderson)). Dep. Schemmel took what appears to be a second magazine loaded with ammunition from Mr. Pritel’s person after he was handcuffed. (Schemmel BWC at 2:12).

The round fired at Dep. Matelli was “snake shot” which struck the deputy on his face, left and right thigh, left forearm hand and right abdomen. (Incident Report at 5 (Dep. Anderson); Incident Report at 10–11 (Supplement by Dep. Tom McNeil)). Dep. Matelli was transported by helicopter to Santa Rosa Memorial Hospital for treatment.

V. Injury to Bystander and Damage to Vehicle

Deputies arriving after the shooting stated that the scene was “packed”, and Dep. Hals recounted that there were “a lot of people here” including 10 to 12 car wash workers. (Hals BWC # 2 at 17:00–17:19). Still photos from the cash wash surveillance camera show at least four cars lined up for the car wash, with a silver pickup at the front of the line just outside the cash wash structure. (AR Report at 5–6).

The driver of the pickup stated that a car wash worker handed him an antenna from the vehicle through his window, and the driver was bent forward placing the antenna on the floor when the gunshots were fired. He stayed bent over until the gunfire stopped. (Hals BWC # 2 at 4:39–4:56; 7:16–9:21). The driver was hit on his right upper cheek by a piece of glass sprayed by Dep. Matelli’s shots. (Hals BWC # 1 at 12:00–12:27).

One bullet fired by Dep. Matelli struck the driver’s side rear panel of the pickup above the wheel, and another hit the pickup’s rear window and blew out a passenger-side window. Beyond the pickup was a chain-link fence with what appear to be commercial buildings on the other side. (Hals BWC # 1 at 12:38–13:07).

When Mr. Pritel and Dep. Matelli exchanged fire, there was another car wash employee standing in front of the pickup driver’s side door, and two other persons to the left of Dep. Matelli. (Matelli BWC at 2:18; Hals BWC # 1 at 6:04).

The Santa Rosa Police Department (SRPD) conducted the follow-up criminal investigation of the incident, which included interviews with the three involved deputies.³

Dep. Schemmer stated that as he and the other deputies starting walking towards Mr. Pritel, he saw a “driver in a vehicle sitting right there and I also see there’s this, the same male I saw from inside the convenience store that was washing cars . . . at . . . the tail end of the . . . pickup truck”. When Dep. Schemmer saw Mr. Pritel reach for his gun, he ran to the side “nervous about the guy in the car”. (AR Report at 18–19).

Dep. Hals told SRPD that as he was walking toward the car wash he had “seen one person in the driver’s seat of the vehicle. It had black tinted windows around the back so I didn’t know who was in that Chevy truck and how many people were in that Chevy truck at that point, but I knew there was at least one and I knew that there were workers.” (AR Report at 13).

When asked by SRPD whether the car wash was busy at the time he responded to the call, Dep. Matelli stated “yes”, and elaborated that when he and the other deputies were speaking with [REDACTED] before making contact with the employee “there [were] customers coming in and out . . . and it, from what I recall, it was extremely busy that day. That gas station was, was pretty filled . . . which obviously when he started shooting that was another thing that not only was I concerned for I thought that I was gonna get killed but my partners and then also all the citizens around.” When asked what he believed could have happened had he not stopped the threat posed by the employee after he fired his weapon, Dep. Matelli stated “I think he would have continued trying to kill either of us, or citizens around.” (AR Report at 10–11).

THE AR INVESTIGATION

I. Critical Incident Protocol and the Administrative Investigation

A. Criminal Investigation

SCSO Policy 305.1 provides that when investigating officer-involved shootings and deaths, SCSO “will follow the procedures and guidelines set forth in the Sonoma County Chief’s Association Policy 93-1: Employee Involved Critical Incident Protocol” (CIP).

The CIP requires that when there is an officer-involved-shooting, the criminal investigation is to be conducted by a Lead Agency that is not the employer of the involved officer, in conjunction with the District Attorney’s Office. (CIP at p. 2, § I.C; p. 4, § I.I.). The Santa Rosa Police Department was designated Lead Agency in this case.

The District Attorney’s Office reviewed SRPD’s completed criminal investigation and issued a report concluding that Dep. Matelli acted lawfully in using deadly force against Mr. Pritel. *See Law Enforcement Employee-Involved Critical Incident Report*, Date of Incident May 13, 2018, Office of Sonoma County Dist. Atty. (Public Copy).

³ The Santa Rosa Police Department conducted the criminal investigation pursuant to the Critical Incident Protocol, discussed further in the following “AR Investigation” section. Portions of the deputies’ interviews were quoted in the AR Report.

B. Administrative Review

The CIP excludes the Employer Agency for which the involved officers work (in this case SCSO) from participating in the criminal investigation. However, the Employer Agency may conduct its own “administrative investigation” of the incident to (1) “determine[] whether or not an employee has violated employer agency rules, regulations or conditions of employment”, and to (2) “determin[e] the adequacy of employer policies, procedures, training, equipment, personnel and supervision.” (CIP at p. 2, § I.B; pp. 18–19 § III.B.1).

The decision to conduct an administrative investigation is the “concern and responsibility solely of the employer agency.” (CIP at p. 19 § III.B.2). The employer agency may assign an investigator to conduct the administrative investigation, and the investigator may have access to briefings, crime scenes, physical evidence and interviewees’ statements taken in the criminal investigation. (CIP at p. 19, § III.B.4).

II. Scope of SCSO’s Administrative Review

The AR Investigator assigned by SCSO conducted an Administrative Review pursuant to the CIP, expressly noting that the Administrative Review was not based on a complaint or allegation of misconduct against any deputy. Rather, it was an analysis of the incident generally to “determine if [SCSO] policies were followed or if any policy can be improved upon.” (AR Report at 3; CIP at p. 18, § III.B).⁴

The Investigator identified the following policies that were subjected to this Administrative Review:

<u>Department-Wide Policies</u>	<u>Law Enforcement Division Policies</u>
-- Press Release Policy	-- Patrol Functions–400
-- Radio Policy	-- Body Worn Camera–425
-- Critical Incident Debriefing/Defusing	
-- Major Incident Notifications	
-- Use of Force–300	
-- Authorized Firearms	

(AR Report at 23).

⁴ An email from the Investigator to the three deputies in May 2018 stated that it is “standard protocol” in officer-involved shootings “to conduct an Administrative Review” in which the investigator “[b]asically review[s] all aspects of the incident.” The email states that the deputies are “involved parties” in the incident, but they “are not subjects in any investigation” and that the Administrative Review is “not an IA [investigation].” SCSO sent a follow up memorandum dated May 15, 2018 to the deputies again stating that “[t]here have been no allegations of misconduct or policy violations on your part” but added that “it may be necessary to formally interview you” and that “[a]s the subject (involved party) of an Internal Affairs Investigation/Administrative Review, you have certain rights and obligations as provided for by policy and law.”

III. Investigative Record

In conducting the Administrative Review, the Investigator reviewed audio recording of the initial call for service, BWC videos from Dep. Matelli, Dep. Hals and Dep. Schemmer, and transcripts of interviews taken of all three deputies by SRPD. The Investigator also attached still photos taken from the car wash surveillance cameras. The Incident/Investigation Report (Case No. 18-0000577) prepared by Dep. Jon Anderson and related Supplements provided by other SCSO officers were not specifically cited in the AR Report, but they were in AIM as part of the record.

IV. Investigator's Conclusions

Based on the investigative record, the Investigator issued a generalized “Conclusions and Findings” statement:

In comparing and contrasting the actions of Deputies Matelli, Hals and Schemmel with the Sonoma County Sheriff Office’s policy and procedures[,] I believe the deputies acted within the best practices of the industry standards, within the expectations of the Sonoma County Sheriff’s Office, within the parameters of the Sheriff’s Office policy and procedures, and within the law.

(AR Report at 22). The Investigator then separately addressed each policy he identified as applicable to this incident.

A. Use of Deadly Force

In evaluating Dep. Matelli’s use of deadly force, the Investigator cited the legal standards in *Graham v. Connor* (1989) 490 U.S. 386 and California Penal Code § 835a (as it was in effect in 2018), which generally require that a peace officer’s use of force be objectively reasonable. (AR Report at 22–23).⁵

The Investigator also cited SCSO Policy 300.3 “Use of Force” which required deputies to use only that amount of force that “reasonably appears necessary given the facts and circumstances perceived by the deputy at the time of the event to accomplish a legitimate law enforcement purpose.” (AR Report at 25–26). The Investigator further cited SCSO Policy 300.3.2 which sets out various factors to considered when deciding whether and how much force to use, and Policy 300.3.1 which states that a deputy need not retreat from efforts to make an arrest because the suspect has resisted. (AR Report at 26–27).

Finally, the Investigator paraphrased the general rule that a deputy may use “*deadly force*” to protect himself or others from what he reasonably believes would be an imminent threat of death or serious bodily injury. The Investigator did not identify the source of this rule, but it is

⁵ Penal Code § 835a was later amended effective January 1, 2020.

derived from *Tennessee v. Garner* (1985) 471 U.S. 1 and restated in SCSO Policy 300.4. (AR Report at 23).⁶

Under these legal and policy standards, the Investigator concluded:

Deputies Matelli, Hals and Schemmel were aware of several factors that led them to believe Pritel may be armed with a firearm (possibly a BB gun). Upon contacting Pritel he retrieved a firearm from his waistband and fired a single shot, striking Deputy Matelli. Pritel had physically assaulted Deputy Matelli with a firearm. The suspect was still in possession of a handgun when Deputy Matelli fired his duty weapon engaging in deadly force. All of these factors led Deputy Matelli to believe Pritel presented such a threat that deadly force was the only option to cease the ongoing assault and/or further elevated aggression.

Accordingly, the Investigation found “no violation noted” in the use of force. (AR Report at 27).

B. Body Worn Camera

The Investigator cited Policy 425 which requires deputies to activate their BWC units “prior to making contact when responding to all calls for service, and during any law enforcement related encounters and activities that occur while the member is on duty”, including contacts involving “arrests, pursuits, suspicious detentions, and field interview (FI) situations”. (AR Report at 29).

[REDACTED]

C. Patrol Function

The Investigator’s review of the “Patrol Function” under Policy 400 was very brief and is quoted here in full:

The purpose of this policy is to define the functions of the Patrol Bureau. Based on the information gathered through this investigation, the deputies realized they needed to contact Pritel and detain him if necessary. The means to affect the arrest included the use of deadly force. The deputies fulfilled the requirement to “apprehend criminal offenders.” (400.11)

⁶ The Investigator erroneously stated that use of deadly force was permitted if the employee’s actions created “the perception of a threat to life.” (AR Report at 23). The correct standard is that use of deadly force is permitted when the deputy reasonably believes that employee presented an “imminent threat of death or serious bodily injury” to the deputy or to others. See Policy 300.4 (2018 version).

A review of this policy did not reveal any policy violations.

Findings: No violation noted.

(AR Report at 29) (bold in original). The Investigator made no analysis beyond this statement.

DISCUSSION AND CONCLUSIONS

I. Use of Deadly Force

We agree with the Investigator that Dep. Matelli acted within SCSO Policy § 300.4 when he used deadly force by returning fire at Mr. Pritel after Mr. Pritel had shot at the deputy.

A peace officer's use of force to make an arrest must be "objectively reasonable" from the standpoint of a deputy on the scene. *Graham v. Conner* (1989) 490 U.S. 386; Cal. Pen. Code § 835a (any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance) (in effect in 2018).

The permitted use of *deadly force*, however, is more limited and confined to circumstances where the officer reasonably believes that the person presents an "imminent threat of death or serious bodily injury" to the officer or another person. *Tennessee v. Garner* (1985) 471 U.S. 1.

SCSO Policy 300 (as it was in effect in 2018) incorporates these legal standards and provided that "deadly force" was justified in the following circumstances:

- (a) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes would be an imminent threat of death or serious bodily injury. Imminent does not mean immediate or instantaneous.
- (b) A deputy may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the subject has committed, or intends to commit, a felony involving the infliction or threatened infliction of serious bodily injury or death, and the deputy reasonably believes that there is an imminent risk of serious bodily injury or death to any other subject if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

SCSO Policy § 300.4 (2018 version).

By its terms SCSO Policy § 300.4 appears to require that a deputy need only meet the minimal constitutional and statutory standards concerning the use of deadly force. To the extent SCSO interprets § 300.4 in this manner, we agree that Dep. Matelli acted within policy when he used deadly force in responding to Mr. Pritel's gun fire.

The investigative record shows that when Dep. Matelli made verbal contact with Mr. Pritel, he without warning drew his weapon, hid behind the pickup, and fired a single round at the deputy. Dep. Matelli was in his clearly marked SCSO uniform and, according to Deputies Hals and Schemmel, Mr. Pritel had observed the deputies as they entered the main store when they initially arrived on the call. Mr. Pritel had been told to leave work by his employer after he brought his weapon to the job, and thus Mr. Pritel likely knew the deputies were there about

[REDACTED]

III. Patrol Function—Deputies’ Response to the Call for Service

The Investigator concluded that in responding to the call for service, the deputies acted within Policy 400 because they “realized they needed to contact [Mr. Pritel] and detain him if necessary.”

SCSO Policy 400 broadly defines the “patrol functions” of deputies as “respond[ing] to calls for assistance and reports of criminal activity, act[ing] as a deterrent to crime, enforc[ing] state and local laws, identify[ing] community needs, provid[ing] support and assistance to the community and respond[ing] to emergencies.” (Policy 400.5). Patrol services provided by deputies includes “responding to reports of criminal and non-criminal acts”, responding to “routine calls for service, such as public assistance or public safety”, and “apprehending criminal offenders”. (Policy 400.5).

We agree with the Investigator that the general Patrol Functions and Patrol Services in Policy 400 applied in this matter, and that the record does not show a violation of Policy 400.

However, we note that additional SCSO Policies applied.

SCSO Policy 420 addresses procedures for deputies making contact (and if necessary detaining) persons in the field. Section 420.2 provides that “the decision to temporarily detail a person and complete a field interview . . . shall be left to the deputy based on the totality of the circumstances, officer safety considerations, and constitutional safeguards.”

SCSO Policy 100.6.3 sets out a deputy’s authority to arrest a person within SCSO’s jurisdiction upon probable cause that a crime has been committed, and SCSO Policy 333 addresses a deputy’s authority to make an arrest based upon a request from a private person.

Under these policies, the deputies had direct authority to contact and detain the employee to determine the status of his weapon and compliance with state law, and, if appropriate, arrest him. SCSO Policy 420; SCSO Policy 100.6.3; Penal Code § 833.5; Penal Code § 25850 (illegal to carrying loaded firearm in public); Penal Code § 26350 (illegal to openly carrying unloaded handgun in public).

However, during their interactions with [REDACTED], the deputies appeared to approach the situation as primarily an employment and trespass question, and possibly a question as to whether [REDACTED] wished to make a “citizen’s arrest”. At one point, Dep. Hals told [REDACTED] that if he wanted the employee fired, he would have to do that himself.


The AR Investigator did not review these additional policies or specifically address the deputies' decision-making process in this regard. Because these policies collectively create a range of decision choices for a deputy to make, further review of these policies in application could assist in evaluating future responses to calls for service.

Date: August 15, 2022

Respectfully Submitted:

GARRICK BYERS
Interim Director

BY:



Matthew Chavez, Esq.
Law Enforcement Auditor III

APPENDIX A

MATERIALS REVIEWED DURING AUDIT

- SCSO Administrative Review, *Internal Investigative Report*, No. 18-AR-007 (dated February 2, 2019)
- Sonoma Police Department *Incident/Investigation Report*, Case No. 18-0000577 (23 pages) (dated May 13, 2018) (Dep. Jon Anderson)
- Memorandum re: Administrative Review Investigation from SCSO Internal Affairs to Deputy Michael Matelli (dated May 15, 2018)
- Memorandum re: Administrative Review Investigation from SCSO Internal Affairs to Deputy Michael Schemmel (dated May 15, 2018)
- Memorandum re: Administrative Review Investigation from SCSO Internal Affairs to Deputy Gregory Hals (dated May 15, 2018)
- Email to Deputies re: informal notice of Administrative Review (undated)
- SCSO Memorandum re Claim for Damage to Vehicle during Incident (June 26, 2018)
- SCSO Officer Training Report / Firearms Qualification (Jan. – May 2018)
- SCSO Press Release (May 13, 2018)
- Press Democrat Article (May 14, 2018)
- Undated Booking Photo of Suspect Ryan Pritel
- Narrative Report (MADF) [REDACTED]
- Overflight Photo of Incident Scene
- Nine (9) Still Frame Photos of Incident from Surveillance Camera
- Emails to Deputy Matelli, Deputy Hals and Deputy Schemmer re “Outcome Notification” of Administrative Review (March 12, 2019)