



MEMORANDUM POLICE DEPARTMENT

DATE: December 27, 2018

TO: Chief of Police

FROM: Deputy Chief Rick Martinez

SUBJECT: Administrative Findings-Internal Affairs Investigation #2016-010
(Officer Involved Shooting-Use of Deadly Force)

Subject Officers: Officer Erik Bailey, Officer Adam Baker, Sergeant William Clayton and Officer Denise Cockrum.

I have carefully reviewed Sergeant Morey's completed investigation and the merits of IA 2016-010. I concur with Sergeant Morey's final analysis and have the following recommendations and comments:

Finding for Officer Erik Bailey: Exonerated

Given the threat to life and the preponderance of evidence reviewed in this case, Officer Erik Bailey's actions were necessary, reasonable, within the law, and in accordance with Santa Cruz Police Department Policy.

Finding for Officer Adam Baker: Exonerated

Given the threat to life and the preponderance of evidence reviewed in this case, Officer Adam Baker's actions were necessary, reasonable, within the law, and in accordance with Santa Cruz Police Department Policy.

Finding for Sergeant William Clayton: Exonerated

Given the threat to life and the preponderance of evidence reviewed in this case, Sergeant William Clayton's actions were necessary, reasonable, within the law, and in accordance with Santa Cruz Police Department Policy.

Finding for Officer Denise Cockrum: Exonerated

Given the threat to life and the preponderance of evidence reviewed in this case, Officer Denise Cockrum's actions were necessary, reasonable, within the law, and in accordance with Santa Cruz Police Department Policy.

Factual Basis for Findings:

On October 16, 2016 at 0330 hours, Santa Cruz Police Officers were dispatched to ■■■ Chace Street for a report of a male adult pounding on the front door. ■■■ Chace Street is located at the northwest corner of Chase Street and Getchell Street. The front door faces south on to Chace

Street, while the back door is accessed via the driveway on Getchell Street. The reporting party, Mr. ██████ knew the male adult (Mr. Sean Arlt) pounding on his front door as a neighbor, with mental health issues. Mr. ██████ and his wife, Ms. ██████ were initially awoken by banging on the front door of their residence by Mr. Arlt. Mr. ██████ seen Mr. Arlt at his front door and notesd Mr. Arlt had “got the crazy eyes. And he knows it’s me. He’s saying ██████. Mr. ██████ tells Mr. Arlt several times, “Sean go home it’s not safe. Go home.”

Mr. ██████ then called 911. Mr. ██████ tried to keep Mr. Arlt at the front door, because it is a very stable door and he didn’t think Mr. Arlt could break through it. Mr. ██████ stated that Mr. Arlt would bang on the front door and then wander away and then would come back to the front door and bang on the door and wander away again. Mr. Arlt eventually left the front porch and walked alongside the house to the backyard. Mr. ██████ knew that his backdoor was unlocked, so he ran to the back door, locked it, and turned on all of the outdoor lights. When Mr. Arlt came to the back door, Mr. ██████ armed himself with a frying pan and yelled, “Do not come in this house.” or he was going to hit him with the frying pan. Mr. Arlt responded by stating; “I’m Jesus Christ Super Star. I’ve killed thousands of people and I’m going to kill everybody in your house. And I don’t care if I die.”

Mr. ██████ explained that he was scared, and knew if Mr. Arlt came into the residence he would have had to confront him in a physical way as best as he could. Mr. ██████ called 911 again to express his frustration that the police had not yet arrived. While Mr. ██████ was on the phone with dispatch, Mr. Arlt began banging on the window with the handle of an umbrella that he had gotten out of a basket from the nearby garage.

Once Santa Cruz Police Officers arrived, Mr. ██████ told Mr. Arlt, “Sean the police are here. You have to get out of here.” Mr. Arlt left the back step/back door area and went into the garage, where he retrieved a nearly five foot long wooden and metal tined bow rake. He then walked out of the rear yard through a gate toward the officers.

Four Santa Cruz Police officers (Officer Bailey, Officer Baker, Sergeant Clayton and Officer Cockrum) responded to the 200 block of Chase Street in response to Mr. ██████ 911 call. From the initial information given to the responding officers by dispatchers, all of the officers recognized Mr. Arlt’s name from an officer safety bulletin and roll call discussions about Mr. Arlt’s previous arrest on October 11, 2016.

October 11, 2016 Event

The October 11, 2016 incident also started at Mr. ██████ and Ms. ██████ Chase Street home, when Mr. Arlt barged through the front door of the residence in an agitated state. Mr. Arlt didn’t say much, but was acting more like he was frightened. Mr. ██████ and Ms. Auerbach were able to briefly calm Mr. Arlt, but he began to get agitated again and grabbed two pens from the kitchen counter and ran out of the house. Mr. Arlt was carrying the two pens in his hand, holding them as if they were stabbing weapons. When officers contacted Mr. Arlt, he referenced the pens as; “These are my two keys to heaven”. During the October 11, 2016 call, it took six officers to safely detain and secure Mr. Arlt in a patrol vehicle. During the struggle to detain Mr. Arlt, officers deployed a Taser, utilizing drive stuns. Mr. Arlt was ultimately delivered to the Psychiatric Health Facility on a 72-hour, 5150 Welfare and Institutions hold. A “non-release” criminal hold was also placed on Mr. Arlt, so he could be booked for associated criminal charges after treatment. Despite the requested law enforcement hold, Mr. Arlt was released by behavioral

health staff eight hours later without any notification to the Santa Cruz Police Department. As mentioned, information regarding Mr. Arlt's October 11th arrest was shared with all patrol officers for officer safety purposes via a roll call bulletin.

October 16, 2016 Event

Officers Bailey, Baker, Sergeant Clayton and Officer Cockrum arrived at 0339 hours on October 16, 2016 and they parked their patrol vehicles on Getchell Street, just north of the rear of [REDACTED] Chace Street. The patrol vehicles were parked in a row along the west side of the Getchell Street, between [REDACTED] and [REDACTED]. Upon exiting their cars, officers could see Mr. Arlt aggressively yelling and banging on the back door of Mr. [REDACTED] [REDACTED] Chace Street home. The responding officers congregated near the patrol vehicles and discussed how they would engage Mr. Arlt. Sergeant Clayton also assigned roles to the officers. He designated himself along with Officer Baker to have the less lethal Taser option while Officer Cockrum and Officer Bailey were designated to have lethal force available. Once their roles were assigned, Officer Bailey engaged Mr. Arlt in a conversation from the street, asking him to come out and talk with the officers. Officer Bailey started the conversation with Mr. Arlt while standing next to the patrol vehicles. He addressed Mr. Arlt as "Sean" and asked him to come out of the backyard to speak with him.

Mr. Arlt went out of view from the officers behind the backyard fence. Officer Bailey and the other officers stepped out from behind the cover of the car and fanned-out diagonally across Getchell Street, remaining to the left of Officer Bailey's patrol vehicle, so they could get a better view down the fence line. Officer Bailey was the furthest to the left. As soon as they stepped out away from the vehicle, a gate swung open from the backyard fence.

Mr. Arlt came out of the backyard gate holding a nearly five foot long wood and metal bow rake over his right shoulder. All of the officers on scene recognized the rake as a lethal weapon that could cause any of them great bodily injury or even death. Mr. Arlt walked directly towards the officers, holding the rake over his right shoulder, and angled his body as if preparing to swing the rake. Mr. Arlt walked faster as he got closer to the officers. Officer Bailey repeatedly gave commands, "Sean drop the rake. Sean...stop, drop the rake". Mr. Arlt did not respond to any of his commands and continued advancing at a quick pace. Fearing a confrontation and in attempt to avoid the use of lethal force, all of the officers began backing up while giving commands as they retreated away from Mr. Arlt.

Since Mr. Arlt continued his advance, Sergeant Clayton and Officer Baker deployed their Tasers at Mr. Arlt, however they had no effect on him. Officer Baker deployed his Taser twice, while Sergeant Clayton deployed his Taser once. Mr. Arlt continued to advance directly towards Officer Bailey, picking up speed. Officer Bailey believed that Mr. Arlt was focused on him. Mr. Arlt then started to run towards Officer Bailey with the rake canted and raised even higher over his right shoulder. Officer Bailey retreated quickly three to five steps back and yelled at Mr. Arlt to "Stop, stop". As Officer Bailey was retreating, he realized that a parked vehicle to his left blocked his path. He also had three officers standing to his right, and he believed that moving to his right would have endangered his fellow officers. Officer Bailey found that he no longer had any avenue of retreat. Mr. Arlt was now approximately ten to twelve feet (possibly even as close as seven feet) from Officer Bailey with the nearly five foot long rake still raised above his head, running towards him. Officer Bailey believed that Mr. Arlt was intent on hitting him in the head with the rake, causing great bodily injury or death. Fearing for his life, Officer Bailey shot Mr. Arlt twice with his department issued handgun. Mr. Arlt fell forward to the ground after the two

shots were fired. Officers quickly approached Mr. Arlt and kicked the rake away before handcuffing him. Officers also began to render medical aid and call for fire and paramedics. While attempting to render aid, Mr. Arlt was kicking and attempting to push himself up. Officer Baker went back to his vehicle and got leg restraints. They placed the leg restraints on Mr. Arlt's feet and restrained him so they could continue to administer medical aid. Fire personnel arrived and took over rendering medical aid until Mr. Arlt was pronounced dead at the scene.

Findings

In this event, Santa Cruz Police Officers responded to a person in crisis that was threatening the lives of the residents of [REDACTED] Chace Street. One of the [REDACTED] Chace Street residents, Mr. [REDACTED] was in such fear that he armed himself with a frying pan. Once made aware that officers were on scene, Mr. Arlt discarded the umbrella he was holding and armed himself with a nearly five foot wooden and metal tined bow rake. After a plan of approach was implemented by Sergeant Clayton, Officer Bailey attempted to engage Mr. Arlt in a de-escalation conversation from a distance, not forcing a confrontation. The de-escalation approach was in accordance with department training. Despite the non-confrontational response, Mr. Arlt refused to peacefully engage the officers in conversation, and chose to force a violent confrontation with the responding officers.

As Mr. Arlt exited the rear yard of [REDACTED] Chace Street and approached the officers while armed with the rake, Officers gave clear direction for Mr. Arlt to "drop the weapon" and to "stop". From the audio recording of the event collected by Sergeant Clayton, twenty seconds elapsed from the time Mr. Arlt was seen exiting the rear yard of [REDACTED] Chace Street until this violent confrontation was resolved with a use of deadly force. Within that twenty seconds, Mr. Arlt was ordered to "drop the weapon", "drop the rake" and to "stop" thirteen separate times. Also within that twenty seconds, officers retreated and attempted three less than lethal mitigations (Taser deployments) before lethal force was used. At no time in this engagement does Mr. Arlt pause or provide the officers any opportunity to negotiate with him. Mr. Arlt simply refuses to follow the lawful directions he was repeatedly given and aggressively charges towards the officers with a deadly weapon. Even though officers are under no legal obligation to retreat from the deadly threat posed by Mr. Arlt, all officers retreated in an attempt to gain as much distance and time as possible.

It was only when Mr. Arlt directed his persistent assault toward a retreating Officer Bailey, and Officer Bailey had exhausted all safe avenues of escape that deadly force is used. Officer Bailey fired his duty weapon twice, striking Mr. Arlt once in the left temple and once underneath his left arm pit. Firing his weapon twice, Officer Bailey used that amount of force necessary and proportionate to the immediate lethal threat posed by Mr. Arlt. Once the immediate threat to life was stopped, Officer Bailey reverted to his training by stopping and reassessing the situation. The locations of the bullet strikes to Mr. Arlt validates the observations made by the officers that Mr. Arlt's body was angled in a fighting stance and that he was holding the rake at an elevated, pre-strike position when shot. Officer Bailey and the other officers present were in immediate danger of significant injury or death.

After deploying their Tasers, both Officer Baker and Sergeant Clayton attempted to transition to their duty weapons to stop the deadly threat posed by Mr. Arlt. Officer Cockrum, who was tasked with providing a lethal force option, was unable to fire her duty weapon due to Officer Baker and Sergeant Clayton being in the way and a fear of firing into homes beyond Mr. Arlt.

Officer Cockrum was adamant that if crossfire and the backdrop were not an issue, she would have “absolutely” fired her handgun.

A year and a half prior to this event, Officer Bailey, Officer Baker, Sergeant Clayton, and Officer Cockrum had all completed advanced officer trainings related to mental health, tactical communications, and scenario based training that incorporated crisis communications. Both Sergeant Clayton and Officer Cockrum were also trained hostage negotiators. Even with a high level of advanced officer training prior to this event, Mr. Arlt’s unrelenting assaultive behavior never afforded officers an opportunity to de-escalate Mr. Arlt.

The force used by Officer Bailey, Officer Baker, Sergeant Clayton, and Officer Cockrum in this instance was predicated on the actions and lethal threat posed by a non-compliant Mr. Arlt. From all of the evidence present, it is clear that Officer Bailey, Officer Baker, Sergeant Clayton, and Officer Cockrum’s actions were necessary, reasonable, within the law, and in accordance with Santa Cruz Police Department Policy.