



LAKE COUNTY SHERIFF'S OFFICE
1220 Martin Street • Lakeport, California 95453

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|---|---|----------------------------------|--------------------------------------|---|-------------------------------------|
| Administration (707) 262-4200 | Central Dispatch (707) 263-2331 | Coroner (707) 262-4215 | Corrections (707) 262-4240 | Patrol/Investigation (707) 262-4230 | Substation (707) 994-6433 |
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Brian L. Martin
Sheriff / Coroner

MEMORANDUM

To: Sheriff Brian L. Martin

From: Lieutenant Rich Ward

Subject: Use of Force Review Board Findings

Date: March 12th, 2020

I convened a Use of Force Review Board for Deputy Wesley Besgrove's officer involved shooting that occurred on 12/28/19. The panel consisted of Captain Chris Chwialkowski, Lieutenant Luke Bingham and Deputy Dean Preader. Captain Chwialkowski served as the command member within Deputy Besgrove's chain of command. Lt. Bingham served as the senior ranking command representative whom is not within the same division as Deputy Besgrove and as the board's chairperson. Lt. Bingham also served as the department training manager and expert in the weapon used. Deputy Preader served as a peer deputy and board member.

The board reviewed the internal administrative investigation and all attachments provided. The board voted unanimously on all applicable authorities and rendered the following findings:

Deputy Besgrove's actions were within department policy and procedures.

LAKE COUNTY SHERIFF'S OFFICE
Internal Administrative Investigation 2019-0017
Findings

- 1) LCSO Capt. Chris Chwialkowski 2) LCSO Lt. Luke Bingham 3) Deputy Dean Preader

Reviewers Names

| Authority | LCSO Policy 300 Use of Force | LCSO Policy 312 Firearms | LCSO Policy 408 Crisis Response Unit /SWAT | LCSO Policy 444 Mobile Audio /Video | LCSO Policy 1042 Uniform Regulations | |
|-----------|--|--|--|--|--|--|
| Finding | Within Policy <input checked="" type="checkbox"/> Not within Policy <input type="checkbox"/> | Within Policy <input checked="" type="checkbox"/> Not within Policy <input type="checkbox"/> | Within Policy <input checked="" type="checkbox"/> Not within Policy <input type="checkbox"/> | Within Policy <input checked="" type="checkbox"/> Not within Policy <input type="checkbox"/> | Within Policy <input checked="" type="checkbox"/> Not within Policy <input type="checkbox"/> | |


 Reviewer's Signature 442

03/12/20
 Date


 Reviewer's signature

3/12/20
 Date


 Reviewer's signature 435

3/12/20
 Date

APPLICABLE AUTHORITIES

Lake County Sheriff's Office Policy

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether a deputy has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to deputies or others.
- (b) The conduct of the individual being confronted, as reasonably perceived by the deputy at the time.
- (c) Deputy/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of deputies available vs. subjects).
- (d) The effects of drugs or alcohol.
- (e) Subject's mental state or capacity.
- (f) Proximity of weapons or dangerous improvised devices.
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
- (h) The availability of other options and their possible effectiveness.
- (i) Seriousness of the suspected offense or reason for contact with the individual.
- (j) Training and experience of the deputy.
- (k) Potential for injury to deputies, suspects and others.
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the deputy.
- (m) The risk and reasonably foreseeable consequences of escape.
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the deputy or others.
- (p) Prior contacts with the subject or awareness of any propensity for violence.
- (q) Any other exigent circumstances.

300.4 DEADLY FORCE APPLICATIONS

Use of deadly force is 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.

(b) A deputy may use deadly force to stop a fleeing subject when the deputy has probable cause to believe that the person 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 person if the subject is not immediately apprehended. Under such circumstances, a verbal warning should precede the use of deadly force, where feasible.

Imminent does not mean immediate or instantaneous. An imminent danger may exist even if the suspect is not at that very moment pointing a weapon at someone. For example, an imminent danger may exist if a deputy reasonably believes any of the following:

1. The person has a weapon or is attempting to access one and it is reasonable to believe the person intends to use it against the deputy or another.
2. The person is capable of causing serious bodily injury or death without a weapon and it is reasonable to believe the person intends to do so.

312.3.5 AMMUNITION

Members shall carry only department-authorized ammunition. Members shall be issued fresh duty ammunition in the specified quantity for all department-issued firearms during the member's firearms qualification. Replacements for unserviceable or depleted ammunition issued by the Department shall be dispensed by the Rangemaster when needed, in accordance with established policy.

Members carrying personally owned authorized firearms of a caliber differing from department issued firearms shall be responsible for obtaining fresh duty ammunition in accordance with the above, at their own expense.

312.5.1 ALCOHOL AND DRUGS

Firearms shall not be carried by any member, either on- or off-duty, who has consumed an amount of an alcoholic beverage, or has taken any drugs or medication, has taken any combination thereof that would tend to adversely affect the member's senses or judgment.

408.5.3 FIREARMS

Weapons and equipment used by SWAT, the specialized units, and the supporting resources should be agency-issued or approved, including any modifications, additions, or attachments.

444.4.1 REQUIRED ACTIVATION OF MAY

Members shall activate their recorder any time they come in contact with a member of the public, in connection with their official duties, or if he/she believes it would be appropriate or valuable to record an incident.

Members should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the member that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criterion. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is a member expected to jeopardize his/her safety in order to activate a portable recorder or change the recording media. However, the recorder should be activated in situations described above as soon as reasonably practicable.

1042.3 UNIFORM CLASSES

(a) **UNIFORMED MEMBERS** - shall wear safety equipment while on duty. Optional safety equipment may be worn. The member is responsible for the purchase of required uniforms/ equipment. Members assigned to office duty may be exempt from wearing safety equipment, with the approval of their immediate supervisor.

2. Mandatory Equipment for Deputy Sheriffs

- (a) Body Armor: The wearing of body armor is mandatory for all uniform patrol deputies. Refer to policy section 1024.3.1 for details and exceptions. All body armor must be Sheriff's Office-approved, with a minimum of Threat Level IIIA
- (b) Gun belt (nylon, leather,) with basket weave pattern
- (c) Holster and duty weapon (thigh holsters for K-9 and SWAT only) *The Rangemaster shall be responsible for approving the safety and suitability of all uniform holsters.
- (d) Baton and holder must be readily available (on person or in vehicle); discretionary as to when worn
- (e) Handcuffs, case and key
- (f) Two (2) magazines and case, minimum of 18 rounds of authorized ammunition
- (g) Flashlight and holder must be readily available (on person or in vehicle); discretionary as to when worn
- (h) Taser: When a taser has been issued, and training completed

3. Optional Safety Equipment for Deputy Sheriffs

- (a) Pepper Spray and case
- (b) Belt keepers
- (c) Second set of handcuffs and case
- (d) Folding knife and case
- (e) Audio recorder and case
- (f) Latex gloves and case
- (g) Shotgun shells and holder
- (h) Cellular telephone and case
- (i) Key holder
- (j) Black nylon suspenders (shall have a signed note from a doctor in order to wear them).

1042.3.2 CLASS B UNIFORM

(a) All deputies will possess and maintain a serviceable Class B uniform at all times. It is the standard duty uniform that may be worn as preferred by individual members.

1. The Class B uniform will consist of the same garments and equipment as the Class A uniform with the following exceptions:

- (a) The long or short sleeve shirt may be worn with the collar open. No tie is required
- (b) All shirt buttons must remain buttoned except for the last button at the neck.
- (c) T-shirt, shall be white or black crew (black cotton moc/turtleneck or dickey is optional from November 1 through May 1) T-shirt sleeve is not to show beneath the uniform shirt sleeve.
- (d) Forest green dac-wool or polyester trouser. Any trouser may be worn if concealed by Sheriff's Office foul weather rain pants.
- (e) Foul weather jacket is optional