



Jim Cooper
Sheriff

SACRAMENTO SHERIFF'S OFFICE

Inter-Departmental Correspondence

June 13, 2023

To: FILE

From: CAPTAIN VANESSA VADEN
Main Jail Division

Subject: **2022PSD-0170 FINDINGS AND RECOMMENDATIONS**

I have reviewed the attached investigation prepared by Sergeant DeCanio, including interviews, reports, and video footage as the foundational evidence for my findings.

STATEMENT OF PROBLEM

On March 30, 2023, I submitted an investigation request to the Sacramento Sheriff's Office Internal Affairs Bureau. The request alleged Deputy Antero Reyes engaged in discourteous treatment during an interaction with inmate PC 832.7 (b)(6)(B). Subsequently, this discourteous treatment escalated a verbal interaction into a physical use of force.

The incident was initially brought to light during a blue team review of a use of force incident involving Deputy Reyes.

CHARGES

If true, these acts could constitute a violation of the following:

1. **SCDSA MOU 18.5(k) – Discourteous Treatment of the Public**
 - a. General Order 3/09 – Rules of Conduct
 - b. General Order 2/11 – Use of Force
 - c. Main Jail Operations order 2/01 – Use of Force

SPECIFIC ALLEGATIONS AND RELATED CHARGES:

It is alleged that Deputy Antero Reyes engaged in discourteous treatment during an encounter with inmate PC 832.7 (b)(6)(B) at the Main Jail.
Specifically related to charge 1a.

It is further alleged, Deputy Antero Reyes used excessive force when he entered PC 832.7 (b)(6)(B) cell and punched him in the face multiple times resulting in a laceration below his eye.
Specifically related to charges 1b and 1c.

DISCUSSION

On the evening of March 16, 2023, Deputy Antero Reyes was assigned to the Sacramento County Main Jail in housing location 4 East.

At 2212 hours, Deputy Reyes was conducting a cell consolidation in the 100 pod. Cell 130 was opened as there was only one occupant [REDACTED] and the intention was to house another inmate in the cell.

A review of Deputy Reyes's body-worn camera (BWC) footage shows him open cell 130. [REDACTED] can be seen standing inside the cell saying, "I'm a fucking T-sep bro," in a clear effort to prevent Deputy Reyes from moving another inmate into the cell. Deputy Reyes can be heard responding to [REDACTED] by stating, "Bro, you square up on me, we're going to fight."

During the continued verbal interaction with [REDACTED] Deputy Reyes would further state, "Back the fuck up", "Don't be a bitch now", and "Don't fucking square up on me, I'll fuck you up." At one point [REDACTED] asked Deputy Reyes if he threatened him, to which Reyes responded, "Yeah, let's go." [REDACTED] told Deputy Reyes, "I'll see you on the street then" to which Reyes replied, "You don't want to see me on the street bro, that's going to be a bad day for you."

Within his report, Deputy Reyes wrote he and Deputy [REDACTED] entered the cell and attempted to detain [REDACTED] by grabbing his arms. [REDACTED] resisted by pulling his arms away. Deputy Reyes pushed [REDACTED] onto his bunk and gave him additional commands to put his hands behind his back, to which [REDACTED] stated, "No." Deputy Reyes was able to pull [REDACTED] onto the ground, but [REDACTED] again pulled his arm away and balled his fist which Deputy Reyes took as a sign he was about to be punched by [REDACTED]. Deputy Reyes then struck [REDACTED] on the right side of his face, with his right hand. Deputy Reyes further struggled to gain control of [REDACTED] and struck him a second time on the left side of his face.²

Deputy [REDACTED] BWC footage showed Deputy Reyes trying to grab both of [REDACTED] arms while saying, "I said, put both your hands behind your back, motherfucker." Deputy Reyes could then be seen punching [REDACTED] four times in rapid succession while telling [REDACTED] to put his hands behind his back. Deputy [REDACTED] can be heard saying, "Chill, chill, chill" in an apparent attempt to de-escalate the use of force.³

Deputy Reyes's application of force throughout this incident is being evaluated. The courts evaluate the objective reasonableness for the application of force based on a totality of the circumstances when reviewing the following three factors:

1. **The severity of the crime at issue.** Inmate [REDACTED] actions met the criteria for a facility violation of insubordination. [REDACTED] was verbally resistive to deputies' attempts to house another inmate in his cell. [REDACTED] was also verbally resistive to deputies' attempts to have him exit the cell.

¹ TAB 5 – BWC Footage, Deputy Reyes

² TAB 5 – SSO General Offense Report 2023-81888

³ TAB 5 – BWC Footage, Deputy [REDACTED]

2. **Whether the subject poses an immediate threat to officer(s), the safety of the officers, or others.** [PC 832.7 (b)(6)(B)] stood in the middle of his cell and refused deputies' commands. Upon entering the cell, [PC 832.7 (b)(6)(B)] refused to follow deputies' directives to put his hands behind his back. As deputies closed the distance and grabbed [PC 832.7 (b)(6)(B)] arms, [PC 832.7 (b)(6)(B)] reacted by pulling his arms out of their grasp resisting any attempt to control him. Once Deputy Reyes loses control of [PC 832.7 (b)(6)(B)] he responds by pushing [PC 832.7 (b)(6)(B)] backward, as he clearly posed an immediate threat at that moment.
3. **Whether the subject is actively resisting arrest or attempting to escape arrest by flight.** Once [PC 832.7 (b)(6)(B)] was pushed onto the bunk, both Deputy Reyes and [PC 832.7 (b)(6)(B)] attempt to gain control of his arms. [PC 832.7 (b)(6)(B)] had one arm controlled by Deputy [PC 832.7 (b)(6)(B)]. The other arm was pinned to the bunk by Deputy Reyes (this arm appeared to have a balled fist as it was pinned) [PC 832.7 (b)(6)(B)] can be heard saying, "All right bro, all right bro" several times. Deputy Reyes delivered four punches to [PC 832.7 (b)(6)(B)] face, while both arms were controlled. There is no communication at this time between Deputies [PC 832.7 (b)(6)(B)] and Reyes, so it is likely Reyes was unaware of Deputy [PC 832.7 (b)(6)(B)] controlling [PC 832.7 (b)(6)(B)] other arm. Deputy [PC 832.7 (b)(6)(B)] can be heard saying, "We're good, we're good" and "Chill, chill, chill" almost simultaneously as Deputy Reyes was delivering the strikes to [PC 832.7 (b)(6)(B)].

I find that Deputy Reyes's application of force was excessive and unreasonable for the following reasons. The application of force is based on a totality of the circumstances known to the officer at the time rather than the benefit of hindsight. Deputy Reyes was aware [PC 832.7 (b)(6)(B)] was an inmate classified as an outpatient psych (inmates that often suffer from severe mental illness and need psychological care, but not in an acute setting). Furthermore, Deputy Reyes knew he did not immediately need to remove [PC 832.7 (b)(6)(B)] from the cell, and in his own admittance could have simply shut the door and used another cell. Deputy [PC 832.7 (b)(6)(B)] also stated he would have done things differently by just shutting the door and leaving [PC 832.7 (b)(6)(B)] inside the cell alone. I believe it is obvious that [PC 832.7 (b)(6)(B)] posed no threat to deputies by standing in the middle of his cell, and not attempting to leave his cell at any time. Once inside the cell, [PC 832.7 (b)(6)(B)] was pushed backward and both his arms were pinned/controlled. Deputy Reyes can be seen striking [PC 832.7 (b)(6)(B)] four times, in quick succession, in the face. [PC 832.7 (b)(6)(B)] can be heard saying "All right bro, all right bro" during the physical interaction.

During Deputy Reyes's administrative interview, he recalled the incident with [PC 832.7 (b)(6)(B)] Reyes recognized misjudgment on his part at numerous points in the incident. When asked if he would have done things differently, Reyes stated he would have just closed the door and waited it out, as there were other cells he could have housed the other inmate in. ⁴

REYES: The punches, looking back at it now, after reviewing the video, like I said, probably weren't necessary because I could have just pulled him down to the ground, and then utilized control holds."⁵

⁴ TAB 5 - Deputy Reyes Interview, Page 22, lines 884-886

⁵ TAB 5 - Deputy Reyes Interview, Page 20, lines 808-810

Deputy Reyes stated he believed he did not use excessive force, but did admit that he was discourteous in his treatment of [REDACTED].⁶

REYES: By cursing at him. Especially to the extent of a little over a minute of just berating him and just cursing at him without even thinking, what am I doing at this point?⁶

Deputy Reyes admitted the language he used during the incident was inappropriate. Deputy Reyes also proclaimed his actions were completely out of character for him. He further stated the incident was an embarrassment to him and to the department and that he was ashamed of his actions.⁷

During the administrative interview, Deputy [REDACTED] expressed he felt Deputy Reyes's treatment of [REDACTED] was discourteous and while he did not think the use of force was excessive, he stated it could have been handled differently. He explained he told Reyes to "chill out" during the incident because he could feel [REDACTED] was no longer resisting.⁸ These are salient points since part of the Graham v Connor case involving the determination of the reasonableness of an application of force is judged through the perspective of a reasonable officer with the same or similar training and experience. Deputy Reyes has been a peace officer for 5.5 years, with 4 years of experience with another agency prior to being hired by the Sheriff's Office. Deputy [REDACTED] has approximately 2.8 years of experience.

During his interview, Sergeant Davis stated that after he watched the video footage and reviewed reports from the incident, he believed departmental policy and procedure pertaining to de-escalation were not followed during the incident and the situation was not handled appropriately. Sergeant Davis further stated that the derogatory language used by Deputy Reyes was neither common nor accepted practice within our agency.

FINDINGS

After reviewing this case, I find sufficient evidence Deputy Reyes repeatedly made unprofessional and threatening statements toward inmate [REDACTED] unnecessarily escalating an already volatile situation and ultimately leading to an excessive use of force that could have been avoided. The use of force caused injury to the inmate and was ultimately, with the advantage of hindsight, deemed unnecessary by Reyes himself. Furthermore, Deputy Reyes admitted his emotions got the best of him.⁹ The number of punches seen thrown by Deputy Reyes on BWC was at odds with the number of punches Deputy Reyes wrote he threw in his report. Oftentimes this can be because of adrenaline or a failure to properly recall the incident due to its volatile nature. Still, I find the strikes to [REDACTED] face unnecessary due to [REDACTED] body positioning and apparent yielding to deputies.

Therefore, I find sufficient evidence to establish good cause that Deputy Reyes has committed one or more acts of employee misconduct. "Good cause" is defined as any fact that, based on

⁶ TAB 5 – Deputy Reyes Interview, Page 21, lines 844-846

⁷ TAB 5 – Deputy Reyes Interview, Page 27, lines 1120-1124

⁸ TAB 5 – Deputy [REDACTED] Interview, Page 17, lines 679-683

⁹ TAB 5 – Deputy Reyes Interview, Page 11, lines 440-442

relevant circumstances, may be reasonably relied on by the appointing authority in the exercise of reasonable discretion as a basis for disciplinary action.

As to the allegations, I find the following:

1. **SCDSA MOU 18.5(k) – Discourteous Treatment of the Public – SUSTAINED**
 - a. General Order 3/09 – Rules of Conduct
 - b. General Order 2/11 – Use of Force
 - c. Main Jail Operations order 2/01 – Use of Force

DISCIPLINARY ASSESSMENT BENCHMARKS

1. To what extent are organizational core values impugned?

Concern for our community:

- Treat all with candor, empathy, and respect
- Be accountable to the public trust

Concern for our duties:

- Lead through exemplary conduct, appearance, and demeanor

Concern for our profession:

- Maintain ethical behavior both on and off the job
- Serve with honesty, loyalty, and integrity
- Recognize the legacy created by our actions
- Respect the history and traditions of our agency

The Main Jail has been under public scrutiny for a number of years for the treatment of inmates, especially those experiencing mental illness. Not to mention the current Federal Consent Decree Sacramento County is under where one of the core deficiencies is the treatment of individuals who are mentally ill, including outpatient psychiatric (OPP) inmates.

As a Deputy Sheriff assigned to the Main Jail, Deputy Reyes is responsible for the custody and care of the inmates he supervises. The public expects fair and equitable treatment of citizens who find themselves involved in the justice system. Deputy Reyes showed no empathy when he purposefully agitated an inmate under his care by berating, threatening, using foul language, and ultimately causing physical injury to the inmate. Furthermore, the inmate was classified as OPP (Out Patient Psychiatric) which was known to Deputy Reyes at the time of the incident. Deputy Reyes knew his behavior caused a negative reaction yet he continued to escalate the situation. Deputy Reyes understood that his treatment of [REDACTED] was discourteous, but failed to understand that his use of force was excessive, as per his interview.

2. Was the employee's conduct intentional, reckless, negligent, or purely accidental?

Deputy Reyes's conduct was intentional.

3. What sanction/corrective action is needed to address the reasons for discipline?

Based on the facts of this case, adverse action is necessary.

4. Are there mitigating / aggravating circumstances which tilt the balance towards one end of the sanction range or the other?

Mitigating circumstances in this case include:

- None

Aggravating circumstances in this case include:

- On April 6, 2023, Deputy Reyes received a documented counseling stemming from a use of force incident on January 12, 2023. Due to the timing of the documented counseling being issued, it isn't necessarily relevant to progressive discipline as much as it establishes a pattern of behavior related to Deputy Reyes's use of punches during encounters requiring force. As a result of this incident, Deputy Reyes was scheduled to attend an eight-hour remedial Arrest Control Tactics training which is set to take place on July 11, 2023.

RECOMMENDATIONS

I recommend Deputy Reyes receive a 40-hour suspension and remain assigned to corrections for a period of no less than two years commencing with the final order of discipline. Deputy Reyes is scheduled to attend remedial Arrest Control Tactics training on July 11, 2023. Deputy Reyes is currently number thirty-two (32) on the patrol rotation list. I believe it prudent for Deputy Reyes to receive ample time to train and demonstrate de-escalation tactics and alternative use of force techniques. That time would be best served in the controlled environment of the Main Jail rather than the potentially highly volatile, uncontrolled environment akin to patrol. Additionally, the Main Jail affords an enhanced degree of employee supervision.