

CITY OF SALINAS

POLICE DEPARTMENT

MEMORANDUM



DATE: May 13, 2024
TO: John Murray, Acting Chief of Police
FROM: Luis A. Bravo, Internal Affairs Commander
SUBJECT: USE OF FORCE–OIS (PEOPLE vs. Erin Fischer 23-050885)

Employees Involved: Officer A. Jimenez, Officer A. Magana, Officer A. Rodriguez, Detective R. Miller, Officer I. Urquiza, Sergeant S. Craig, Sergeant J. Heckman, Sergeant J. McNeil, Sergeant C. Murphy and Sergeant D. Pritt

Suspect: Erin Fischer (Deceased)
29 Sun Street #201
Salinas, Ca. 93901

Attachments: Clearance Letter from Monterey County DA regarding OIS findings
Monterey County DA Investigation Documents
SPD Report # 23-050885
Axon Body Camera Footage (Available)

Applicable Salinas Police Department Policy and Procedure Manual Policies

300.3 Reasonable Force	(Force Must be Objectively Reasonable)
312.1 Basic Policy	(Basic Firearms Policy)
312.3 Firearm	(Safe Handling of Firearm Policy)
340.3.5 Performance, Subsection (m)	(Violation of Department Manual)
340.3.5 Performance, Subsection (o)	(Bring Discredit to Self or Department)
340.3.5 Performance, Subsection (aa)	(Conduct Unbecoming)

Applicable City of Salinas Personnel Rules and Regulations Manual Policies

7.1 Employee Conduct Generally	(Unacceptable Conduct)
7.5 Improper Employee Conduct, Subsection F	(Bring Discredit to Agency or City)
7.5 Improper Employee Conduct, Subsection O	(Violation of any Rules or Regulations)

Summary

On May 31, 2023, MCSO attempted to serve an eviction notice on Erin Fischer at his residence located at 29 Sun Street #201. At approximately 0835 deputies breached the apartment door and contacted Fischer. Shortly after the contact there was an exchange of gunfire between Fischer and the deputies. During this initial exchange of gunfire Deputy Grant was struck multiple times by rifle fire from Fischer.

Salinas Police responded to the scene and assisted in rescuing the downed deputy. Throughout this process Fischer continued to fire at officers from his second story apartment. Officers returned fire and set a perimeter. This began a roughly nine-hour gunfight in which hundreds of rounds were fired by the suspect. Officers from multiple agencies returned fire from various positions during the course of this critical incident. Dozens of residents of the apartment complex were trapped in their apartments and were under constant threat from Fischer who fired indiscriminately through his walls and windows.

During the initial response to the shooting multiple Salinas Police Officers and civilians were pinned down by Fischer who continued to fire intermittently at them. Due to the active threat posed by Fischer Armored Rescue Vehicles (ARVs) were dispatched to the scene to assist with the evacuation of officers and civilians from the killing zone established by Fischer.

Multiple SWAT teams were activated and responded to the scene. Law Enforcement attempted to establish communication with Fischer in an effort to deescalate the situation and to negotiate a peaceful surrender. Fischer refused to communicate and kept up an intermittent exchange of fire at officers and equipment. Drones were deployed to determine Fischer's location within the apartment in an additional effort to establish communication and to verify that there were no other suspects or victims within the residence. Fischer destroyed seven drones at various distances with accurate fire from his weapons throughout the day.

Footage from the drones showed that Fischer had fortified his apartment and barricaded the door and entryway making breaching operations extremely risky. Fischer was determined to be heavily armed and armored with both assault rifles, handguns, and body armor. Less lethal chemical munitions were deployed on multiple occasions in an effort to force Fischer to surrender. These were ineffective due to the fact Fischer was wearing a gas mask. Many of these cannisters were thrown back out of the residence at officers by Fischer.

Two separate attempts were made to breach the door to the residence using two robots. One of the robots was destroyed by gunfire from Fischer and the other was unable to create a breach.

SWAT officers attempted to assault Fischer's apartment but were met with a hail of gunfire. Officers returned fire and retreated. Shortly after this exchange of gunfire Fischer was seen within the apartment by a MCSO sniper. Fischer was in the act of reloading his rifle to engage officers. The sniper fired a single round which struck Fischer and neutralized him. A drone was sent into the apartment which confirmed that Fischer was down. At about 1748 hours Salinas SWAT breached the door to the residence and made entry. The team located Fischer who was pronounced dead shortly thereafter.

Fischer was determined to have used (3) different assault rifles in the incident, an HK G3, AR15, and an AK47. He also had (2) bolt action rifles and (2) 1911 semi-automatic pistols. He was wearing a helmet and camouflage clothing with a "ghillie" style jacket over the top of his clothing. During the incident Fischer appeared to have been struck by gunfire at least twice prior to the third fatal shot to his head. Fischer had attempted to treat his injuries and continued to fight despite them.

Conclusion:

At the completion of this investigation, I found there was no need to re-interview the officers. I have reviewed portions of the video footage, reports and finding presented by the Monterey County District Attorney's Office. The officers were cleared of any criminal wrongdoing by the Monterey County District Attorney's Office in a memo dated Jan 3, 2023. Based on the materials provided to me by the Monterey County District Attorney's Office the listed officers demonstrated no policy violations regarding the force used upon Erin Fischer.

The involved officers articulated their belief that they, their partners and the public were in danger and that Fischer posed an imminent threat at the time they used deadly force to effect his arrest. The involved agencies collectively used every available means to establish rapport and to negotiate a peaceful ending to this situation to include the use of drones, robots, electronic communication, mental health professionals and negotiators and less lethal chemical munitions to no avail. The available evidence shows that officers complied with established Salinas Police Department safety procedures, acted lawfully and within the Salinas Police Department Use of Force policy.

Based on the preponderance of the evidence before me, I recommend the following findings for the listed officers.

Alleged Violations of the Salinas Police Department Policy and Procedure Manual

300.3 Reasonable Force	EXONERATED
312.1 Basic Policy	EXONERATED
312.3 Firearm	EXONERATED
340.3.5 Performance, Subsection (m)	EXONERATED
340.3.5 Performance, Subsection (o)	EXONERATED
340.3.5 Performance, Subsection (aa)	EXONERATED

Alleged Violations of the City of Salinas Personnel Rules and Regulations Manual

7.1 Employee Conduct Generally	EXONERATED
7.5 Improper Employee Conduct, Subsection F	EXONERATED
7.5 Improper Employee Conduct, Subsection O	EXONERATED