



Office of Inspector General

**OFFICER INVOLVED  
SHOOTING REVIEW  
JESSE ATTAWAY**

September 23, 2016

Rick Braziel  
Inspector General

Officer Involved Shooting Review  
Jesse Attaway

Contents

INTRODUCTION ..... 3

EXECUTIVE SUMMARY ..... 3

METHODOLOGY ..... 4

    Document, Evidence, and Policy Review ..... 4

    Lessons Learned and Recommendations..... 4

INCIDENT SUMMARY ..... 5

PHYSICAL EVIDENCE ..... 7

    Weapon Used by Deputy ..... 7

    Coroner’s Report ..... 7

    Toxicology Results ..... 8

LESSONS LEARNED and RECOMMENDATIONS ..... 8

    Use of Force ..... 8

    Value of Video and Audio ..... 9

        Recommendations..... 9

    General Policy Considerations ..... 10

        Recommendations..... 10

APPENDIX..... 11

    A. Timeline of Events..... 11

    B. Image of the Area ..... 13

# Officer Involved Shooting Review

## Jesse Attaway

### INTRODUCTION

The purpose of the Inspector General's investigation is to review tactics, departmental policies, equipment, and training with the intent to identify lessons learned and develop recommendations. The primary purpose of lessons learned is not to find fault in policy, training, equipment, or tactics, but to identify causes that allow for improvements that enhance the safety of the community and officers. It is important to note that this review was conducted with the benefit of hindsight and the knowledge of all concurrent events. The ability to review reports, photographs, video, and audio, allows for the critical review of the incident that is not available to officers and witnesses.

A separate independent review was conducted by the Sacramento County District Attorney's Office addressing legal issues associated with filing of criminal actions. The District Attorney's review concluded the shooting death of Jesse Attaway was lawful.<sup>1</sup>

### EXECUTIVE SUMMARY

On September 23, 2016 at approximately 4:55 a.m., the Sheriff's Department began receiving multiple 911 calls from residents on and around the 5200 block of Tuscan Circle. One victim reported an unknown man in his home drinking milk and asking for car keys. Three minutes later another victim reported that a man was breaking in and trying to pull a woman out of the house through a sliding glass door. The suspect fled that home and was seen jumping over fences in the neighborhood.

Numerous deputies responded code 3 to the scene including Deputies Andrew Cater and Bao Mai who were working together in the same marked patrol SUV. While checking the area the deputies observed the suspect, later identified as Jesse Attaway, walking on Piedra Way near Mohawk Way.

During the 39 seconds encounter with Deputies, Jesse Attaway made several movements as if he was armed. As deputies first approach Attaway, he very quickly clutched an object near his chest away from the deputies' view. Then as deputies verbally command Attaway to come to them, he pointed a dark object at deputies. The deputies saw that Attaway had an object in his hands and order him to put his hands up.

Attaway responds to the deputies' commands by raising his arms into a shooting position and while yelling "AHHHH!", makes a brief charge toward the deputies.<sup>2</sup> He then appears to take aim at the deputies. The deputies fearing that the object that Attaway is pointing at them is a handgun, fire their handguns at Attaway. Attaway continues to raise the object and point it at deputies despite being struck by the deputies' bullets. Even after falling to the ground Attaway gets to his knees and points the object at the deputies.

---

<sup>1</sup> <http://www.sacda.org/police-use-force/>

<sup>2</sup> The distance from Attaway to the patrol vehicle is approximately 50 feet.

# Officer Involved Shooting Review

## Jesse Attaway

While Attaway was not armed, his actions clearly demonstrate a reasonable belief that he was armed with a handgun and intended to shoot the deputies.

The review of documents, evidence, video, audio, and policies surrounding the death of Jesse Attaway developed into lessons learned and seven recommendations.

### METHODOLOGY

The Inspector General, with cooperation from the Sacramento County Sheriff's Department, Sacramento County District Attorney's Crime Lab, and Sacramento County Coroner's Office, gathered, reviewed, and analyzed documentation from many sources to develop an understanding into the death of Jesse Attaway. Policies, procedures, and training related to the activities leading up to and including the shooting were reviewed and compared to accepted best practices in policing.

#### Document, Evidence, and Policy Review

To assist in the review, information was collected from the following:

- Documents related to the shooting including witness statements, crime scene diagrams, Crime Lab reports, and Coroner's report.
- Photographs of the scene, dispatch audio, and video from Sheriff's Crime Scene Investigators.
- In-car camera video and audio.
- Review of videotaped interviews.
- Direct observation of the general area and shooting scene.
- Review of Sacramento County Sheriff's Department policies and applicable International Association of Chiefs of Police model policies.<sup>3</sup> Sheriff's policies include:
  - General Order 2/01 (Rev 6/13) Authorized Firearms and Ammunition
  - General Order 2/03 (Rev 5/08) Firearms Training and Qualification Special Weapon Training
  - General Order 2/05 (Rev 12/12) Use of Firearms
  - General Order 2/06 (Rev 10/07) Officer-Involved Shooting Incidents
  - General Order 2/11 (Rev 12/13) and (Rev 4/16) Use of Force Policy
  - General Order 2/16 (New 1/06) Weapons Discharge Reporting Incidents
  - General Order 2/17 (Rev 3/13) Use of Force – Tactical Review Board
  - General Order 10/10 (New 9/07) In-Car Camera Systems

#### Lessons Learned and Recommendations

The review of documents, evidence, video, and policies surrounding the death of Jesse Attaway developed into lessons learned and seven recommendations. Some of the recommendations

---

<sup>3</sup> <http://www.iacp.org/Model-Policies-for-Policing>

# Officer Involved Shooting Review

## Jesse Attaway

were outside the scope of the shooting review, however they are important to the continued development of widely accepted policing practices within the Sacramento County Sheriff's Department.

### INCIDENT SUMMARY

On September 23, 2016 at approximately 4:55 a.m., the Sheriff's Department began receiving multiple 911 calls from residents on and around the 5200 block of Tuscan Circle. One victim reported an unknown man in his home drinking milk and asking for car keys. Three minutes later another victim reported that a man was breaking in and trying to pull a woman out of the house through a sliding glass door. The suspect fled that home and was seen jumping over fences in the neighborhood.

Numerous deputies responded code 3 to the scene including Deputies Andrew Cater and Bao Mai who were working together in the same marked patrol SUV. Deputy Cater was driving eastbound on Madison Avenue approaching Hazel Avenue when Deputy Mai observed a male on the southwest corner of the intersection. Deputy Cater stopped the car at the southeast corner of Hazel Avenue and Madison Avenue taking a perimeter position.

An update description of the suspect, later identified as Attaway, was broadcast on the radio and Deputy Mai recognized the subject he had just seen as matching that description. To locate Attaway Deputy Cater drove the patrol vehicle west through a large shopping area parking lot at Madison Avenue and Hazel Avenue. As Deputy Cater drove back onto Madison Avenue he saw Attaway walking north on Hazel Avenue crossing Madison Avenue. Hoping to locate Attaway, Deputy Cater drove north on Hazel Avenue for two blocks and not seeing Attaway made a U-turn at Sunnybrook Lane returning south toward Madison Avenue.

Deputy Cater slowed the patrol vehicle at the intersection of Hazel Avenue and Piedra Way. Looking west on Piedra Way the deputies saw Attaway walking west on the south sidewalk of Piedra Way toward Mohawk Way. Cater turned the patrol vehicle west and drove up to Attaway with the headlights and side spotlight illuminating Attaway. Attaway looks over his right shoulder and very quickly pulls his right hand from behind his right rear pants pocket, toward his chest to meet his left hand mid chest. He appears to be clutching an object in his right hand. Attaway continues walking briskly toward Mohawk Way and again looks over his right shoulder at the deputies as they follow in their marked patrol vehicle.

Four steps later Attaway looks over his left shoulder as he continues to briskly walk on the sidewalk rounding the corner from westbound Piedra Way to southbound Mohawk Way and into the street on Mohawk Way. His left hand is free and visible but his right hand is concealed. Deputy Cater follows Attaway with the patrol vehicle and Deputy Mai tells Attaway, "hey come here, come here."

Attaway, walking south on Mohawk in the street turns to his body sideways to the left, starts bouncing backwards, and quickly raises both arms and with his hands together and points an object at deputies. Deputy Cater stops the patrol car and warns Deputy Mai that Attaway has

## Officer Involved Shooting Review

### Jesse Attaway

something in his hands. Both deputies quickly exit their vehicle, Deputy Cater on the driver's side and Deputy Mai on the passenger side.

Deputy Cater yells at Attaway, "let me see your hands!" Deputy Mai yells "put hands up!" Both deputies give Attaway multiple commands. Attaway with his body turned sideways so that his left side is toward the deputies, begins shuffling and skipping/bouncing away from the deputies. While his left side and left arm are visible to the deputies he appears to be concealing something along his right side.

Attaway suddenly stops, crouches slightly, raises both arms into a shooting position directed at the deputies, yells "AHHHH!" while taking two shuffle steps toward deputies.<sup>4</sup> Deputy Cater yells that Attaway is "coming at me!" Attaway stops and while continuing to face the deputies starts bouncing backward away from the deputies. Attaway suddenly ducks his head and flinches while he continues pointing an object at deputies as if he was pointing a handgun. He then tucks his right cheek against his right arm like he is aiming a handgun.

Both deputies fearing that Attaway was pointing a gun at them started firing. Shots are heard from the in-car video system, bullets are seen skipping off the street, and sparks are seen in the background near a home on Mohawk Way. Attaway appears to be hit by bullets as he momentarily lowers his clasped hands only to raise them again as if he were pointing a gun at the deputies.

Deputy Cater advances toward Attaway on the east sidewalk along the patrol vehicles driver's side toward the front of the vehicle. Attaway, although appearing to have been shot, raises both arms with an object in them as though he was holding a weapon. He then drops his arms as Deputies Cater and Mai continue to fire their weapons.

Attaway again raises both arms and points an object at deputies. Deputies continue firing as Attaway falls to the street rolling onto his back and then onto his left side. Attaway uses his left arm to raise up and points his right hand toward deputies. Then in a kneeling position, facing the deputies, Attaway grasps his hands together and points toward deputies. Deputies continue to fire and Attaway falls forward and rolls onto his back. A dark object is seen in his right hand and the object falls out of his hand onto the ground. Deputies stopped shooting as Attaway fell forward.

As soon as Attaway rolled to his back Deputy Cater requested code 3 Fire for Attaway. After additional deputies arrive on the scene an arrest team is formed and they approach Attaway. When they reached Attaway they determine that he is no longer a threat to them and they begin CPR. The dark object that Attaway pointed at deputies was a wallet. When Sacramento Metro Fire arrived, they assumed responsibility for medical care and pronounce Attaway deceased at the scene.

---

<sup>4</sup> The distance from Attaway to the patrol vehicle is approximately 50 feet.

## PHYSICAL EVIDENCE

The following is a list of items discovered during the investigation, a summary of the Coroner's report, and toxicology tests. This list does not include other items collected such as additional personal property of Attaway.

### Weapon Used by Deputy

The following weapon was used by Deputies Cater and Mai:<sup>5</sup>

- Handgun - Glock 17 Gen 4 9mm pistol – Deputy Cater fired 10 rounds.
- Handgun – Glock 17 Gen 4 9mm pistol – Deputy Mai fired 7 rounds.



Figure 1 Glock 17 Gen 4 <sup>6</sup>

### Coroner's Report

The Sacramento County Coroner's Office conducted an autopsy of Jesse Attaway and determined the cause of death as multiple gunshot wounds. Specifically, the report identified four gunshot entry wounds:

1. Gunshot entry wound to the right frontal scalp. The direction of the gunshot wound is front to back, right to left, and downward. The projectile is recovered from the left petrous ridge.
2. Gunshot entry wound to the right upper quadrant of the abdomen. The direction of the gunshot wound is front to back, right to left, and downward. The projectile is recovered from the L5 vertebra.
3. Gunshot entry wound to the left flank. The direction of the gunshot wound is front to back, left to right, and downward. There is an exit wound in the left lower back.

---

<sup>5</sup> The number of rounds fired by each deputy was determined by the number and location of shell casings recovered at the scene.

<sup>6</sup> <http://www.guns.com/reviews/glock-glock-17-gen-4/>

# Officer Involved Shooting Review

## Jesse Attaway

4. Gunshot entry wound to the left foot. The direction of the gunshot wound is front to back, left to right, and downward. The projectile is recovered from the left calcaneus bone.

### Toxicology Results

Blood alcohol and toxicology tests were conducted by the Sacramento County District Attorney's Office Crime Lab.

The blood alcohol report determined there was no alcohol detected.

The toxicology report lists the presence of the following:

Amphetamine            165 ng/mL

Methamphetamine    991 ng/mL

Normal concentrations in recreational use of methamphetamine are 0.01 to 2.5 mg/L (median 0.6 mg/L = 600 ng/ml). Concentrations above this range will likely be associated with severe, possibly life threatening, toxicity.<sup>7</sup> Medical journals warn that individuals with acute methamphetamine intoxication may be highly agitated and present a serious safety risk to themselves and others.<sup>8</sup>

## LESSONS LEARNED and RECOMMENDATIONS

The purpose of this review is not to simply focus on adherence to the policies and training related to the use of force, but to review the totality of the situation to identify lessons learned and possible opportunities that may reduce the likelihood of similar events.

### Use of Force

The 4th and 14th amendments of the U.S. Constitution provide the foundation for deadly use of force policies in the United States. Federal court guidelines stem from the benchmark 1985 decision of the U.S. Supreme Court in *Tennessee v. Garner*. This ruling held that the Tennessee statute that permitted police officers to use deadly force in arresting non-dangerous fleeing felons was unconstitutional. This ruling sanctioned the use of deadly force only to "protect the officer and others from what is reasonably believed to be a threat of death or serious bodily harm," (or) "if it is necessary to prevent the escape of a fleeing violent felon whom the officer has probable cause to believe will pose a significant threat of serious physical injury to the officer or others."<sup>9</sup>

---

<sup>7</sup> National Highway Traffic Safety Administration. *Drugs and Human Performance Fact sheets*.

<https://one.nhtsa.gov/people/injury/research/job185drugs/methamphetamine.htm>

<sup>8</sup> Richards, John R., MD, FAAEM and Jeter (Jay) Pritchard Taylor, III, MD. *Methamphetamine Toxicity Treatment & Management*. <http://emedicine.medscape.com/article/820918-overview>

<sup>9</sup> [https://cops.usdoj.gov/pdf/e10129513-Collaborative-Reform-Process\\_FINAL.pdf](https://cops.usdoj.gov/pdf/e10129513-Collaborative-Reform-Process_FINAL.pdf)

# Officer Involved Shooting Review

## Jesse Attaway

During the 39 seconds encounter with Deputies, Jesse Attaway made several movements as if he was armed. As deputies first approach Attaway, he very quickly clutched an object near his chest away from the deputies' view. Then as deputies verbally command Attaway to come to them, he partially faces the deputies, started bouncing backwards and using both hands points a dark object at deputies. The deputies see that Attaway has an object in his hands and order him to put his hands up.

Attaway responds to the deputies' commands by raising his arms into a shooting position and while yelling "AHHHH!" makes a brief charge toward the deputies. He then appears to take aim at the deputies. The deputies fearing that the object that Attaway is pointing at them is a handgun, fire their handguns at Attaway. Attaway continues to raise the object and point it at deputies despite being struck by the deputies' bullets. Even after falling to the ground Attaway gets to his knees and while kneeling points the object at the deputies.

While Attaway was not armed, his actions clearly demonstrate a reasonable belief that he was armed with a handgun and intended to shoot the deputies.

A separate independent review was conducted by the Sacramento County District Attorney's Office addressing legal issues associated with filing of criminal actions. The District Attorney's review concluded the shooting death of Jesse Attaway was lawful.<sup>10</sup>

### Value of Video and Audio

The Sheriff's Department requires that officers record, both video and audio, all traffic stops, vehicle pursuits, crimes in progress, or any situation or event that the officer through training and experience believes should be recorded.<sup>11</sup> In situations when officers activate the vehicles emergency lights the video and audio recording features are automatically activated. In situations that do not involve the activation of vehicle lights the officers must manually activate the video and audio recording systems. This incident was captured on in-car video and audio from the microphone mounted within the patrol vehicle. Body worn microphones were not worn by the deputies.<sup>12</sup>

### Recommendations

1. The Sheriff's Department should revise General Order 10/10 to:<sup>13</sup>
  - 1.1. Require officers to wear and activate body worn microphones during all traffic stops, all vehicle pursuits, crimes in progress, and any situation or event that the officer through training and experience believes should be recorded.

---

<sup>10</sup> <http://www.sacda.org/police-use-force/>

<sup>11</sup> Sheriff's Department, County of Sacramento, General Order, In-Car Camera Systems, 10/10 (NEW 9/07)

<sup>12</sup> The Sheriff's Department has completed a review of the ICC system and determined that a significant number of body worn microphones and microphone holders were not functioning. A purchase was made to replace damaged or missing ICC equipment.

<sup>13</sup> The Sheriff's Department is aware of the recommendation and is working toward the revisions suggested.

# Officer Involved Shooting Review

## Jesse Attaway

- 1.2. Establish a review of all critical incidents to ensure officers comply with the requirements of General Order 10/10.
- 1.3. Establish a random audit of in-car camera video to ensure officers are complying with the provisions of General Order 10/10.
2. Continue the evaluation of body worn cameras with the goal of full field implementation.

### General Policy Considerations

The following recommendations are not a reflection of the response to this incident but items discovered when comparing the Sheriff's Department policies to similar policies of other law enforcement agencies.

The IACP model policy for use of force specifies two circumstances in which the use of deadly force may be warranted. The first is "to protect officers or others from what is reasonably believed to be a threat of death or serious bodily harm." Secondly, police officers may use deadly force to prevent the escape of a fleeing violent felon who the officer has probable cause to believe poses a significant threat of death or serious physical injury to the officer or others.<sup>14</sup>

### Recommendations

3. The Sheriff's Department should consider revising General Order 2/11 and applicable section in General Order 2/05.
  - 3.1. The term "reasonable" is used throughout the order. A concise definition in a single location would provide clarity and understanding. An example from IACP model policies reads; "In determining the necessity for and appropriate level of force, officers shall evaluate each situation in light of the known circumstances, including but not limited to the seriousness of the crime, the level of threat or resistance presented by the subject, and the danger to the community."
  - 3.2. Section II A 2 c should require the officer to have probable cause that a violent felony was committed **and** that if not immediately apprehended reasonable cause to believe the suspect may cause death or great bodily injury. The current policy allows either circumstance which is not consistent with contemporary practices.
4. Most of the polices reviewed in this report have not been revised in over three years. The Department should establish a policy review cycle that requires all policies to reviewed and reissued or revised on a cycle no longer than three years.

---

<sup>14</sup> <http://iacppolice.ebiz.uapps.net/PersonifyEbusiness/ModelPolicyList/MPUseofForce.aspx>

# Officer Involved Shooting Review

## Jesse Attaway

### APPENDIX

#### A. Timeline of Events<sup>15</sup>

TIME	ACTION
4:55:56 AM	911 call received regarding an unknown male, later identified as Attaway, in a home on the 5200 block of Tucson Circle
4:56:27 AM	Multiple Sheriff's units respond Code 3 to a burglary in-progress
4:58:54 AM	911 call received from a second residence reporting a man trying to break into the home
4:59:30 AM	First units begin arriving in the area and giving updates including the suspect's direction of travel and description
5:10:45 AM	Deputies Cater and Mai, working together, arrive in the area and stop at the southeast corner of Hazel Avenue and Madison Avenue
5:11:25 AM	An update is broadcast on the radio and Deputy Mai recognizes a subject matching that description walking on Madison Avenue west of Hazel Avenue
5:12:25 AM	After confirming the description Deputy Cater drives the patrol vehicle west through a shopping area parking lot looking for Attaway
5:13:15 AM	Deputy Cater sees Attaway crossing Madison Avenue and walking north on Hazel Avenue. Cater drives north on Hazel Avenue for two blocks and not seeing Attaway makes a U-turn at Sunnybrook Lane then drives south back toward Madison Avenue.
5:14:14 AM	Deputy Cater slows the patrol vehicle at the intersection of Hazel Avenue and Piedra Way and the deputies see Attaway walking west on the south sidewalk of Piedra Way toward Mohawk Way
5:14:23 AM	Deputies drive up to Attaway with the headlights and side spotlight illuminating Attaway. Attaway looks over his right shoulder and very quickly pulls his right hand from behind his back toward his chest to meet his left hand mid chest. He appears to be clutching an object in his right hand.
5:14:27 AM	Attaway walks briskly toward Mohawk Way and again looks over his right shoulder at the deputies
5:14:29 AM	Attaway looks over his left shoulder as he continues to walk on the sidewalk rounding the corner from westbound Piedra Way to southbound Mohawk Way and into the street on Mohawk Way. His left hand is free and visible but his right hand is concealed.
5:14:30 AM	Deputy Mai tells Attaway, "hey come here, come here."
5:14:39 AM	Attaway while walking south on Mohawk in the street turns to his body to the left, starts bouncing backwards, and quickly raises both arms and with his hands together and points an object at deputies. Deputy Cater

<sup>15</sup> All times are approximate and based on Dispatch log entries and in-car camera time stamps.

## Officer Involved Shooting Review Jesse Attaway

	stops the patrol car and warns Deputy Mai that Attaway has something in his hands.
5:14:43 AM	Deputy Cater yells at Attaway, “let me see your hands!” Deputy Mai yells “put hands up!” Attaway begins shuffling and skipping/bouncing away from the deputies. His body is turned so that is left side is toward the deputies and his right side is away.
5:14:46 AM	Attaway stops, crouches slightly, yells “AHHHH!” raises his arms into a shooting position directed at the deputies and charges at the deputies taking two shuffle steps. Deputy Cater yells that Attaway is “coming at me!” Attaway stops and starts bouncing backward away from the deputies.
5:14:47 AM	Attaway ducks his head and flinches as he starts backing up while he continues pointing an object at deputies in a point shoulder position as if he was pointing a handgun
5:14:49 AM	Attaway tucks his right cheek against his right arm like taking aim
5:14:50 AM	Shots are heard, bullets are seen skipping off the street, sparks are seen in the background near a home, and Attaway appears to be hit by bullets as he momentarily lowers his clasped hands only to raise them again as if he were pointing a gun at the deputies.
5:14:53 AM	Deputy Cater advances along the east sidewalk along the patrol vehicles driver’s side toward the front of the vehicle.
5:14:55 AM	Attaway, although appearing to have been shot, raises both arms with an object in them as though he was holding a weapon. He then drops his arms.
5:14:58 AM	Attaway again raises both arms holding an object and points at deputies as they fire at him.
5:14:59 AM	Attaway falls to the street rolling onto his back and then onto his left side.
5:15:01 AM	Attaway uses his left arm to raise up and points his right hand toward deputies. Then in a kneeling position facing deputies he briefly grasps his hands together and points them toward deputies.
5:15:02 AM	Attaway falls forward and rolls onto his back. A dark object is seen in his right hand and the object falls out of his hand. Deputies stop shooting as Attaway falls forward.
5:15:05 AM	Deputies request Code 3 fire for Attaway
5:17:11 AM	An arrest team of deputies approach Attaway
5:18:12 AM	Deputies start CPR
5:23:17 AM	Sacramento Metro Fire arrives and assumes responsibility for medical care

*Table 1 Timeline*

Officer Involved Shooting Review  
Jesse Attaway

B. Image of the Area

