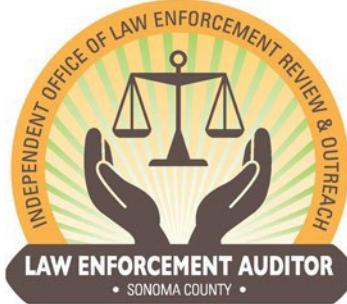


**INTERNAL AFFAIRS INVESTIGATION
ADMINISTRATIVE REVIEW
AUDIT**

CASE DETAILS	
Complainant Name	SCSO-Initiated
Case No.	22-AR-0003
Type of Investigation	Administrative Review- Officer Involved Shooting (OIS)
Incident Date	October 15, 2022
Date/Origin of Complaint	SCSO-Initiated Administrative Review - Assigned Januaiy 31, 2023
Date IA Sent to IOLERO	April 17, 2025
Date Preliminaiy Audit Returned to SCSO	September 15, 2025
Date SCSO Provided a Response to Preliminaiy Audit	October 3, 2025
Date Modified Final Audit Returned to SCSO	December 17, 2025

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PROCEDURAL BACKGROUND AND SUMMARY

This Modified Final Audit¹ addresses a Sonoma County Sheriff's Office (SCSO) internal Administrative Review concerning an Officer Involved Shooting (OIS) that occurred on October 15, 2022. The incident involved two SCSO deputies shooting at Nathan Smart, who was armed with a homemade firearm. Nathan Smart was struck by gunfire and injured as a result of the shooting. The Administrative Review Report (AR Report or Administrative Review) considered 7 policies; found no violations of those policies; and made one recommendation.

IOLERO returned its Preliminary Audit to SCSO on September 15, 2025. As discussed below, we made the following conclusions in our Preliminary Audit:

1. We concluded that the Administrative Review was **PARTIALLY INCOMPLETE**, because (a) it was too narrow in scope, omitting multiple issues and neglecting to review all relevant policies; (b) it didn't include deputy interviews; and (c) it relied too heavily on the criminal investigation in the use of force analysis.
2. We **DISAGREED** with SCSO's conclusion that there was **no violation** of the following policy:

Policy 300, Use of Force

3. We **AGREED** with SCSO's conclusion that there was **no violation** of the following policies:

Policy 305, Officer-Involved Shootings and Deaths

Policy 324, Media Relations

Policy 329, Major Incident Notifications

¹ IOLERO does conduct independent investigations into all deputy-involved shootings that result in deaths, as described in Measure P, section 2-394(b)(5)(viii). Here, because no one died, this case was handled only as an audit. While Measure P, section 2-394(b)(5)(vii), gives IOLERO the *ability* to also investigate any incomplete investigation allegations, like some of the allegations here, the fact this case came to IOLERO after the Government Code section 3304 time limit for discipline had passed and IOLERO's limited resources indicated that would not be a useful allocation of scarce investigative resources. That said, Penal Code section 832.7(b)(1)(A)(i) still makes this audit publicly available because it involves the discharge of a firearm at a person, regardless of injury or outcome, and regardless of whether IOLERO handled the matter as an investigation or an audit.

Policy 338, Critical Incident Debriefing/Defusing

Policy 435, Medical Aid and Response

Law Enforcement Employee-Involved Critical Incident Protocol

4. We **AGREED** with SCSO's recommendation regarding firearms training records.
5. We **NOTED** that SCSO completed this Administrative Review past the period set forth in Government Code § 3304, thereby preventing IOLERO from providing its findings to SCSO and SCSO's consideration of those findings, prior to the expiration of the § 3304 period. SCSO and IOLERO implemented a Timeliness Checklist in February 2024 which should prevent this from occurring in the future.

SCSO provided a written response to the Preliminary Audit on October 3, 2025. That response expressed SCSO's disagreement with IOLERO's conclusions regarding the scope of the Administrative Review and included a supplemental analysis regarding three policies that were listed in the AR Report as having been "examined" in relation to the incident but were not originally analyzed. SCSO's full response and supplemental analysis is attached as

APPENDIX C.

The Operational Agreement between SCSO and IOLERO provides that, when SCSO submits a written response to a preliminary audit, "IOLERO will consider the Sheriff's Office's comments and either submit a modified final audit, or reaffirm the preliminary draft at which time it will become final." (*Operational Agreement § (D)(1)(j); accord "Yellow Book" Government Auditing Standards, U.S. GAO §§ 9.50-9.55 (Feb. 2024).*)

Having considered SCSO's written response, IOLERO now submits this Modified Final Audit pursuant to the Operational Agreement. As discussed in **APPENDIX D**:

1. We reaffirm the conclusions that were stated in our Preliminary Audit and we now **AGREE** with SCSO's supplemental conclusion that there was **no violation** of the following policies:

Policy 302, Handcuffing and Restraints

Policy 400, Patrol Function

Policy 425, Body Worn Camera and Audio Recorders

IOLERO's modified conclusion and consideration of SCSO's response appears in Appendix D.

MATERIALS REVIEWED

We reviewed all materials that SCSO provided to IOLERO in connection with the Administrative Review. A full list of this material is included as **APPENDIX A**. We apply the laws and policies that were in effect at the time of the conduct under review. Here, the relevant SCSO policies are dated September 29, 2022.

FACTUAL BACKGROUND

I. The Initial Call for Service

On October 15, 2022, at 6:45 p.m., SCSO deputies were dispatched to [REDACTED] for the reporting of a family disturbance. The reporting party, [REDACTED], reported that Nathan Smalii, was intoxicated, under the influence of drugs and had threatened to kill [REDACTED]. [REDACTED] also reported that Nathan was in possession of "ghost guns" and that he was making guns in his bedroom.² (*Dispatch Audio #1.*)

At approximately 6:53 p.m., SCSO deputies arrived on scene and observed Nathan run from the driveway back towards the residence. (*AR Report at pp.6, 18.*) Dep. Clayton and Dep. Schilling were among the deputies who responded to the scene. Deputies surrounded the property and made announcements via loudspeaker requesting that Nathan exit the residence and surrender, but Nathan did not respond. After spending almost 3 hours on scene, deputies determined that Nathan had left the area. (*AR Report at p.6; Clayton Interview Transcript at p.6; Schilling Interview Transcript at p.6; Clayton BWC#1.*)

Deputies indicated that probable cause had been established to arrest Nathan for felony criminal threats (422 PC) and felony elder abuse (368 PC) and issued a County-wide "be on the lookout" (BOLO) for Nathan's arrest. Deputies confirmed that [REDACTED] felt safe in her home and left the scene at approximately 9:44 p.m. (*AR Report at p.6.*)

II. Call for Service at CVS Pharmacy

At approximately 10:06 p.m., SCSO deputies were dispatched to CVS Pharmacy at 201 W. Napa St. in Sonoma for multiple reports of a subject using a large wooden stick to break glass in the parking lot. One of the reporting parties specifically identified the subject as Nathan Smalii. Deputies arrived on scene and were not able to locate Nathan. (*CAD #2.*)

III. Call for Service at Steiner's Tavern

At approximately 10:13 p.m., SCSO deputies were dispatched to Steiner's Tavern at 465 1st St. West for the reporting of a subject that threw a chair at a limousine parked outside the bar. The reporting party (an employee of the bar) reported that the subject was seen fleeing the area holding a black pistol in his hand. Deputies arrived in the area and began searching for the subject. (*CAD #2.*)

IV. Shots Fired by Mr. Smart and by Dep. Clayton

Dep. Clayton responded to the calls for service at CVS Pharmacy and Steiner's Tavern and began searching for Nathan Smalii in the area. Dep. Clayton was driving his marked patrol vehicle Eastbound on West Napa St. from 2nd St. West when he was flagged down by a civilian who reported that the subject was near the town square. (*Clayton BWC#2 at 03:57-04:11; Clayton Interview Transcript at p.7.*)

²Nathan Smalii's weapon was referred to as a "ghost gun" throughout the incident. A "ghost gun" is a homemade firearm which lacks a serial number and is therefore prohibited by California law. Both Dep. Clayton and Dep. Schilling understood "ghost gun" to mean an unregistered, homemade firearm. (*Clayton Interview Transcript at pp.8-9; Schilling Interview Transcript at pp.8-9.*)

Dep. Clayton was flagged down by another civilian who replied that the subject ran back the other direction. Dep. Clayton turned around and began driving Westbound on West Napa St. (*Clayton BWC#2 at 04:20-04:36.*) Dep. Clayton saw a white male subject (Nathan Smaii) on the sidewalk in dark clothing. Dep. Clayton stated, "[H]e's standing there with his, his feet square underneath him and his hands pointing out at me ... in the motion of someone holding a firearm." (*Clayton Interview Transcript at p.7.*)

Dep. Clayton opened his car door, drew his firearm, and pointed it at Nathan. Dep. Clayton gave three commands to Nathan to "drop it." (*Clayton Interview Transcript at p.7; Clayton BWC#2 at 04:44-04:56.*) Dep. Clayton called out, "I can't tell what he has. Does he have a gun?" (*Clayton BWC#2 at 04:57-05:01.*) Nathan fired one shot at Dep. Clayton, and Dep. Clayton fired four shots at Nathan in return. (*Clayton Interview Transcript at pp.7-8.*) Nathan fled into a parking lot, and Dep. Clayton radioed dispatch stating, "Shots fired, I think he has a gun in his hand. He just went running." (*Clayton Interview Transcript at p.8; Clayton BWC#2 at 05:06-05:09.*)

Dep. Clayton and Dep. Andrews exited their patrol vehicles and approached a building at 135 W. Napa St. with their firearms drawn. Dep. Clayton peered around the corner towards the parking lot and observed Nathan partially present himself from around another corner of the building. Dep. Clayton and Dep. Andrews immediately backed away behind Dep. Clayton's patrol vehicle. (*Clayton Interview Transcript at p.8; Clayton BWC#2 at 05:20-05:35.*)

V. Shots Fired by Dep. Schilling

After the exchange of gunfire between Dep. Clayton and Nathan Smaii, Dep. Schilling and Dep. McBeth positioned themselves on the south sidewalk of West Napa St. behind a wall. The deputies held their firearms in a low ready position. (*Schilling BWC at 00:55-01:01.*)

Dep. Clayton yelled to Dep. Schilling and Dep. McBeth that Nathan was "right here around the corner." Dep. Clayton yelled, "Hey! Nathan! Come out, drop the fucking weapon and come out with your hands up!" (*Clayton BWC#2 at 05:40-05:47; Schilling BWC at 01:02-01:12.*)

Dep. Schilling raised his firearm and began to peer around the corner of the wall when Nathan suddenly appeared from an alley and raised an object, later determined to be a homemade firearm, in Dep. Schilling's direction. Nathan yelled, "What?" Dep. Schilling immediately fired three shots at Nathan, who fell to the sidewalk. (*Schilling BWC at 01:35-01:43.*)

Deputies began yelling at Nathan to show them his hands. Nathan rolled off the sidewalk into the street and deputies ordered him to stop moving. Deputies approached, kicked the gun away from Nathan, and handcuffed him. Deputies called for an ambulance and began rendering medical aid to Nathan. (*Schilling BWC at 01:44-03:45.*)

* * *

[REDACTED] Nathan survived the incident. (*AR Report at p.13.*)

SCSO'S ADMINISTRATIVE REVIEW

I. CRITICAL INCIDENT PROTOCOL

A. Criminal Investigation

SCSO Policy 305.1 provides that when investigating officer-involved shootings and deaths, SCSO “will follow the procedures and guidelines set forth in the Sonoma County Chief’s [sic] Association Policy 93-1: Employee Involved [sic] Critical Incident Protocol.”

The Employee-Involved Critical Incident Protocol (CIP) requires that when there is an officer-involved-shooting, the criminal investigation is to be conducted by a Lead Agency that is not the employer of the involved officer, in conjunction with the District Attorney’s Office. (CIP at p.2, § I.C; p.4, § I.I.)

SCSO invoked the Critical Incident Protocol on October 15, 2022 in response to this incident. The Santa Rosa Police Department (SRPD) was designated Lead Agency in this case and opened a criminal investigation on the same day. Among other things, SRPD collected evidence at the scene, interviewed the involved deputies, and issued a report summarizing the investigation’s findings.

SRPD submitted their criminal investigation to the Sonoma County District Attorney’s Office (DA), and on July 25, 2023, the DA issued a report concluding that both Dep. Clayton and Dep. Schilling acted lawfully in using deadly force against Nathan Smart.

B. Administrative Review

The CIP excludes the employer agency for which the involved officers work (in this case SCSO) from participating in the criminal investigation. However, the Employer Agency may conduct its own “administrative investigation” of the incident to (1) determine “whether or not an employee has violated rules, regulations or conditions of employment of the employer agency”, and (2) to determine “the adequacy of employer policies, procedures, training, equipment, personnel and supervision.” (CIP at p.2, § I.B; pp.18–19 § III.B.1.)

The decision to conduct an administrative investigation is the “concern and responsibility solely of the employer agency.” (CIP at p.19 § III.B.2.) The employer agency may assign an investigator to conduct the administrative investigation, and the investigator may have access to briefings, crime scenes, physical evidence and interviewees’ statements taken in the criminal investigation. (CIP at p.19, § III.B.4.)

SCSO opened an Administrative Review of this incident and assigned an Internal Affairs (IA) investigator on January 31, 2023. The IA Investigator began gathering and reviewing materials related to the incident on July 26, 2023, immediately following the conclusion of the DA’s criminal investigation. (AR Report at p.6.)

II. SCOPE OF SCSO'S ADMINISTRATIVE REVIEW

SCSO's Administrative Review was finalized on November 1, 2024. The Administrative Review was not based on a complaint or allegation of misconduct against any deputy. Rather, it was an analysis of the incident generally to "determine if there were any particular areas where the department did or did not perform in a reasonable manner." (*AR Report at p.5.*)

The IA Investigator identified the following policies that were examined during the Administrative Review:

- Policy 300, Use of Force
- Policy 302, Handcuffing and Restraints
- Policy 305, Officer-Involved Shootings and Deaths
- Policy 324, Media Relations
- Policy 329, Major Incident Notifications
- Policy 338, Critical Incident Debriefing/Defusing
- Policy 400, Patrol Functions
- Policy 425, Body Worn Cameras and Audio Recorders
- Policy 435, Medical Aid and Response
- Law Enforcement Employee-Involved Critical Incident Protocol

(AR Report at pp.5, 24.)

The original Administrative Review did not explain how the scope was determined and only addressed 7 of the 10 policies listed above. SCSO's response to IOLERO's Preliminary Audit addressed the remaining 3 policies.

III. THE ADMINISTRATIVE REVIEW RECORD

The IA Investigator relied on the DA's Officer Involved Incident Report and the SRPD's criminal investigation record, including the SRPD's incident reports, supplemental reports, dispatch audio recordings, surveillance video footage, transcribed interviews and BWC video footage. (*AR Report at p.6.*) The IA Investigator also reviewed the involved deputies' training records. (*Id. at p.19.*)

IV. THE ADMINISTRATIVE REVIEW'S CONCLUSIONS

Based on the investigative record, the original Administrative Review separately addressed 7 of the 10 policies originally identified as applicable to this incident. SCSO's response to IOLERO's Preliminary Audit addressed the remaining 3 policies.

A. Use of Deadly Force

In evaluating Dep. Clayton and Dep. Schilling's use of deadly force, the Administrative Review cited SCSO Policy 300 "Use of Force," which generally requires that a peace officer's use of force be objectively reasonable. The policy requires deputies to use only that amount of force that "reasonably appears necessary given the facts and circumstances perceived by the

deputy at the time of the event to accomplish a legitimate law enforcement purpose.” (*AR Report at p.25.*)

The Administrative Review cited multiple subsections of SCSO Policy 300, including the subsection which describes the legal authority for peace officers to use force (300.3.1), the subsection which sets out various factors that should be considered when deciding whether and how much force to use (300.3.2), the subsection which encourages de-escalation when reasonable (300.3.6), and the subsection covering deadly force applications (300.4). (*AR Report at pp.26-28.*)

The Administrative Review noted that based on the facts and circumstances known to both Dep. Clayton and Dep. Schilling just prior to discharging their firearms, they reasonably believed that Mr. Smart was going to shoot them and were in fear for their lives. (*AR Report at p.30.*) The Administrative Review stated that Dep. Clayton and Dep. Schilling “faced an imminent threat of death or serious bodily injury based on the totality of the circumstances.” (*Id. at p.31.*) The Administrative Review concluded that Mr. Smart had the present ability, opportunity, and apparent intent to “cause death or serious bodily injury to deputies or bystanders” when he “refused to drop his firearm, pointed the firearm at deputies, and shot his firearm at Deputy Clayton.” (*Id.*)

The final sentences of the use of force analysis highlighted the Sonoma County District Attorney’s Office review, as follows:

The Sonoma County District Attorney’s Office conducted a review of this incident for potential violations of criminal law. At the conclusion of the District Attorney’s Office review, they determined no charges would be filed against any law enforcement personnel involved in [t]his matter. The fact that the District Attorney’s Office determined no charges were warranted was evidence that Deputy Clayton and Deputy Schilling acted within state law.

(Id.)

Based on these factors, the Administrative Review concluded that Dep. Clayton and Dep. Schilling’s use of force against Mr. Smart was reasonable, lawful and within policy, and found “no violation” in the use of force. (*Id. at p.32.*)

B. Other SCSO Policies Reviewed

The Administrative Review included cursory reviews of Policies 305 (Officer-Involved Shootings and Deaths), 324 (Media Relations), 329 (Major Incident Notifications), 338 (Critical Incident Debriefing/Defusing), 435 (Medical Aid and Response), and the Critical Incident Protocol (CIP). This review found “no violations” for each. (*AR Report at pp.31-36.*)

While the Administrative Review also included Policy 302 (Handcuffing and Restraints), 400 (Patrol Functions), and 425 (Body Worn Cameras and Audio Recorders) in the list of

policies that were examined, there was no discussion or analysis related to these policies in the original report. SCSO's response to IOLERO's Preliminary Audit included cursory reviews of the above policies and found "no violations" for each. (*SCSO Response at pp.7-10.*)

C. Recommendations

The IA Investigator discovered during his administrative review that the firearms training records for the involved deputies were not properly documented and did not include any explanation for absences or missed trainings. The Administrative Review included a recommendation that the Firearms Program be reminded to keep accurate training records. (*AR Report at p.37.*)

DISCUSSION AND CONCLUSIONS

I. COMPLETENESS

The Administrative Review was **PARTIALLY INCOMPLETE**.

First, we conclude that the overall scope of the Administrative Review was too narrow. Although SCSO reviewed several aspects of this incident, they overlooked some critical substantive issues. The Administrative Review failed to address **possible supervision failures**. SCSO Policy 300 includes a section covering supervisory responsibility related to use of force. (*SCSO Policy 300.7.*) A comprehensive review of compliance with SCSO Policy 300 following a critical incident or substantial use of force would necessarily include an assessment of supervisory responsibility. We note that neither the SRPD interviews nor the District Attorney's Report included a review of supervision in this matter. We also note that the Administrative Review did not consider **de-escalation** (SCSO Policy 104 or SCSO Policy 300.3.6), and, while it quoted the de-escalation subsection in the use of force policy, it did not evaluate it. Neither did the SRPD interviews or the District Attorney's Report.

Second, we conclude that the record is not sufficient to support some of the Administrative Review's conclusions, because **SCSO did not interview the deputies**. SCSO's Critical Incident Protocol specifically states that it does not prohibit the employer agency from compelling statements during administrative reviews. (*CIP at p.19 § III.B.1.*) In general, the scope of an administrative review is different than a criminal investigation or a civil lawsuit. As a result, administrative reviews should almost always conduct their own recorded interviews of involved staff – even if those individuals already provided statements in other contexts, and even if there are no specific allegations against those individuals. (*See Appendix B - "Fact Development" section.*) In particular, a long-recognized best practice across other agencies is to at least interview the shooting deputies in deputy-involved shootings. This is, after all, the most significant use of force any law enforcement officer will ever undertake, involving great risk to all involved and intense public scrutiny. Moreover, many key questions relevant to a law enforcement agency's policies – like communications, de-escalation, supervision, and after-action sequestration of witnesses – are not addressed in the criminal investigation.

Setting aside those best practices, there were also specific reasons to re-interview the deputies here. For example, there were many unresolved questions related to SCSO policy, including those regarding the deputies' training, understanding of policy and law, tactical

positioning, communication, de-escalation techniques, opportunities (if any) to utilize other force options, opportunities (if any) to identify themselves or give warnings, perception of the immediacy of the threat, and the information known to each deputy at the time they discharged their firearms. Additionally, interviews provide an opportunity to understand how the deputies applied policy and training during a particular incident. This type of inquiry can help identify gaps in policy and training that may not be apparent without the deputies' firsthand experience. SCSO did not take advantage of that opportunity here.

This type of inquiry can also help to identify areas where deputies showed exemplary tactical decision-making and allow for commendations or awards when appropriate. In this case, SCSO has suggested that there is some commendable behavior on the part of the deputies, which may be true, but impossible to appropriately assess without conducting interviews. For example, Dep. Clayton appeared to show admirable restraint when he waited to shoot at Mr. Smart until *after* Mr. Smart fired his weapon. An interview could have explored Dep. Clayton's training regarding these types of tactical decisions and the reasons he decided to wait in this instance even when he observed Mr. Smart pointing a weapon at him. Dep. Schilling, on the other hand, did not wait to shoot at Mr. Smart and did not give any commands or warnings before he shot. One can assume that this was because of how quickly Mr. Smart came around the corner and/or because of how close he was to Dep. Schilling, but an investigation should not rely upon assumptions, and this information cannot be known without an interview, as Dep. Schilling's interview with SRPD did not cover any of these questions.

Third, we conclude that the Administrative Review relied too heavily on the criminal investigation and too narrowly analyzed the deputies' compliance with SCSO's **use of force policy**. By its terms, an Administrative Review does not determine whether the use of force was *lawful*; that issue is separately addressed in the criminal investigation but using a higher standard of proof and a narrower body of evidence. Thus, to the extent SCSO interprets Policy 300 to require only checking that the deputies did not commit a crime, such an Administrative Review would fail to address most of the questions laid out in Policy 300. The purpose of the Administrative Review, distinct from the criminal investigation, is to determine broadly whether SCSO policies, procedures and/or training were followed, were adequate to the needs of the incident and whether they could be improved to the benefit of both deputies and the public.

Although the criminal investigation concluded that the deputies' use of force was lawful, there were too many unanswered questions to appropriately address policy compliance and/or identify any tactical or training issues. The Administrative Review included assumptions about the information known to and perceived by the deputies at the time they used force. For example, the Administrative Review stated that Dep. Clayton and Dep. Schilling knew, just prior to using force, that Nathan Smart was "intoxicated and possibly under the influence of drugs." Neither deputy mentioned this in their interview, so it cannot be concluded that either deputy knew this at the time they used force. Had SCSO interviewed the deputies, the facts and circumstances actually known at the time they used force could have been thoroughly examined.

For the reasons discussed above, each of these aspects of the Administrative Review were **INCOMPLETE**. We conclude that the remaining aspects of the Administrative Review were **COMPLETE**.

The Completeness Checklist is attached as **APPENDIX B**.

II. SCSO'S FINDINGS

For the same reasons we discussed above, we **DISAGREE** with SCSO's overall conclusion that there was **no violation** of SCSO's use of force policy (Policy 300). This is not to say that we conclude there *was* a violation, but simply that SCSO did not have sufficient information to reach a finding on whether this policy was violated, as a result of the **INCOMPLETE** record.

As discussed above, the scope of the Administrative Review was too narrow and neglected to address all relevant sections of the use of force policy. The investigative record, without administrative interviews, is insufficient to reach a conclusion that the deputies complied with *all* sections of Policy 300. However, we agree with SCSO's narrow conclusion that the use of deadly force complied with the specific sections of Policy 300 that incorporated the law as established in *Graham v. Connor* and *Tennessee v. Garner*, and that the use of deadly force was reasonable to address the imminent threat of death or serious bodily injury posed by Nathan Smart.

A peace officer's use of force to make an arrest must be "objectively reasonable" from the standpoint of a deputy on the scene. (*Graham v. Connor* (1989) 490 U.S. 386; *Cal. Pen. Code* § 835a (*any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance*) (in effect in 2022).)

The permitted use of *deadly force*, however, is more limited and confined to circumstances where the officer reasonably believes that the person presents an "imminent threat of death or serious bodily injury" to the officer or another person. (*Tennessee v. Garner* (1985) 471 U.S. 1.)

SCSO Policy 300 (as it was in effect in 2022) incorporated these legal standards and provided that "deadly force" was justified in the following circumstances:

- (a) A deputy may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the deputy or another person.
- (b) A deputy may use deadly force to stop a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the deputy reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the deputy shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the deputy has objectively reasonable grounds to believe the person is aware of those facts.

(SCSO Policy § 300.4 (2022 version).)

By its terms, SCSO Policy § 300.4 appears to require that a deputy need only meet the minimal constitutional and statutory standards concerning the use of deadly force. To the extent SCSO interprets § 300.4 in this manner, we agree that Dep. Clayton and Dep. Schilling acted within policy when they used deadly force in responding to Nathan Smart's threat of death or serious bodily injury. During their SRPD interviews, both Dep. Clayton and Dep. Schilling described that they observed Nathan Smart point what they believed to be a firearm at them, and both believed that Nathan intended to shoot them. Dep. Clayton further perceived that Nathan Smart fired a shot at him, and Dep. Schilling was aware that Nathan had fired at a deputy. (*Clayton Interview Transcript at pp. 7, 13; Schilling Interview Transcript at pp. 8, 11.*) The deputies' statements were consistent with BWC and surveillance video footage of the incident.

Based on the investigative record, Dep. Clayton was justified in using deadly force against Nathan Smart in self-defense as set out in SCSO Policy 300.4(a). When Nathan Smart pointed a firearm at Dep. Clayton, refused to obey Dep. Clayton's commands to drop his weapon, and then fired a shot at Dep. Clayton, it was reasonable for Dep. Clayton to believe that Nathan Smart presented an imminent threat of death or serious bodily injury to him. Dep. Clayton was further justified in using deadly force against Nathan Smart in defense of other deputies and in defense of civilians in the area as set out in SCSO Policy 300.4(a) and (b).

Based on the investigative record, Dep. Schilling was justified in using deadly force against Nathan Smart in self-defense as set out in SCSO Policy 300.4(a). At the time Dep. Schilling used deadly force, he was aware that Nathan Smart had already shot at Dep. Clayton and had refused to obey Dep. Clayton's commands to drop his weapon. When Nathan Smart then encountered Dep. Schilling and pointed a firearm at him, it was reasonable for Dep. Schilling to believe that Nathan presented an imminent threat of death or serious bodily injury to him, to other deputies, and potentially to civilians in the area.

* * *

We **AGREE** with SCSO's conclusion that there was **no violation** of the following policies, based on a preponderance of the evidence in the investigative record:

- Policy 302, Handcuffing and Restraints
- Policy 305, Officer-Involved Shootings and Deaths
- Policy 324, Media Relations
- Policy 329, Major Incident Notifications
- Policy 338, Critical Incident Debriefing/Defusing
- Policy 400, Patrol Functions
- Policy 425, Body Worn Camera and Audio Recorders
- Policy 435, Medical Aid and Response
- Law Enforcement Employee-Involved Critical Incident Protocol

We concur with SCSO's analysis of these policies.

* * *

We **AGREE** with the Administrative Review's only recommendation. The Administrative Review discovered that the Firearms Program was not properly documenting firearms/range attendance or recording an explanation for absences. We agree with the Administrative Review's recommendation that the "Firearms Program be reminded to keep accurate records." (*AR Report at p.37.*)

* * *

We **NOTE** that SCSO completed this Administrative Review past the period set forth in Government Code § 3304, thereby preventing IOLERO from providing its findings to SCSO and SCSO's consideration of those findings, prior to the expiration of the § 3304 period. SCSO and IOLERO implemented a Timeliness Checklist in February 2024 which should prevent this from occurring in the future.

Date: December 17, 2025

Respectfully Submitted:

BY: [REDACTED]

Ashley Nechuta
Law Enforcement Auditor III

APPENDIX A

MATERIALS REVIEWED

Dispatch Audio Recordings:

- 911 Call re: incident at Smart residence
- Radio Traffic re: incident at Smart residence
- 911 Calls re: incident at CVS
- Radio Traffic re: incident at CVS
- 911 Calls re: incident at Steiner's
- Radio Traffic re: incident at Steiner's
- 911 Calls re: shooting incident
- Radio Traffic re: shooting incident
- Phone Calls between SCSO dispatch and others

Body-Worn Camera Footage:

- Dep. Clayton (incident at Smart residence), dated October 15, 2022³
- Dep. Clayton (shooting incident), dated October 15, 2022⁴
- Dep. Schilling (shooting incident), dated October 15, 2022
- Dep. Andrews (shooting incident), dated October 15, 2022
- Sgt. Schemmell (shooting incident), dated October 15, 2022
- Dep. McDonnell (shooting incident), dated October 15, 2022
- Dep. McBeth (shooting incident), dated October 15, 2022
- Dep. Campos (shooting incident), dated October 15, 2022
- Dep. Peters (shooting incident), dated October 15, 2022

Other Video Footage:

- Surveillance Video – Bungalows, dated October 15, 2022

SRPD Interviews:

³ “Clayton BWC #1”

⁴ “Clayton BWC #2”

- Dep. Clayton (Recording and Transcript), dated October 18, 2022
- Dep. Schilling (Recording and Transcript), dated October 18, 2022
- Dep. McBeth (Recording and Transcript), dated October 18, 2022
- Dep. Andrews (Recording and Transcript), dated October 18, 2022
- Dep. Campos (Recording and Transcript), dated October 18, 2022

Reports:

- SCSO Administrative Review Report (#22-AR-0003), dated May 30, 2024⁵
- DA's Office Officer-Involved Incident Report, dated July 25, 2023
- SRPD Case Summary Report (#22-12138 / threats, firearm, shooting)
- SRPD Incident/Investigation Report (#22-12138) – Det. Gillotte, dated October 16, 2022
- SRPD Supplemental Report (#22-12138) – Det. Matthies, dated October 16, 2022
- SRPD Supplemental Report (#22-12138) – Tech Fix, dated October 26, 2022
- SRPD Supplemental Report (#22-12138) – Det. Gillotte, dated October 25, 2022
- SRPD Incident/Investigation Report (#22-12135 / vandalism at CVS), dated October 15, 2022
- SRPD Incident/Investigation Report (#22-12203 / vandalism at Steiner's), dated October 18, 2022
- SRPD incident/Investigation Report (#22-12550 / brandishing at Steiner's), dated October 26, 2022

Documents:

- Computer-Aided Dispatch printout (incident at CVS / #SO222880009), dated October 15, 2022⁶
- Computer-Aided Dispatch printout (incident at Steiner's & shooting / #SO222880010), dated October 15, 2022⁷

Training Records:

- Firearms 2022 2nd Quarter Training Roster, dated June 17, 2022

⁵ “AR Report”

⁶ “CAD #1”

⁷ “CAD #2”

- Training Records – Dep. Clayton
- Training Records – Dep. Schilling
- Daily Observation Report – Dep. Schilling, dated March 23, 2022

Communications:

- Email from Lt. Cutting suspending 2022 3rd Quarter Firearms/DT Training, dated June 15, 2022
- Outcome Notification – Dep. Clayton, dated April 10, 2025
- Outcome Notification – Dep. Schilling, dated April 10, 2025

Media Coverage / Public Statements:

- SRPD Press Release, dated October 16, 2022
- SRPD Press Release, dated October 19, 2022
- SCSO Critical Incident Video, dated October 28, 2022

SCSO Policies⁸:

- Policy 104, De-Escalation
- Policy 300, Use of Force
- Policy 302, Handcuffing and Restraints
- Policy 305, Officer-Involved Shootings and Deaths
- Law Enforcement Employee-Involved Critical Incident Protocol 93-1, Sonoma County Law Enforcement Chiefs' Association
- Policy 306, Firearms
- Policy 324, Media Relations
- Policy 329, Major Incident Notifications
- Policy 338, Critical Incident Defusing/Debriefing
- Policy 400, Patrol Function
- Policy 425, Body Worn Cameras and Audio Recorders
- Policy 435, Medical Aid and Response

⁸ All SCSO policies are dated 09/29/2022 unless otherwise indicated.

Miscellaneous:

- Dep. Clayton Change of Status Notification, dated October 16, 2022
- Dep. Schilling Change of Status Notification, dated October 16, 2022

APPENDIX B

IOLERO COMPLETENESS CHECKLIST FOR AUDITING IAD INVESTIGATIONS

PRELIMINARY ITEMS	Mark when Completed
Identify and list the issues/allegations reasonably raised by the incident.	INCOMPLETE
FACT DEVELOPMENT	
Timely gather documentary / video / audio evidence, including BWC files and Dispatch files. If any are missing, explain why in the report.	X
Timely interview subjects, complainants, witnesses (recorded by audio/video)	INCOMPLETE
** Explore and where necessary, challenge, factual assertions to ensure objective record; eliminate shorthand use of phrases/terms of art, and/or require they be substantively explained on the record. Interviews need not be adversarial, but they do need to be probative. Avoid leading questions and questions suggesting justifications for the deputy's conduct. Obtain non-interrupted narratives from interviewees when possible and clarify/elaborate with targeted follow up questions.	INCOMPLETE
** Have deputies identify with as much specificity as possible the facts known to or perceived by the deputy at the time actions were taken, and the source of those facts, as they relate to the incident under review	
<i>Use of Force Matters</i> (in addition to the foregoing)	
Establish whether (and specifically how) use of force factors listed in policy were considered by deputy(s)	INCOMPLETE
Establish whether (and specifically how) <u>proportionality</u> was considered by deputy(s)	X
Establish whether (and specifically how) <u>de-escalation</u> was considered by deputy(s)	INCOMPLETE

Establish specific facts which deputy believed showed reasonableness of the force under the Fourth Amendment.	X
<i>Critical Incident Protocol Matters</i> (when SCSO is Employing Agency)	
Check for compliance with the SCSO policy, not just assessing whether the deputy committed a crime. For example, check for compliance with the Critical Incident Protocol at the scene and for deputy compliance with SCSO de-escalation policy and training. This will often require a separate interview of involved deputies/witnesses to address SCSO policy, not just reliance on the investigating agency's interviews.	INCOMPLETE
Remember that the District Attorney or Attorney General's decision not to file criminal charges does not tell us whether there was a violation of policy.	INCOMPLETE
EVALUATION OF LAW / POLICY	
Explain SCSO's interpretation of the law/policy in issue.	INCOMPLETE
Summarize training, if relied on by deputy.	X
Summarize experience, if relied on by deputy.	X
Summarize deputy understanding of law/policy.	INCOMPLETE
APPLY LAW / POLICY TO FACTS	
Analyze facts under the law/policy as interpreted by SCSO.	INCOMPLETE
Identify ambiguity in law/policy.	INCOMPLETE
Identify and address factual contradictions and credibility issues, such as the impact of missing BWC or contradictions in witness testimony.	INCOMPLETE
Address whether deputy was directed by superiors to take specific action.	INCOMPLETE

<i>Use of Force Matters</i> (in addition to the foregoing)	
Provide complete analysis of balancing of interests under <i>Graham v. Connor</i> .	INCOMPLETE
Provide complete analysis of relevant use of force factors in SCSO Policy and California statutes.	INCOMPLETE
Provide complete analysis of <u>proportionality</u> balance.	X
Provide complete analysis of <u>de-escalation</u> considerations.	INCOMPLETE
<i>Critical Incident Protocol Matters</i> (when SCSO is Employing Agency)	
Do not rely solely on the District Attorney's evaluation of whether charges will be filed <u>criminally</u> ; conduct separate analysis of whether deputy followed SCSO <u>policy</u> . This will often involve separate administrative interviews.	INCOMPLETE
WRITTEN REPORT	
All the facts and analysis used to reach a conclusion should be stated here, so the reader does not have to go elsewhere to understand the report.	X
Avoid terms-of-art, or otherwise explain such terms. For example, instead of writing "the deputy de-escalated," instead write "The deputy stepped back a few paces, and told the man to take his time to explain what was going on."	INCOMPLETE
Summary of how record supports the finding of sustained, exonerated, unfounded, or not sustained, based on statutory and policy definitions. Use the "Allegation, Policy, Facts, Conclusion" four-sentence paragraph as a start.	N/A
PRESERVATION OF RECORD	
Place all materials and evidence in AIM.	X
Retain all BWC files in Evidence.com.	X

APPENDIX C: SCSO'S WRITTEN RESPONSE

SCSO provided a written response to the Preliminary Audit on October 3, 2025⁹. That response expressed SCSO's disagreement with IOLERO's conclusions regarding the scope of the Administrative Review and included a supplemental analysis regarding three policies that were listed in the AR Report as having been "examined" in relation to the incident but were not originally analyzed. SCSO's full written response is attached.

⁹ SCSO's response is dated October 2, 2025, but was sent to IOLERO via email on October 3, 2025.



SONOMA COUNTY SHERIFF'S OFFICE

EDDIE ENGRAM
Sheriff-Coroner

October 2, 2025

Response to IOLERO's Audit of Internal Affairs Case #22-AR-0003

Type of Investigation: Administrative Review – Officer Involved Shooting (OIS)

Pursuant to Section D.1.j. of the July 2022 Operational Agreement between the Sonoma County Sheriff's Office (SCSO), and the Independent Office of Law Enforcement Review and Outreach (IOLERO), we are providing a written response to IOLERO's preliminary audit of case #22-AR-0003.

IOLERO's auditor concluded that SCSO's Administrative Review was "PARTIALLY INCOMPLETE." Specifically, the auditor claimed:

- (a) The Administrative Review was "too narrow in scope, omitting multiple issues and neglecting to review all relevant policies"
 - a. The Administrative Review failed to address possible supervision issues
 - b. The Administrative Review did not consider SCSO's de-escalation policy
- (b) The Administrative Review did not include deputy interviews
- (c) The Administrative Review relied too heavily on the criminal investigation in the use of force analysis

The auditor also disagreed with the SCSO's finding of "NO POLICY VIOLATION" regarding the Use of Force policy.

Regarding IOLERO's determination the SCSO's Administrative Review was "PARTIALLY INCOMPLETE;" the most concerning of the three reasons cited by the auditor was the fact they claimed the scope of the Administrative Review was "too narrow." Specifically, the auditor concluded the Administrative Review failed to address "possible supervision failures" and "did not consider the Sheriff's Office de-escalation policy." (IOLERO Audit Smart, Nathan PRELIMINARY, pp. 7).

First and foremost, the Sheriff alone has the sole discretion to set the intention and scope of any Administrative Review. The Sheriff also has the sole discretion to put in place any parameters he or she sees fit to meet the objective of the Administrative Review. Upon the completion of any Administrative Review, the final document is tracked to the Sheriff via the Chain of Command (from the Investigator to Lieutenant, to Captains, to Assistant Sheriff and ultimately to the Sheriff) for approval. At any point

during the approval process, if the Sheriff and/or his executive command staff feels the Administrative Review is incomplete, it may be rejected and returned to the investigator for follow-up.

To be clear, the purpose of this Administrative Review was to,

1. Review the circumstances surrounding the performance of the Sheriff's Office during an incident (22-AR-0003 Report, pp. 5).
2. Determine if there were any particular areas where the department did or did not perform in a reasonable manner (22-AR-0003 Report, pp. 5).

In this case, after approval all the way through the Chain of Command, the Sheriff was satisfied with the specific policy sections the investigator reviewed, analyzed and applied to this incident. The Sheriff is the only person who can actually determine the scope of any Administrative Review; therefore, we reject the auditor's conclusion that this investigation was "PARTIALLY INCOMPLETE" based solely on the belief the scope was too narrow.

Even though they believed the scope of the Administrative Review was too narrow, neither IOLERO itself, nor any clause in either Measure P and/or the Operational Agreement affords IOLERO the authority to determine the scope of the Administrative Review. Since IOLERO does not have the authority to determine the scope, they in turn have no authority to conclude the Administrative Review is "PARTIALLY INCOMPLETE" based solely on the premise that the review *should* have included an analysis of more policy sections.

In the Discussion and Conclusions portion of IOLERO's audit, the auditor wrote,

"The Administrative Review failed to address **possible supervision failures**. This *should* be assessed after every critical incident or substantial use of force."¹ (IOLERO Audit Smart, Nathan PRELIMINARY, pp. 7).

The use of the word 'possible' in the auditor's statement above is a strong indication that there were not any actual, identifiable supervision failures. The entire lethal force incident occurred in under approximately three minutes, from the time Deputy Clayton contacted Nathan Smart until the time Nathan Smart was being handcuffed. Any supervisor not directly involved in this incident, who was not on scene at the time lethal force was used, would be hard pressed to have any reasonable influence on how the incident transpired. However, once the force was used, the supervisor responded to and took control of the scene, ensured the proper notifications were made, the Critical Incident Protocol was invoked and the deputies involved were sequestered. There were no concerns about the supervisor's actions during this incident. If there were, they would have been identified and addressed in the Administrative Review, or they would have been addressed in a separate investigation. The use of the

¹ Italics added for emphasis.

word ‘should’ in the auditor’s statement above also confirmed there was no requirement for the Administrative Review to include reviewing the level of supervision during this incident.

The auditor also wrote,

“We also note that the Administrative Review did not consider SCSO’s de-escalation policy, and while it quoted the de-escalation subsection in the use of force policy, it did not evaluate it.” (IOLERO Audit Smart, Nathan PRELIMINARY, pp.7).

The Sheriff’s Office finds this statement completely absurd given the circumstances of the case. For context, the circumstances of this incident included,

- Nathan Smart had committed multiple felony crimes.
- Nathan Smart was armed with a firearm in a populated area.
- Deputy Clayton contacted Nathan Smart in the roadway of W. Napa Street.
- Upon contact, Nathan Smart pointed a firearm at Deputy Clayton.
- Deputy Clayton gave Nathan Smart commands to drop his weapon.
- Approximately 5-10 seconds elapsed before Nathan Smart fired his weapon at Deputy Clayton.
- When fired upon, Deputy Clayton returned fire.
- Nathan Smart fled toward a business complex.
- Deputy Clayton gave Nathan Smart another command to ‘come out...drop the fucking weapon and come out with your hands up.’
- Instead of continuing to flee, Nathan Smart circled back, and re-engaged the deputies.
- When Nathan Smart emerged from concealment, he immediately pointed his firearm at Deputy Schilling.

De-escalation is undeniably an important component to modern-day law enforcement. However, due to how quickly the events in this incident took place, de-escalation was not necessarily safe or reasonable in these circumstances. With that said, for the sake of addressing IOLERO’s misguided concern, the evidence in this case showed that even though it wasn’t safe or reasonable, Deputy Clayton still attempted to de-escalate the situation. In all reality, Deputy Clayton likely would have been justified in using lethal force against Nathan Smart the moment Nathan Smart failed to follow Deputy Clayton’s commands, took a shooting stance, and pointed the unknown object (which turned out to be a firearm) at him; however, Deputy Clayton showed amazing restraint and attempted to de-escalate the situation by giving commands and allowing as much time as possible to pass. Ultimately, Nathan Smart refused to be de-escalated and instead attempted to murder Deputy Clayton by firing a round at him. Deputy Clayton waited as long as he possibly could have to return fire, until *after* being shot at. After firing the first shot, Nathan Smart fled and hid around the corner of a building. Once around the corner of a building, Nathan Smart stopped. At that moment, Deputy Clayton yet again tried to de-escalate the situation when he provided a command, consistent with, “Hey Nathan, come out.... drop the fucking weapon and come out with your hands up!” (Deputy Clayton’s BWC 22:15:38). Instead of following

commands, Nathan Smart fled again, but not to escape. He ultimately circled back around the deputies and re-engaged them by pointing his firearm at Deputy Schilling the moment he emerged from the building. There were no other reasonable or feasible opportunities for either deputy to de-escalate Nathan Smart, who clearly did not want to be de-escalated. If this policy were analyzed, the finding would undoubtedly be ‘**No Policy Violation.**’ The fact that this IOLERO audit suggested the deputies failed to explore opportunities to de-escalate Nathan Smart, and/or failed to utilize other force options is nothing short of ridiculous.

Addressing the second prong of IOLERO’s determination that this Administrative Review was “PARTIALLY INCOMPLETE” because it did not include independent interviews of the involved deputies, there is no legal requirement or mandate for an Administrative Review to include independent interviews of the deputies involved. At the time of this response guiding principles in the Critical Incident Protocol (CIP) stated,

- The decision to conduct an administrative investigation is the “concern and responsibility solely of the employer agency.” (CIP at p.19, Section III.B.2).
- The employer agency may assign an investigator to conduct the administrative investigation, and the investigator may have access to briefings, crime scenes, physical evidence and interviewees’ statements taken in the criminal investigation. (CIP at p.19, Section III.B.4).

The auditor also wrote,

“As a result, administrative reviews *should almost always* conduct their own recorded interviews of involved staff – even if those individuals already provided statements in other contexts, and even if there are no specific allegations against those individuals. (See Appendix B – “Fact Development” section.) In particular, *a long-recognized best practice across other agencies* is to at least interview the shooting deputies in deputy-involved shootings. This is, after all, the most significant use of force any law enforcement officer will ever undertake, involving great risk to all involved and intense public scrutiny.”² (IOLERO Audit Smart, Nathan PRELIIMINARY, pp. 8).

Despite IOLERO’s belief that it may be best practice to interview the deputies involved in a critical incident; it’s not a requirement. As established earlier in this response, the scope of an Administrative Review is specifically, *to review the circumstances surrounding the performance of the employees involved and to determine if they acted reasonably.* A subsequent interview is not necessarily required for the investigator in these types of investigations to come to certain conclusions. Contrary to IOLERO’s belief, conclusions regarding a deputy’s performance during a critical incident, and the reasonableness of said performance, can be made based on information gleaned from the deputy’s responses during the criminal investigation. When a finding can be made without subjecting the deputies involved to another interview, there is no legal or mandatory obligation to do so.

² Italics added for emphasis.

Interestingly enough, even though IOLERO deemed the investigation “PARTIALLY INCOMPLETE,” and they disagreed with the Sheriff’s Office finding of “No policy violation” specifically regarding the use of force review, because of a lack of independent interviews with the two deputies involved; the auditor agreed with all the other policies the investigator reviewed, including the review of the critical incident protocol (IOLERO Audit Smart, Nathan PRELIMINARY). If IOLERO truly believed an interview was required to draw a meaningful conclusion, how or why is it they agree with the findings for the other policies reviewed, but disagree with the finding regarding the use of force review?

Furthermore, in addressing IOLERO’s conclusion that the auditor disagreed with the “No policy violation” finding regarding the use of force, the evidence in this case clearly showed **the only force** either of the involved deputies used was deadly force. In the audit of this investigation, IOLERO’s auditor analyzed each deputy’s use of deadly force. The auditor wrote,

“Based on the investigative record, Dep. Clayton was justified in using deadly force against Nathan Smart in self-defense as set out in SCSO Policy 300.4(a). When Nathan Smart pointed a firearm at Dep. Clayton, refused to obey Dep. Clayton’s commands to drop his weapon, and then fired a shot at Dep. Clayton, it was reasonable for Dep. Clayton to believe that Nathan Smart presented an imminent threat of death or serious bodily injury to him. Dep. Clayton was further justified in using deadly force against Nathan Smart in defense of other deputies and in defense of civilians in the area as set out in SCSO Policy 300.4(a) and (b). (IOLERO Audit Smart, Nathan PRELIMINARY, p.10).

“Based on the investigative record, Dep. Schilling was justified in using deadly force against Nathan Smart in self-defense as set out in SCSO Policy 300.4(a). At the time Dep. Schilling used deadly force, he was aware that Nathan Smart had already shot at Dep. Clayton and had refused to obey Dep. Clayton’s commands to drop his weapon. When Nathan Smart then encountered Dep. Schilling and pointed a firearm at him, it was reasonable for Dep. Schilling to believe that Nathan Smart presented an imminent threat of death or serious bodily injury to him, to other deputies, and potentially to civilians in the area.” (IOLERO Audit Smart, Nathan PRELIMINARY, p.10).

IOLERO’s own auditor determined both deputies were justified in using deadly force, based on the investigative record, which did not include an interview. For these reasons, the Sheriff’s Office fundamentally disagrees with IOLERO’s determination the investigation was “PARTIALLY INCOMPLETE” solely on the basis the deputies involved were not interviewed, and we stand by the investigators original finding there was NO POLICY VIOLATION regarding either deputies use of lethal force in this incident.

Addressing the claim that the investigator relied too heavily on the criminal investigation in the use of force analysis, which was the third reason IOLERO deemed the Administrative Review “PARTIALLY INCOMPLETE.” In the preliminary audit, the auditor wrote,

“Third, we conclude that the Administrative Review relied too heavily on the criminal investigation and too narrowly analyzed the deputies’ compliance with SCSO’s **use of force policy**. By its terms, an Administrative Review does not determine whether the use of force was *lawful*; that issue is separately addressed in the criminal investigation but using a higher standard of proof and a narrower body of evidence. Thus, to the extent SCSO interprets Policy 300 to require only compliance with the minimal constitutional and statutory standards for using deadly force, the Administrative Review of that policy is duplicative of the criminal investigation and will result in nothing more than a restatement of the criminal investigative findings, just using a lower standard of proof. The purpose of the Administrative Review, distinct from the criminal investigation, is to determine broadly whether SCSO policies, procedures and/or training were followed, were adequate to the needs of the incident and whether they could be improved.” (IOLERO Audit Smart, Nathan, pp. 8).

Although there are instances where law enforcement policy is written with more restrictive rules and guidelines than minimally established by law, when it comes to use of force, the Sheriff’s Office policy closely resembles the law. Therefore, any Administrative Review concerning the use of force is absolutely used to determine if the application of force was not only lawful, but within policy.

In this case, the investigator did in fact use information gathered by the Santa Rosa Police Department during the criminal investigation, as well as the District Attorney’s review of the incident. After analyzing the information, the investigator was able to determine the performance of the deputies was reasonable, proportionate, and justified; and therefore, within policy and law. The fact that the information was gleaned from the criminal investigation does not mean the investigator merely regurgitated the Santa Rosa Police Department’s findings. Rather, the investigator took the information and then conducted their own separate analysis in order to determine their findings. In the Conclusions and Findings section of the Administrative Review, the investigator only mentioned the District Attorney’s review in a small paragraph at the end of the use of force analysis. It’s obvious the investigator did not *rely* on the District Attorney’s review. Instead, the District Attorney’s review was merely used as another piece of evidence to corroborate the investigator’s finding that the deputies used reasonable and proportionate force against Nathan Smart, after Smart shot his firearm at Deputy Clayton... which was the same finding the IOLERO auditor came to in this matter as well.

After claiming the Administrative Review relied too heavily on the criminal investigation, the auditor also wrote the following,

“Although the criminal investigation concluded that the deputies’ use of force was lawful, there were too many unanswered questions to appropriately address policy compliance and/or identify any tactical or training issues. The Administrative Review included assumptions about the information known to and perceived by the deputies at the time they used force. For example, the Administrative Review stated that Dep. Clayton and Dep. Schilling knew, just prior to using force, that Nathan Smart was “intoxicated and possibly under the influence of drugs.” Neither

deputy mentioned this in their interview, so it cannot be concluded that either deputy knew this at the time they used force. Had SCSO interviewed the deputies, the facts and circumstances actually known at that time they used force could have been thoroughly examined.” (IOLERO Audit Smart, Nathan PRELIMINARY, pp. 8).

The auditor’s claim that the Administrative Review included assumptions raises questions and concerns about their objectiveness. The investigator’s report did in fact state the deputies knew Nathan Smart was intoxicated and under the influence of drugs. This was not an assumption. That information was relayed to the deputies during the original call for service via dispatch.³ Playing devil’s advocate, even if the deputies weren’t aware that Nathan Smart was under the influence, it would not have changed the investigator’s findings or the outcome of the Administrative Review. Whether or not Nathan Smart was intoxicated or under the influence of drugs became irrelevant the moment he pointed his firearm at Deputy Clayton and fired a round at him, then circled back and re-engaged Deputy Schilling. At those very moments, any reasonable officer would have concluded that Nathan Smart had the present ability, opportunity, and apparent intent to cause, at minimum, Deputy Clayton great bodily injury and/or death; ultimately justifying the use of deadly force.... which again, the auditor agreed was justified.

The only actual leg IOLERO had to stand on in their determination that this Administrative Review was “PARTIALLY INCOMPLETE” was the fact that the investigator failed to include the analyses of three policies they stated were analyzed in the report, specifically Policy 302 – Handcuffing and Restraints, Policy 400 – Patrol Functions, and Policy 425 – Body Worn Camera and Audio Recording. Addressing the absence of those policies, the investigator has provided the following analyses.

Policy 302 – Handcuffing and Restraint

The purpose of this policy is to provide guidelines for the use of handcuffs and other restraints during detentions and arrests.

Policy section 302.3 – “Use of Restraints”, stated:

“Only members who have successfully completed Sonoma County Sheriff’s Office-approved training on the use of restraint devices described in this policy are authorized to use these devices.

“When deciding whether to use any restraint, deputies should carefully balance officer safety concerns with factors that include, but are not limited to:

- *The circumstances or crime leading to the arrest.*
- *The demeanor and behavior of the arrested person.*
- *The age and health of the person.*
- *Whether the person is known to be pregnant.*

³ Dispatch Audio #2 09:30-09:36 (mm:ss)

- *If known to be pregnant, the use of leg irons, waist chains, or handcuffing behind the body should be avoided and only applied in circumstances of extreme safety concerns.*
- *Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.*
- *Whether the person has any other apparent disability.”*

After Smart was shot by Deputy Schilling, he fell to the ground and began writhing in apparent pain. As Deputies approached Smart, they were able to kick the firearm he had been holding away from him. Deputies Cody McBeth and Clayton pulled Smart's arms behind his back and Deputy McBeth then applied handcuffs to both of Smart's wrists, effectively securing him. Deputy McBeth, who has been employed with the Sheriff's Office since 2016, has completed Sonoma County Sheriff's Office-approved training, and was authorized to use handcuffs.

Policy section 302.4 “Application of Handcuffs or Plastic Cuffs,” stated in part:

“Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person’s hands to ensure officer safety.

“Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Sheriff’s Office. Deputies should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, deputies should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

“In most situations handcuffs should be applied with the hands behind the person’s back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.”

During this incident, even though Smart had been shot, and handcuffing was discretionary, Smart was handcuffed, behind his back, for deputy safety. This was a reasonable measure to ensure deputy safety because even though the apparent weapon Smart had was kicked away from him, it was unknown to the deputies on scene if Smart had any more weapons and he had not been thoroughly searched. Furthermore, the evidence showed the handcuffs appeared to have been checked for fit, but there was no evidence to suggest the handcuffs were double-locked. The wording in the policy stated, *“When feasible, handcuffs should be double-locked...”* In this case, the immediate need to provide life-saving measures to Smart reasonably and substantially outweighed the importance of double-locking the handcuffs to prevent them from tightening.

Before being transported to the hospital, medics asked Deputy McDonnell to restrain Smart's feet, to stop him from moving. Subsequently, Deputy McDonnell handcuffed each of Smart's ankles to the gurney. Upon arrival to the hospital, Deputy McDonnell removed the handcuffs from Smart's ankles.

Though the policy stated handcuffs “*may* be used to only restrain a person’s hands to ensure officer safety,” using handcuffs to restrain Smart’s ankles in this emergency, life-saving situation was a reasonable application of restraining Smart, to protect himself and the medic, ultimately allowing the medics to provide more adequate care.

FINDINGS: No violations.

Policy 400 – Patrol Function

The purpose of this policy is to define the patrol function.

Policy section 400.4 – “Policy,” stated:

“The Sonoma County Sheriff’s Office provides patrol services 24 hours a day, seven days a week and will prioritize responses to requests for emergency services using available resources to enhance the safety of the public and office members.”

Policy Section 400.5 – “Function,” stated, in part:

“Patrol will generally be conducted by uniformed deputies in clearly marked law enforcement vehicles in assigned jurisdictional areas of Sonoma. The function of patrol is to respond to calls for assistance and reports of criminal activity, act as a deterrent to crime, enforce state and local laws, identify community needs, provide support and assistance to the community and respond to emergencies.”

This officer-involved shooting took place within the jurisdiction of the City of Sonoma. The City of Sonoma contracts for police services (Sonoma Police Department) with the Sonoma County Sheriff’s Office and is staffed with sworn deputy sheriffs 24 hours a day, seven days a week. The Sheriff’s Office has a substation (Sonoma Valley Substation) located in the unincorporated area of Sonoma, also staffed with sworn deputy sheriffs 24 hours a day, seven days a week.

At the time of this incident, deputies from both the Sonoma Police Department and Sonoma Valley Substation, promptly responded to multiple calls for service involving Nathan Smart, including felony criminal threats (422 PC), felony elder abuse (368 PC), felony vandalism (594 PC), and the officer-involved shooting. The responding deputies had a duty to apprehend Smart for the crimes he committed, and it was reasonable to prevent Smart from continuing to commit criminal acts. Deputies utilized marked patrol vehicles, were in full uniform and used available resources until the completion of the incident.

FINDINGS: No violations.

Policy 425 – Body Worn Camera and Audio Recorders

The purpose of this policy is to provide guidelines for the use of body worn camera (BWC) by members of this office and for the access, use, and retention of office BWC media.

Policy section 425.2 – “Policy”, stated:

“It is the policy of the Office to use BWCs and BWC media for evidence collection and to accurately document events in a way that promotes member safety and office accountability and transparency while also protecting the privacy of members of the public.”

Policy Section 425.6 – “Activation of the BWC” stated in part:

“This policy is not intended to describe every possible situation in which the BWC should be used, although there are many situations where its use is appropriate. Unless, it would be unsafe, impossible, or impractical for the situation, members are required to activate their BWC prior to making contact when responding to all calls for service, and during any law enforcement related encounters and activities that occur while the member is on duty. Examples include, but are not limited to:

(a) All enforcement and investigative contacts including arrests, pursuits, suspicious persons, detentions, and field interview (FI) situations.”

Policy Section 425.6.1 – “Cessation of Recording” stated in part:

“Once activated, the BWC shall remain on continuously until the member reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in the incident.”

This administrative review relied upon deputies’ body worn camera (BWC) throughout the entirety of this incident. There were no instances discovered where a BWC was not activated where it should have been. The BWC footage of the deputies involved was provided to the Santa Rosa Police Department to aid them in their investigation.

FINDINGS: No violations.

In conclusion, the Sheriff is the only person with the sole discretion to determine the scope of this, and any Administrative Review. Focusing on IOLERO’s *opinion* that the scope of the Administrative Review was too narrow, the Sheriff’s Office fundamentally disagrees. Instead of deeming the Administrative Review “PARTIALLY INCOMPLETE,” it would be more appropriate for IOLERO to

make certain recommendations to the Sheriff's Office. Doing so would have been a more affective attempt to collaborate with the Sheriff's Office to improve the Sheriff's Administrative Review process; after all, according to their website, "IOLERO's mission is to strengthen the relationship between the Sheriff's Office and the community it serves through outreach and the promotion of greater transparency."⁴ Instead of having an objective and reasonable perspective during the audit of this Administrative Review, to help educate the community as to why the deputies involved were in fact justified in their actions and their performance was within policy and law, the IOLERO auditor chose to take every opportunity to insinuate the Sheriff's Office wasn't being transparent by deeming the investigation "PARTIALLY INCOMPLETE" based on nothing more than their subjective opinion that the scope was too narrow, that the Administrative Review didn't include an analysis of the supervision and de-escalation policies, neither of which are or were a requirement of a "Complete" Administrative Review, and by disagreeing with the "No Policy Violation" regarding use of force, even though the auditor themselves agreed the use of lethal force by both of the deputies involved was justified.

⁴ IOLERO's website: <https://sonomacounty.gov/administrative-support-and-fiscal-services/independent-office-of-law-enforcement-review-and-outreach>

APPENDIX D: IOLERO'S CONSIDERATION OF SCSO'S RESPONSE AND MODIFIED CONCLUSIONS

On October 3, 2025, IOLERO received a response from SCSO to the Preliminary Audit for Case #22-AR-0003. The response is included above as Appendix C.

Having considered SCSO's response, IOLERO has modified its Preliminary Audit and now **AGREES** with SCSO's supplemental conclusion that there was **no violation** of the following policies:

Policy 302, Handcuffing and Restraints

Policy 400, Patrol Function

Policy 425, Body Worn Camera and Audio Recorders

IOLERO also modified the discussion of completeness in the “Conclusions and Findings” section of its Audit. IOLERO concludes that it is appropriate to reaffirm the remainder of its Preliminary Audit and makes the following **NOTES** regarding SCSO's response.

SCSO's response indicated that the “Sheriff is the only person who can actually determine the scope of any Administrative Review” and that IOLERO had “no authority” to conclude the Administrative Review was partially incomplete based “solely on the premise that the review *should* have included an analysis of more policy sections.”¹⁰ IOLERO notes that SCSO Policy does not provide any guidelines regarding Administrative Reviews or the proper scope thereof. IOLERO therefore utilized the Completeness Checklist attached as Appendix B and recognized best practices as the standards for assessing whether the scope of this Administrative Review was appropriate. Based on those standards, IOLERO determined that SCSO's Administrative Review was “PARTIALLY INCOMPLETE.” Specifically, the Administrative Review lacked a complete analysis of the policy sections that the investigator determined were relevant and listed in the Investigative Report. IOLERO did not arbitrarily choose additional policies that SCSO should have included. IOLERO determined that the policies already named as relevant to the incident were not thoroughly analyzed. Namely, the use of force policy (Policy 300), the handcuffing and restraints policy (Policy 302), the patrol functions policy (Policy 400), and body worn camera policy (Policy 425).

As incorporated above, SCSO's response provided a supplementary analysis of the handcuffing and restraints policy, the patrol functions policy, and body worn camera policy. However, IOLERO reaffirms that SCSO's analysis of the use of force policy was too narrowly focused on the legality of the use of force and omitted a complete review of deputies' compliance with all sections of the policy relevant to a use of deadly force (including supervision and de-escalation). The Administrative Review also failed to include deputy interviews.

IOLERO's determination that supervision failures were “possible” does not suggest that supervision failures either *were* or *were not* apparent during this incident. SCSO's response

¹⁰IOLERO's authority in this regard was established and outlined in Measure P, which specifically granted IOLERO the power to review, audit and analyze administrative investigations of SCSO employees. (*Article XXVI* §§ 2-392(d)(1); 2-394(b)(2).)

indicated that “[t]here were no concerns about the supervisor’s actions during this incident,” and that “[i]f there were, they would have been identified or addressed in the Administrative Review.” However, the stated purpose of the Administrative Review was to “[d]etermine if there were any particular areas where the department did or did not perform in a reasonable manner.” Accordingly, a determination that there were “no concerns about the supervisor’s actions,” should be a *result of*, not the impetus to, addressing them in the Administrative Review.

SCSO’s response indicated that IOLERO’s note that the Administrative Review did not consider SCSO’s de-escalation policy was “completely absurd given the circumstances of the case.” SCSO then outlined the facts of the incident and provided an analysis of why de-escalation was “not necessarily safe or reasonable in these circumstances.” SCSO went on to state, “If this policy were analyzed, the finding would undoubtedly be ‘No Policy Violation.’” This level of discussion and analysis regarding de-escalation was not included in the Administrative Review, which was why IOLERO noted it in the audit. IOLERO did not suggest that deputies failed to de-escalate, only that the topic was not appropriately addressed in the Administrative Review.

SCSO’s response indicated that there was no legal requirement or mandate for an Administrative Review to include independent interviews of the deputies involved. IOLERO did not suggest that there is a legal requirement to conduct independent interviews, only that it is a recognized best practice in a deputy-involved shooting case. Deputy interviews are also called out in the Completeness Checklist, which SCSO agreed to in 2023. Moreover, IOLERO identified specific unanswered questions raised by the facts in this case that could not be otherwise resolved. IOLERO reaffirms this determination.

SCSO’s response indicated that IOLERO’s determination that the Administrative Review included assumptions raised “questions and concerns about [IOLERO’s] objectiveness.” The example provided in IOLERO’s audit was that the Administrative Review stated that the involved deputies knew that the subject was intoxicated and under the influence of drugs when neither deputy mentioned this in their criminal interviews. SCSO’s response indicated that this was “not an assumption” because the information was relayed to the deputies during the original call for service via dispatch. However, we cannot assume that deputies perceive everything recorded on BWC video or hear everything broadcast on the radio. We cannot know whether the deputies knew this information without asking them. SCSO further stated that “even if the deputies weren’t aware that [the subject] was under the influence, it would not have changed the investigator’s findings.” While it may be true that the presence of this (or any other) factor would not have changed the findings in this case, the information known to and perceived by deputies during this incident was relevant to their state of mind and their decisions to use force.

SCSO’s response suggests that SCSO reads IOLERO’s audit to state that deputies obviously acted unreasonably or in violation of policy during this incident. However, IOLERO’s audit did not note any obvious policy violations evident from the record, and a more complete and thorough Administrative Review may well have shown that deputies acted within policy during this incident. Without a complete investigation, one cannot tell one way or the other.

I. MODIFIED CONCLUSIONS

SCSO submitted a timely written response to IOLERO’s Preliminary Audit. Having considered SCSO’s response, this Modified Final Audit reaches the following conclusions:

1. We conclude that the Administrative Review was **PARTIALLY INCOMPLETE** (*reaffirmed from our Preliminary Audit*);
2. We **DISAGREE** with SCSO's conclusion that there was **no violation** of the following policy:

Policy 300, Use of Force

(*reaffirmed from our Preliminary Audit*);

3. We **AGREE** with SCSO's conclusion that there was **no violation** of the following policies:

Policy 302, Handcuffing and Restraints

Policy 305, Officer-Involved Shootings and Deaths

Policy 324, Media Relations

Policy 329, Major Incident Notifications

Policy 338, Critical Incident Debriefing/Defusing

Policy 400, Patrol Function

Policy 425, Body Worn Camera and Audio Recorders

Policy 435, Medical Aid and Response

Law Enforcement Employee-Involved Critical Incident Protocol

(*modified from our Preliminary Audit*);

4. We **AGREE** with SCSO's recommendation regarding firearms training records (*reaffirmed from our Preliminary Audit*);
5. We **NOTE** that SCSO completed this Administrative Review past the period set forth in Government Code § 3304, thereby preventing IOLERO from providing its findings to SCSO and SCSO's consideration of those findings, prior to the expiration of the § 3304 period. SCSO and IOLERO implemented a Timeliness Checklist in February 2024 which should prevent this from occurring in the future (*reaffirmed from our Preliminary Audit*).

Date: December 17, 2025

Respectfully Submitted:

BY:

Ashley Nechuta
Law Enforcement Auditor III