

ACLU slams county law enforcement in report alleging pattern of civil rights violations

BY HAROLD PIERCE
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Following a two-year study, the American Civil Liberties Union of Southern California concluded Thursday that Kern County's two largest law enforcement agencies have engaged in patterns and practices that violate civil rights, and they're urging California Attorney General Xavier Becerra to dig deep in his agency's own investigation of the alleged wrongdoing.

Becerra's Department of Justice is carrying out an investigation into patterns of excessive force and civil rights violations at the county's two law enforcement agencies, initiated in December by former Attorney General Kamala Harris, now a U.S. senator.

"Kern County Sheriff's Office and Bakersfield Police Department have engaged in patterns of excessive force — including shooting and beating to death unarmed individuals and deploying [K-9s] to attack and injure — as well as a practice of filing intimidating or retaliatory criminal charges against individuals they subject to excessive force," ACLU of

Southern California Staff Attorney Adrienna Wong and ACLU Director of Police Practices Peter Bibring wrote in a letter to Becerra.

Bakersfield Police Chief Lyle Martin said in a statement that he was aware of the report but would not comment.

"Chief Martin indicated when the California Department of Justice began its investigation in December 2016 that the Bakersfield Police Department would fully cooperate and collaborate with the investigation into the patterns and practices of the Department," BPD said in a news release. "The Bakersfield Police Department has been and remains committed to cooperating in the investigation. The California Department of Justice has the sole authority to make comments regarding the investigation."

The ACLU Southern California called on Becerra to more thoroughly review at least five separate issues.

The ACLU requested an examination of records describing or reviewing shootings and other individual uses of force by KCSO and BPD officers; an examination of records



HENRY A. BARRIOS / THE CALIFORNIAN

Sal Silva sits on the grass in front of the Kern County Sheriff's Office on Norris Road during a rally for Silva's son, David, who died in 2013 after a struggle with Kern County sheriff's deputies trying to take him into custody.

related to the departments' non-lethal uses of force; a review of K-9 use of force reports; a review of court files for recent cases involving "resisting" or "assault on police" charges initiated by KCSO and BPD officers;

and an investigation into reports of officers engaging in patterns and practices of sexual harassment and sexual assault.

In its 24-page report, ACLU Southern California outlined scores of instances

when it alleges officers misused their authority and alleged that both law enforcement agencies harbor a culture of excessive force, evidenced by reports of KCSO deputies rewarding one another with "baby seal" prizes for "best clubbing," and others who have slapped "We'll kick your ass" decals on patrol cars or — in the case of K-9 units — "We'll bite your ass" decals.

Attorneys from the Bakersfield-based law firm Chain Cohn Stiles, which has represented scores of clients who have alleged excessive force against local law enforcement, said that they were "encouraged, but not surprised" by the ACLU's findings.

"We have reached the same conclusion over the course of the many cases we've prosecuted against officers in both departments. In some cases, these officers have faced criminal prosecution, but in the vast majority they have not," officials from the law firm said in a prepared statement.

When criminal prosecution isn't an option, the departments "vigorously defend" officers, find their

conduct to be within policy and then blame victims, Chain Cohn Stiles lawyers said.

"The hope ... is that the Attorney General's Office will take action against these departments that will spark institutional change and restore the community's faith in law enforcement," the news release said.

The ACLU blamed deficiencies in oversight and accountability structures that have allowed misconduct to go unchecked, "and in some cases, escalate."

The U.S. DOJ, for example, examined the Bakersfield Police Department's policies in 2004, but scores of the federal agency's recommendations have gone unimplemented, the report shows.

Among them, safeguards in training police K-9s — an issue amplified this year by an interaction between a Bakersfield Police Department officer and Tatyana Hargrove, a 19-year-old girl who police mistook for a man before letting loose a K-9 that attacked her. Martin himself told The Bakersfield Californian that a K-9 should never have been

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Bakersfield man sentenced to prison in fatal drunken driving crash

BY JASON KOTOWSKI
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After many years in the legal system, Superior Court Judge John Oglesby said, he tends to be skeptical of human nature.

Regarding Jade Marley Flores, however, he has no doubts.

The 19-year-old was blameless, Oglesby said, in the crash that took his life in March of last year. He and two friends had gone to a party but left soon afterward after deciding they weren't comfortable there.

It was while they were heading home that another motorist, Huriel Machuca, ran a red light and smashed into their vehicle. Flores died at Kern Medical Center about three hours later.

Machuca, who was driving with a blood-alcohol content of slightly more than twice the legal limit, was sentenced Thursday to 12 years and eight months in prison after he was convicted of gross vehicular manslaughter while intoxi-

“This is a tragedy that has fallen on two families based on the actions of one man.”

— **John Oglesby**, Superior Court Judge

cated and DUI charges.

Oglesby also ordered him to pay roughly \$96,000 in restitution to the Flores family, plus additional fines and fees.

While noting the large number of letters the court received in support of Machuca, the judge said the defendant's statements to probation show he still hasn't recognized alcohol is the underlying cause of his problems.

Machuca was able to speak coherently to officers after the crash despite having a blood-alcohol content of 0.17 percent. That kind of tolerance indicates he

has spent a considerable amount of time engaging in heavy drinking, Oglesby said.

“This is a tragedy that has fallen on two families based on the actions of one man,” the judge said.

Prosecutor Kim Richardson became emotional as she read a statement written by Flores' mother, Ariana Flores, expressing the loss of her son, a “handsome, charming young man” who was attending Bakersfield College and planned to transfer to a university down south to study to become a pediatrician.

“The unbearable pain is always there,” Ariana Flores wrote.

Before he was sentenced, Machuca apologized to the Flores family and to the families of the two men injured in the crash. He said he never intended to hurt anyone, and he wishes he could take it back.

Machuca, 28, drove a black GMC Yukon east on Panama Lane early March

26, 2016, speeding past vehicles and making abrupt lane changes, according to court documents.

He failed to stop at a red light and smashed into the silver Chevy Silverado carrying Flores and his friends as it made a left turn from Panama Lane onto Colony Street, the documents said.

When questioned by police, Machuca said he drank two 16-ounce Bud Light beers, one at 4 p.m. and another at 6 p.m. He later gave conflicting statements about how much he had drunk.

His statements to police suggested he realized he was intoxicated.

“I know I'm not going to pass (my) tests,” the documents said he told an officer.

Asked to clarify, Machuca said, “The blood and breath tests.”

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deployed in that situation.

The ACLU report described both KCSO and BPD's use of K-9s as “life-threatening, hazardous for public safety and at odds with national standards and practices as well as constitutional law.” Since 2007, at least five people — all but one of whom were black or Latino — have died after being attacked by KCSO K-9s, and scores of others have been seriously injured, according to the report.

The DOJ recommended BPD train K-9s to bark, rather than bite, upon locating a subject, and that those dogs be deployed only to search for serious felons or in cases where a suspect is armed or has the potential to use force to cause harm to an officer or others.

BPD's policies, however, haven't changed much, the report states. The department authorizes K-9s to apprehend such suspects and not just to locate them.

Such uses of force are

only reinforced, the report states, by flimsy department policy that fails to recognize that certain types of force may constitute deadly or non-deadly force.

“It is impossible ... to instruct officers how to react in each and every situation where the need to use force may occur,” BPD's policy read in 2005, something the U.S. DOJ observed was problematic because of its lack of parameters indicating when force is necessary.

The new policy reads: “There is no way to specify the exact amount or type of reasonable force to be applied in any situation.” The ACLU describes it as being more problematic than the department's 2005 policy.

“BPD's policy frees its officers to use life-endangering tactics and weapons ... outside the legal limitations that apply to deadly force,” the report states.

Harold Pierce covers education and health for The Californian. He can be reached at 661-395-7404. Follow him on Twitter @RoldyPierce

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