

IN THE CIRCUIT COURT OF THE  
FIFTH JUDICIAL CIRCUIT IN AND FOR MARION COUNTY

IN RE: THE LEADERSHIP OF THE MARION COUNTY SHERIFF'S OFFICE

PRESENTMENT OF THE GRAND JURY

As the Grand Jury of Marion County, we are a cross section of the community, selected at random. The only things we had in common that were required to be selected to serve were that we are of voting age, that we received a summons to appear for jury duty, and we were willing to accept a six month obligation to act on behalf of all the citizens of Marion County. When we were empaneled, we were instructed by the Court that the grand jury was not limited to the investigation of criminal matters. We were instructed:

[The grand jury] has broad powers to make inquiries into civil administration, regardless of whether criminal or irregular conduct is charged. It has power to investigate public offices to determine if they are being conducted according to law and good morals. It also has power to investigate the conduct of public affairs by public officials and employees, including the power to inquire whether those officials are incompetent or lax in the performance of their duties.

We were also instructed the grand jury could:

....make a fair report on its findings even though the report incidentally may reflect negligence or incompetence on the part of a public official. There are no limitations on the grand jury telling the truth when circumstances justify it.

Based upon these instructions we decided to make inquiry into certain aspects of the operation of the Marion County Sheriff's Office (MCSO) under the leadership of Chris Blair. Having completed that investigation, we have chosen to issue a report of our findings and our recommendations.

In this report we do not identify many of those involved, or the names of those who appeared before us. We do this in part because of the rules which govern this presentment, and in part because many of those who testified before us did so candidly, only because they had been promised that their identity would not be revealed. Many of the witnesses were concerned there would be retaliation if it was known they had testified.

We are aware that an election for sheriff will be held this year and there are numerous candidates running for sheriff. We have conducted our investigation without regard to the political situation. We are aware that some who appeared before us may have done so for reasons of their own. That possibility was weighed in our evaluation of their testimony. None of the challengers running for sheriff have appeared before us, nor have we heard from anyone speaking on their behalf.

We also are aware that, after the most recent sheriff's election, another grand jury met to consider certain election law violation accusations involving Sheriff Blair. After the release of their

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report, which was critical of the sheriff, it was reported that he commented that the report did not reflect the grand jury's feelings but were the opinions of "one attorney" who authored the report. While the State Attorney has provided us with legal advice as required by law, and has drafted documents on our behalf, also as required by law, the decisions and opinions expressed below are those of this body, reached in secret deliberation, conducted outside the presence of the State Attorney and his staff.

We have met eight times over the last three months and heard from 35 witnesses, including the sheriff, members of his command staff, current and former deputy sheriffs, civilians and other law enforcement officers and executives. We began our investigation by looking into six different episodes of apparent, or alleged, excessive use of force by MCSO deputies. Our main focus was not on the episodes themselves, although we have returned one Indictment in connection with one incident, but instead we looked to see if there were common elements to these incidents that would show why they occurred, and determine if these incidents were evidence of broader, department-wide, issues.

We want to emphasize that only a small number of deputies were involved in these incidents. We recognize that most deputies do their duty properly. We want to extend our appreciation and support to those deputies who serve every day, honorably and in the best tradition of law enforcement. We have found no evidence that there exists a department-wide "culture of violence" or systemic dishonesty. But, we have concluded that these six incidents were not isolated incidents and that those few deputies who were responsible for the incidents of excessive force did so, in part, because of the words and actions, or inactions, of the sheriff and his administration.

We have focused our investigation on the Community Policing Bureau, commonly referred to as the patrol division because it is from specialty units within this division that all but one of the episodes of excessive force have arisen.

The first factors we have identified are three decisions by the Sheriff about the approach he took toward how he expected deputies to do their job. Those were: 1) the standard by which their performance would be measured, 2) the perceived aggressive attitude expressed by the sheriff about how they should perform their duties, and 3) the encouragement by the sheriff to engage in, what we determine to be, reckless and unwarranted use of high speed vehicle pursuits.

#### PERFORMANCE MEASURES

Although statistics had long been a part of the evaluation of deputies by MCSO, upon taking office in 2013 Sheriff Chris Blair announced that he was "a numbers guy" and that it was "all about the numbers." It soon became apparent to those in the patrol division that their performance was measured almost exclusively by the number of traffic stops and the number of arrests they made. It was called "activity" but those two things were the main activities that mattered. The number of calls for service answered, citizen contacts or any of the other myriad activities that make up the function of law enforcement officers no longer appeared to matter. Only arrests and traffic stops mattered.

The Sheriff personally met with supervisors to review the "activity" of individual deputies. Those he determined to be too low were to be informed that, if they did not make more traffic stops and arrests, they would be removed from their chosen career path and transferred to the jail as punishment, even though most of them did not hold the proper certification to work as correction

officers. [In addition, this tended to demean those who had chosen a career in corrections by treating an assignment to the jail as punishment.] Other deputies who failed to keep high "activity" were not given the work assignments to which their seniority would have otherwise entitled them. Instead, they were given areas and shifts that could be expected to create problems for the deputy, causing experienced and conscientious deputies to resign.

[We have also discovered that other employees who, for whatever reason, fell into disfavor with the sheriff were also moved to the jail, or other divisions. Often jobs which had little or no job description were created just to have a place to send these people, although their salaries remained the same. Much law enforcement talent and experience was thus removed from the community.]

While those who did not reach the level of "activity" desired by the Sheriff were threatened with punishment, those who did were rewarded by being recognized as "high producers." When the Sheriff created the specialty units described below, the primary factor in choosing the personnel for these units was whether or not they were a "high producer."

It soon became a sort of competition between certain deputies to get high "activity," both in order to avoid being singled out for punishment, and to obtain favorable duty assignments. This pressure resulted in arrests being made in cases that were marginal at best, arrests where written reports did not accurately describe the events that occurred, and on at least one occasion, the arrest of a citizen for a crime he did not commit. It also resulted in traffic stops for pretextual reasons that had nothing to do with traffic safety.

We understand there is a need to keep statistics and there is a proper role for them in evaluating the performance of law enforcement officers. However, for those in the patrol division at the MCSO, statistics, and only two of them, seems to have eclipsed all other factors in their evaluation as a deputy.

For detectives, as opposed to patrol deputies, the most important "activity" was their rate of crime clearance. Because of the high rate that was expected, there was often manipulation of statistics to achieve these numbers. For example, if there was a rash of burglaries in a given area, they might be "exceptionally cleared" by attributing them to an individual arrested for burglaries in another area although there was no evidence connecting that individual to the first group of burglaries. Although this practice was said to be common during previous administrations, Sheriff Blair continued it.

A senior supervisor went directly to Sheriff Blair to complain about this practice because it gave a false impression of the performance of the detectives and because it violated the reporting requirements of the uniform crime reporting system. The Sheriff told the supervisor to continue the practice. When he did not comply, the Sheriff reassigned the supervisor. This is one of several areas where the Sheriff gave a different account of events than did other witnesses. Given the number of witnesses who contradict the Sheriff, and the surrounding circumstances we do not find the Sheriff's account to be credible.

#### AGGRESSIVENESS

In addition to making it clear that traffic stops and arrests were going to be emphasized, it was also made clear by the Sheriff that he expected his deputies to be aggressive in their work. Many witnesses recalled the Sheriff using the phrase "kick ass and take names" in describing how he expected

them to perform. Although the Sheriff denied using the phrase, the number of witnesses who testified that he did use it, (including supervisory staff members) convinces us that it was, indeed, used by him. While we find no evidence that the Sheriff was overtly calling for excessive force from his deputies, for some deputies this approach was seen as a license to do just that.

#### VEHICLE PURSUITS

MCSO has a written policy about vehicle pursuits. This policy provides that any supervisor can cancel a pursuit if it appears appropriate to do so. In March of 2014, a deputy began pursuing a vehicle. The shift commander, a captain with many years of experience, determined that the pursuit should be cancelled, in part because the deputy knew the identity of the driver so that a warrant for his arrest could be obtained and he could be arrested without the risk of a pursuit.

The Sheriff personally addressed many of the patrol deputies and told them the captain had made a mistake by cancelling the pursuit. He further instructed the deputies that if a vehicle pursuit was started the pursuit would continue until "the wheels fall off." The Sheriff denies making this statement, but, again, based upon all the evidence we have heard, we are satisfied that it was made.

We have reviewed several pursuits that occurred after the Sheriff's statement. We are concerned that each of these pursuits presented a grave risk of serious injury to the deputies involved, motorists, innocent bystanders, as well as the individuals being pursued. In each, the underlying offenses were minor.

We have decided to describe only one pursuit in detail, because it best illustrates what we see as the result of a misguided approach.

On Friday June 19, 2015, MCSO received a 911 call in which the caller said that her boyfriend had hit her, was outside when she was making the call and that he had left before deputies arrived. She also provided the boyfriend's name and date of birth, a description of his vehicle and informed the 911 operator that there was a warrant for his arrest. During the subsequent pursuit, it was determined the boyfriend had been issued a traffic ticket for not having notified the Department of Highway Safety and Motor Vehicles of his change of address. Because he failed to appear in court as directed by the traffic ticket, a warrant for his arrest had been issued. During the pursuit deputies also determined that there were two passengers in the vehicle, in addition to the driver.

Responding deputies spotted the vehicle and attempted to stop it at 10:32 AM. The driver fled and a pursuit was started. The pursuit lasted for over 42 minutes and covered 57 miles. This is an average speed of 81 MPH, but the speed clearly exceeded that at times. Several times during the pursuit the driver drove on the wrong side of the road into the path of oncoming traffic. At one time, both the fleeing driver and pursuing deputies were on the wrong side of a divided roadway. On other occasions the fleeing driver and pursuing deputies drove on the left of a double yellow line as they went around curves and over hills. Video of the pursuit also shows that it went through downtown Dunnellon and involved four or five different sheriff's department vehicles as well as the department helicopter. In addition to driving on the wrong side of the road, deputies also drove through business parking lots and very nearly hit a SUV that was passing by.

The pursuit went through portions of Citrus County, returned to Marion County, and continued on into Levy County. Once in Levy County, a MCSO marked unit used a PIT maneuver on the vehicle

while traveling at a high rate of speed. The vehicle spun out of control and rolled over. One of the passengers (not the driver) had his arm cut off during the crash and the second passenger (not the driver) suffered brain damage. The driver was not injured and fled on foot, but was captured a short time later.

MCSO policy provides that pursuits should be conducted only if reasonable under the existing circumstances. The policy provides that "Circumstances which should be considered before engaging in vehicle pursuit include, but are not limited to the nature and seriousness of the offense, the safety of the public and the pursuing officer(s), occupants of the fleeing vehicle, and the current environmental conditions." The lives of innocent motorists, the deputies involved in the pursuit as well as the three people in the fleeing vehicle were put at great risk on numerous occasions during this pursuit. In our opinion, it should never have been allowed to continue, especially when the underlying basis for the pursuit was a failure to update an address on a driver's license.

MCSO's policy allows any supervisor, or pursuing deputy, to cancel a pursuit if it "...exposes the public or deputy to more danger than can be reasonably justified....". However, given the fact that the Sheriff had previously criticized a supervisor for having terminated a pursuit the year before this pursuit, we understand the reluctance to do so.

When the details and video of this pursuit were reviewed with the Sheriff, he was unwilling to say the pursuit should have been cancelled. His reasoning was that he was not present when it was underway and he was reluctant to criticize the decision of those involved. However, he was clearly not hesitant to criticize the decision of a senior supervisor when he did cancel a pursuit, without even reviewing the incident with those involved.

The combination of the focus on making arrests, the "kick ass and take names" statements, and the insistence that no one would get away if they ran, no matter the costs, set the overall tone of what was seen as his approach to the function of the MCSO. They also set the stage for what happened overall.

#### THE SPECIALITY UNITS

Shortly after taking office, Sheriff Blair fulfilled a campaign promise to create specialty units. One of these units was the Tactical Investigations Unit (TIU).

The deputies assigned to this unit were handpicked, and one of the significant qualifications was high "activity" numbers. Even when experienced supervisors pointed out that some of those being transferred to the units lacked sufficient experience, they were overruled by the Sheriff because the deputies in question were "high producers." Experience and ability appeared to be secondary in these decisions.

At the initial meeting after the units were formed, the Sheriff and other members of his command staff addressed those who would be working in the units. This is one of the occasions when they were told that their job was to "kick ass and take names." They were also told that the administration knew there would be complaints, but they would be "handled" and "we don't give a (expletive) about complaints." Although said flippantly, it was clearly inappropriate and, together with the other remarks, could easily be interpreted as license to act outside proper limitations.

Unlike other specialized units in the MCSO, for example, K-9 and aviation, there were no internal operational manuals or directives created for these units. The TIU was assigned, in part, to investigate armed robberies and to assist property crimes detectives when needed. When they were not involved in those assignments, the TIU deputies would "self-initiate" activity by going to areas where drug activity was suspected, or known, to occur (often within the Ocala city limits) and making traffic stops for minor traffic violations and then making an attempt to find a basis to search the car. This led to a significant number of arrests for minor drug and driver license violations. It also created issues with the uniform patrol deputies. There were often more calls for service than could be immediately dealt with by the uniformed deputies. Yet the calls had to be held even though there were TIU deputies who could have handled the call for service, but did not because, being assigned to a special unit, they were making traffic stops for minor traffic offenses.

When TIU stopped a motorist and the person was found to be in possession of drugs, there was often an attempt to have that person work as an informant and arrange drug deals or provide information about others who might be in possession of drugs. This sometimes brought the TIU into conflict with the Ocala/Marion County drug unit, and, on at least one occasion, disrupted a long term investigation being conducted by the drug unit.

When agents from the drug unit complained about the matter to the Sheriff's administration, they were essentially told that TIU had "free rein" to operate as they saw fit. The members of MCSO's uniform patrol also got the same message. The specialty units were seen as "elite" and operated outside the normal chain of command.

All of these circumstances contributed to a feeling on the part of some members of the specialty units that they were, indeed, "special" and that the normal rules did not apply to them. This we believe is, in combination with the other factors we have identified, why all but one of the incidents of excessive force involved members of one of these units.

#### INCIDENTS OF EXCESSIVE USE OF FORCE

##### MCSO Investigations of Excessive Force Complaints

MCSO uses a computer program called IA-PRO to track certain events involving deputies. For example, when a deputy is involved in a vehicle pursuit or a use of force of any type, it is documented in a portion of this program called "green team." It can also be used to document other events, including an "observational report" by a supervisor which documents either good or bad performance by a deputy. When patrol supervisors complained about the high number of green-team reports being required by TIU, it was decided that the TIU supervisor would complete them.

A green-team report is prepared by the immediate supervisor of a deputy. It is prepared informally, usually completed immediately after the event and without substantial investigation. Unlike a formal internal affairs investigation, it does not necessarily include recorded statements and thorough documentation. A green-team report is not intended to be a substitute for an internal affairs investigation when a deputy is accused of excessive force. However, in the cases we reviewed, if any report was made at all, it was only a green-team report, and not an internal affairs investigation.

The green-team reports we have reviewed consist largely of a brief narrative by the deputy involved as to what happened, a brief narrative by any other deputies present, and possibly a



photograph or brief statement from the person who was arrested. While the report was submitted through the chain of command to the chief deputy, they apparently were only reviewed for grammar, spelling, and completeness. The underlying facts were not often subject to evaluation.

Until after we had begun our investigation, the MCSO did not have a full time internal affairs investigator. A former deputy had entered into a contract with MCSO to conduct internal investigations when requested to do so. Only the Sheriff or Chief Deputy could order such an investigation.

We have reviewed in depth six specific incidents where there was an allegation of excessive force. In each of them, there was some evidence to support the allegation. Our focus was not on the event itself (although we have issued an Indictment in connection with one of them) but on the response of the MCSO to the allegation. In only one of these incidents do we find the response of the MCSO to be adequate, and, in that case, only after a security camera video of the incident was discovered.

We have reviewed only these six because they are the ones brought to our attention. Time did not permit us to investigate every use of force to determine if there might be other instances where excessive force was used.

#### Incident One

A deputy who was a part of TIU, but who was working a detail assignment on July 8, 2013 at a business, came into contact with an individual who was driving without a license. Upon attempting to detain the individual, he turned and fled on foot from the deputy into a wooded area. The deputy wrote a report that said that, upon reaching the wooded area the individual turned toward the deputy and "took a fighting stance." According to his report the deputy then used his baton and struck the individual three times, twice on the upper arm and once on the thigh. (The individual was arrested for resisting an officer with violence for this part of the incident.) The green-team report prepared immediately after the incident reflects only three strikes with the baton. The deputy repeated this version of events when questioned under oath during the discovery portion of the prosecution of the case.

The booking photograph taken of the individual after his arrest clearly shows a very large bump on the right side of his head and marks consistent with baton strikes on his back. These injuries are completely inconsistent with the deputy's specific report of his actions. Because of the obvious injury to his head, the individual was referred to the medical section at the jail by the booking officers. The records from the medical section state "Pt [patient] was brought to the infirmary after been (sic) with head trauma where he c/o [complained of] that the police punched on his head. C/O dizziness." The notes also contain the comment "Large hematoma top of head poss loc [possible loss of consciousness] at occurrence, pain swelling right forearm."

No one from the booking area of the jail who saw the injuries, nor the medical staff that saw the injuries and heard the individual say he had been beaten by the police, reported the matter to supervisors.

The individual made a written complaint to MCSO alleging he had been beaten by the arresting deputy. However, because the criminal case was still pending, the decision was made to not investigate the matter at that time, and the complaint was forwarded to the internal affairs division. However, the

written complaint cannot now be located. Months later, the case was revisited after a supervisor found a copy of the acknowledgement of the receipt of the complaint, but not the complaint itself. A green-team report found the complaint unsubstantiated because the deputy denied the excessive use of force.

#### Incident Two

On September 10, 2013, a motorist who failed to come to a complete stop at a stop sign, and whose car windows were suspected of being too darkly tinted, was stopped, within the city limits of Ocala, by two deputies who were part of the TIU. The deputies were driving an unmarked rental car that was equipped with lights and a siren. After the lights and siren were activated, the individual drove for less than 6 blocks at the speed limit before pulling into a driveway. For this, the individual was arrested for fleeing or eluding police. According to testimony of the deputies in a subsequent trial, when the individual failed to lie on the ground as ordered, he was thrown to the ground by the deputies. In the short struggle that followed, one of the deputies punched the individual 2 or 3 times in the face with a closed fist. The striking in the face with a closed fist is not an approved defensive tactic and, according to MCSO policy, should have been reported and explained.

The deputy who struck the individual did not write a report explaining his actions. The second deputy did put in his report that the first deputy had used his fists. However, upon the report being reviewed by a supervisor, this language was removed and the final report made no mention of it. The subsequent green-team report also, made no reference to the use of the closed fists. No adequate explanation was given for the failure to have the non-sanction use of force explained, or why all reference to it was removed from the final reports.

After the individual was acquitted at trial, supervisors from the MCSO were asked by the Judge to speak to him about the trial. At this meeting the Judge conveyed concerns he and the jury had about the arrest of the individual. In addition the individual who had been arrested made a written complaint to MCSO about the incident. Subsequently, the first deputy was removed from TIU and returned to uniform patrol. However, his personnel file makes no reference to the concern expressed by the court, nor the complaint by the individual. The official reason given for his transfer was that he had failed to appear at two scheduled depositions.

#### Incident Three

On October 8, 2013 an individual was arrested by the Ocala Police Department (OPD) for DUI. The arresting officer transported the individual to the Marion County Jail for the administration of the breath test by MCSO personnel. While waiting on the breath test the individual was seated in a small room where a video camera was running. There were two MCSO corrections officers present. One of the corrections officers claimed the individual spit on him, (although the video clearly shows nothing of the sort happened) and the other grabbed the individual's head and slammed it into the wall behind him. This resulted in an injury that required staples to close the wound. The blood that was left on the wall was cleaned up.

A green-team report was made about the incident. That report states that the inmate spat at a corrections officer, "striking him on the arm." The video clearly shows this did not happen. The report also states that the second correction officer "redirected (the inmate's) head to prevent being spit on which caused his head to strike the wall causing a small laceration to the left side of (the inmate's)



head." We find this to be a mischaracterization of what happened. The green-team report does not find any fault in the actions of the second corrections officer.

The video that was made of the incident was collected by the OPD officer, submitted into evidence and eventually forwarded to the State Attorney's Office as part of the arrest documentation. Only when the State Attorney's Office contacted MCSO about the matter was any investigation into the use of force commenced. When it became apparent the State Attorney's Office intended to prosecute the corrections officer, members of the sheriff's administration met with the assigned prosecutor and attempted to dissuade him from prosecuting the case. However, charges were filed against the corrections officer who entered into a negotiated disposition of the case.

#### Incident Four

On June 1, 2014 MCSO was called by the father of Dustin Heathman. The father informed deputies that there was a warrant for the arrest of his son, and that he was armed and might resist. A decision was made to have the MCSO SWAT team make the arrest. During the incident, Mr. Heathman fired multiple shots at the MCSO armored personnel carrier before agreeing to surrender. After coming out of the house and following all commands about how to be taken into custody, he was thrown to the ground and beaten. Former MCSO deputy Cody Hoppel (who was both a member of the SWAT team and TIU) has pled guilty in Federal Court for this action. According to Mr. Hoppel, at least two other deputies were present and either witnessed or participated in the beating.

Although MCSO deputies did return fire on Mr. Heathman, the Florida Department of Law Enforcement (FDLE) was not called to investigate the incident. No witness who appeared before us could recall another incident where a deputy fired on a subject without FDLE being called to do an independent investigation. The decision to not call FDLE to investigate the matter was made by the Sheriff.

After being taken into custody Mr. Heathman was taken for questioning to a command post which had been established in the MCSO SWAT van. Pictures taken of Mr. Heathman during that interview clearly show injuries to his face, including a black eye, multiple scrape wounds and blood coming from his nose and ear. During the interview he three times told the detectives interviewing him that he had been beaten after being placed in restraints. Among those who participated in the interview was a Major (in charge of the major crimes division) of the MCSO. The Sheriff testified to this body that he was unaware of the allegations made by Mr. Heathman during this interview until months later when the interview was played during the trial of Mr. Heathman.

Mr. Heathman was taken from the patrol car that transported him from the scene to the command post. He was escorted by two deputies as he walked from the car to the command post. On a video of this event, Sheriff Chris Blair is seen standing at the back of the command post watching Mr. Heathman walk by, even having to step aside so he could pass. The video clearly shows Mr. Heathman with the injuries to his face as this happened. It is this encounter with Mr. Heathman which forms the basis of the Indictment we returned as to Sheriff Blair.

After his arrest, Mr. Heathman filed a lawsuit alleging a violation of his civil rights. In that lawsuit, he repeats his claim that he was beaten at the time of his arrest. A copy of that lawsuit was

served on the Sheriff, and the contents of it reviewed by him. Mr. Heathman also sent a complaint about the incident to the Attorney General, who forwarded it to the MCSO.

Despite the presence of multiple deputies when he was beaten, the obvious injuries to his face which were certainly seen by the sheriff and Mr. Heathman's three-time repeated statement that he had been beaten, the allegations contained in the civil lawsuit and the complaint to the Attorney General, no investigation of his claim was undertaken.

#### Incident Five

On August 7, 2014, MCSO deputies executed a search warrant at the home of Derrick Price. They also had a warrant for the arrest of Mr. Price. Mr. Price fled from the house and was located some time later. Deputies captured Mr. Price in the parking lot of a business that had a security camera and the arrest was recorded by the camera. After lying down to surrender, Mr. Price was beaten by deputies who were members of TIU and other specialty units. We have returned an Indictment for former deputy Jessie Terrell for his involvement in this beating.

We are aware that Mr. Terrell was acquitted by a Federal Jury for violation of Mr. Price's civil rights. However, we have concluded that whether Terrell intended to violate his civil rights or not, his actions are clearly force in excess of that necessary to protect himself or others and is therefore battery resulting in great bodily harm.

Immediately after Mr. Price was taken into custody, one of the deputies who observed it told a senior deputy who was not involved in the arrest that the deputies had "gone too far" in the arrest. The deputy said nothing and did nothing with the information. In fact, he gave a statement about the incident to the Florida Department of Law Enforcement denying any knowledge of the incident. He has subsequently admitted he was not truthful in that statement.

Once it was discovered that a video might exist, one of the five deputies was told by a supervisor not to write a report about the incident until the video was obtained and reviewed, even though the supervisor was told there may be problems with the arrest. The video was obtained 3 days later. Only after the video was obtained were the deputies involved suspended and the matter turned over to the Florida Department of Law Enforcement.

#### Incident Six

On October 20, 2015 members of TIU pursued a vehicle for having an expired tag. The pursuit ended when the vehicle was pushed off the roadway by a pursuing deputy. The driver was pulled from the vehicle, put on the ground, and eventually handcuffed. There are a number of body camera videos of the event, but the exact sequence of events is difficult to determine. During the incident, two different deputies used their tasers a total of four different times. On one of the body camera videos, it can clearly be seen that one of those taser discharges occurred as the individual was lying face down on the ground with several deputies holding him down, his right arm in the grip of a deputy and his left arm being placed behind his back in apparent compliance with the commands of the deputies. We have not returned an Indictment in this incident, although we are gravely concerned about this use of force. We are requesting the State Attorney see that a complete and proper investigation of this incident be conducted.

Because of the pursuit and the taser discharge, a green-team report was prepared by a Sergeant. In doing so he took a recorded statement from the individual. In that statement, the following questions and answers took place:

Q. Then what happened?

A. They ripped me out, I don't remember nothing else, they beat the (expletive) out of me.

Q. Did you give them your hands?

A. Yes I did. I gave up everything...

The green-team report prepared by the Sergeant says only that the individual "does not remember what happened when he got out of the car that resulted in him being tasered." No mention is made of the allegation that the individual was beaten or that he was complying with deputies' orders. The conclusion of the green-team is "the Deputies acted in accordance with department policies and state statutes." (sic)

These six incidents occurred within 2 1/2 years, an average of one every five months. Each of them had some supporting evidence that excessive, or at least non-sanctioned, use of force occurred. None of them were investigated in a timely manner. With the exception of the one case where there was a security camera, no thorough investigation was conducted of any of the incidents. In the case where the video existed, there was no action taken by the MCSO until the video was produced.

While the responsibility for the excessive use of force must ultimately lie with the individual deputies who engaged in such force, the failure of MCSO to adequately investigate and discipline those involved in the incidents could have only added to a sense on the part of some that they were free to do whatever they choose without fear.

#### Conclusion

We find that these incidents of excessive force were the result of a combination of factors. The emphasis on arrests and an aggressive approach to law enforcement, combined with a failure to properly investigate and address incidents of excessive force created the atmosphere where excessive force was inevitable. The responsibility for all of these factors lies with the Sheriff.

#### RECOMMENDATIONS

We make the following recommendations:

- 1) The MCSO create a separate internal affairs division, outside the normal chain of command. We recommend that it be staffed with adequate personnel to investigate accusations of excessive force. We recommend that the investigators assigned to this division be experienced, senior investigators. We understand the interim sheriff has implemented a plan along these lines. We recommend this be made permanent by the eventual elected Sheriff.
- 2) We recommend that the policy of the MCSO be changed to require every employee who has reason to believe that an excessive use of force has occurred be required to report it and any employee who fails to do so face discipline, and that they receive specific training on their obligation to prevent and report all incidents of abuse. We recommend that a system

whereby such reports could be submitted anonymously be created so that no employee need fear reprisal for making such a report.

- 3) We recommend that MCSO prohibit changes in any report made by a deputy once it is entered into the records system. Any changes should only be made by a supplemental report explaining why the change is necessary.
- 4) If Sheriff Blair remains in office, we recommend that the Marion County Commission create a citizens review board to review the MCSO response to allegations of excessive force. This board should be funded at the expense of the MCSO and should be composed of representatives of the community as well as other law enforcement agencies including the State Attorney. It should have the ability to report its findings to the public. It should also be able to receive complaints from citizens who allege the MCSO failed to properly respond to an allegation of excessive force.
- 5) We recommend that the Florida legislature make appropriate changes to the existing law to allow for prosecution by the State of Florida of law enforcement officers who, under color of law, commit criminal violations of an individual's civil rights.

#### CONCLUSION

There are written policies for MCSO concerning employee evaluations, pursuits, use of force and the reporting of excessive use of force. While those policies perhaps should be reviewed and strengthened (as stated above), in the cases we have reviewed, a failure to have an adequate policy was not an issue. It was that the policies in place were ignored.

In his appearance before us, Sheriff Blair took no responsibility for anything that happened. He placed blame on the prior administration and deputies whom he had "inherited" from that administration. We have not attempted to determine whether there is any merit to the Sheriff's position that this situation existed before he took office. However, we find this explanation completely inadequate. If this situation did exist prior to his taking office, Sheriff Blair has done nothing to improve it in the over three years he has been in office. As the head of the MCSO he has failed to set a proper standard, and to enforce the policies that were in place.

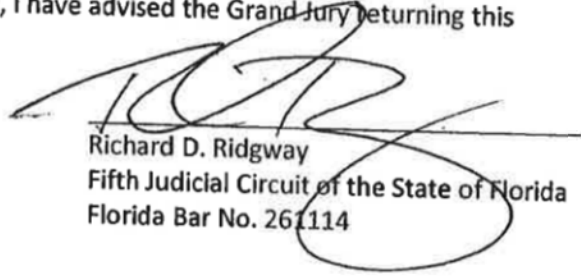
In that we have the "power to investigate the conduct of public affairs by public officials and employees, including the power to inquire whether those officials are incompetent or lax in the performance of their duties" and "make a fair report on its findings even though the report incidentally may reflect negligence of incompetence on the part of a public official" we find that the Sheriff has been lax and incompetent in his leadership of the MCSO, and report our findings accordingly.

We request that a copy of this report be provided to the Governor, The Florida legislative delegation from Marion County, The U.S. Department of Justice, the Marion County Commission, the interim Sheriff, and all media outlets.

Further, we direct that a copy of this report be supplied to the next grand jury so they may, if appropriate, make further inquiry into other related issues that may arise.

  
Vice-Foreperson of the Grand Jury

I CERTIFY that as authorized and required by law, I have advised the Grand Jury returning this presentment.

  
Richard D. Ridgway  
Fifth Judicial Circuit of the State of Florida  
Florida Bar No. 261114

Presented and filed in the Circuit Court this 2<sup>nd</sup> day of June, 2016

David Ellspermann  
Clerk of the Circuit Court

By:  D.C.  
Deputy Clerk