

Sacramento Bee, The (CA)
August 17, 2005

Edition: METRO FINAL
Section: METRO
Page: B1

Man's death after Taser shot probed

Woman asks if deputies had to stun her brother, who had slit his wrists.

Author: *Christina Jewett*

Bee Staff Writer

Article Text:

Sacramento sheriff's homicide and internal affairs detectives are investigating the death of a man who had slit his wrists and came out of a gas station bathroom toward deputies who shot him with a Taser stun gun, officials said.

Tommy V. Gutierrez, 37, died within hours of the incident late July 2. The cause of death has yet to be determined. Sheriff's and district attorney's officials have begun routine investigations into the case, which they do for all deaths in police custody.

The decision to use the Taser was sound, Undersheriff John McGinness said Tuesday, for the protection of the officers, others present and **Gutierrez**, who could have lost more blood in a struggle.

"I see no evidence to suggest any inappropriate conduct of officers," McGinness said.

The case has left **Gutierrez's** family considering a lawsuit against the Sheriff's Department. **Gutierrez's** sister, Cindy Inglad, questions whether the Taser was an appropriate means to approach her brother when he was dying.

Inglad said she heard of the incident in bits and pieces from investigators. She went to the American Civil Liberties Union, which appealed on her behalf Tuesday for release of reports on the incident.

Mark Schlosberg, police practices policy director at the ACLU of Northern California, said he finds the lack of information available to **Gutierrez's** family troubling, in addition to the apparent use of a Taser on a man who was bleeding profusely and crawling.

"That's disturbing," he said. "I would think that this type of situation really highlights the need for a re-evaluation of Taser training and police practices."

McGinness said he got a report at the time of the incident but deemed the death to be a suicide that occurred before **Gutierrez** was in custody.

He said that on July 2, a clerk at a USA Gas Station at El **Camino** Avenue and Bell Street called sheriff's deputies because a man was locked in the bathroom destroying the toilet and light fixture. A mix of the man's blood and toilet water was seeping beneath the door, the clerk said.

McGinness said deputies could hear the destruction in the bathroom and prepared themselves with shields. They broke down the bathroom door. **Gutierrez** was combative as he left the bathroom and bit one officer's foot through the boot, McGinness said. "He was ambulatory and a force to reckon with."

McGinness said a deputy fired a Taser, which shoots two prongs that stun the body with an electrical current, but did not connect. A deputy fired again, hitting **Gutierrez**.

"The officers should not be subject to use of force either," said McGinness. "They should go home healthy at end of the shift. There is an issue with blood-borne pathogens."

After the incident, **Gutierrez** was taken to UC Davis Medical Center, where he died at 10:50 p.m.

No deputies were placed on leave as a result of the death, McGinness said. That happens "only if it's their actions that caused the death to occur," he said. "In this case, there's no evidence to suggest that's what happened at all."

Inglad said the case is not that clear-cut from the accounts she's heard, in which her brother was described as lunging toward the officers on hands and knees.

"My brother could have been reaching toward them for help, and it's misconstrued as some kind of aggressive act," she said. "I just don't know how aggressive an act could be from a man whose blood is streaming from beneath the door."

Inglad said she feels as though the case is being brushed aside because her brother had a drug-use problem and a criminal history. She also believes the Taser shock contributed to his death. "They can't make a determination for whether someone has a heart condition or is on drugs when they use a Taser gun," she said.

Inglad, a paralegal at a law firm who lives in Elk Grove, said her parents will meet with an attorney next week to explore filing a wrongful death lawsuit.

Sacramento County Assistant Coroner Ed Smith said it is not clear how **Gutierrez** died, as neither a final autopsy nor a toxicology test has been completed.

The Bee's Christina Jewett can be reached at (916) 321-1201 or cjewett@sacbee.com.

Caption:

Tommy V. Gutierrez

An ACLU spokesman questions the lack of information provided to relatives of the 37-year-old man, who died last month.

Copyright 2005 The Sacramento Bee