

Cover Story



Is This a Lethal Weapon?

Steven Wallen didn't respond when two El Dorado County Sheriff's deputies told him to get off his motorcycle. He eventually paid for his resistance with his life.

By Stephen James

Laurel Drive in El Dorado County had all the markings that a tragic, deadly event had occurred. Because of the violence that had transpired that night, the Sheriff's Department's Crime Scene Investigation team was there with a dozen officers and detectives, along with the CSI van. The site was processed as an official crime scene: The immediate area was secured with the familiar yellow crime-scene tape; video and still photographs were taken; the area was diagramed; and the evidence, including four .40-caliber shell casings that were lying in the street, was collected, carefully packaged and cataloged.

The bloody body of Steven Wallen had been removed. After taking two large-caliber shots in the chest, he had been finished off with a bullet in the side of the head.

It was a long night for investigators that ended the next morning, shortly after Fire Engine 17 from the Camino Fire Station hosed off the road to remove a pool of blood. The pool covered an area three feet in circumference and "was still wet but had started to coagulate," according to one CSI investigator's report. The last officer left the scene at about 4:45 a.m. All that was left was to prepare a statement for the press, one that disclosed that Wallen had been killed by sheriff's deputies working for El Dorado County.

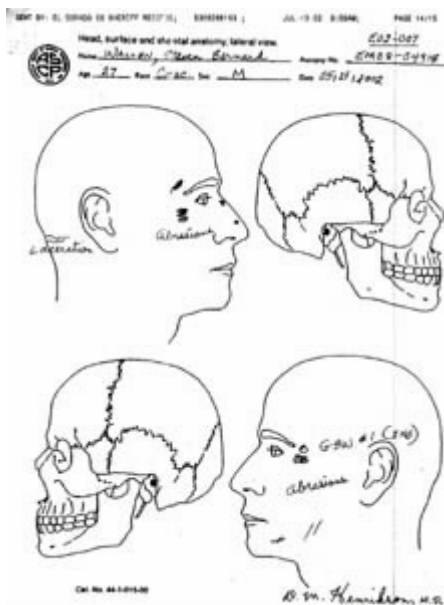
The primary purpose of the elaborate protocol procedure was to reconstruct exactly what had happened that night, and to determine whether deputies Rich Marshall and Matt Underhill had violated state law or had acted outside the rules and regulations of the Sheriff's Department.



Courtesy Of Connie Bryant
Steven Wallen died at age 27 after being shot three times by El Dorado County Sheriff's deputies Matt Underhill and Rich Marshall.

From 2 a.m. to 3:45 a.m., the deputies were interviewed separately, one after the other, by both detective Tom Hoagland and detective Paul Moschini of the Sheriff's Department. Attorney David Mastagni, representing Marshall and Underhill, was present at each interview as well. Using a question-and-answer format, Hoagland and Moschini had the deputies describe the chronology and events of the evening in minute detail. The actual transcripts of those interviews reveal an account of the incident that differs substantially from the account El Dorado County Sheriff's Department Lt. Kevin House provided to the media. According to written press releases House issued, Wallen 'immediately attacked the two deputies' and was 'extremely combative and violent.' The transcripts SN&R obtained don't appear to bear that out.

Wallen did have prior run-ins with the law for drug- and alcohol-related offenses, but no apparent criminal convictions for crimes involving violence. This would be his last encounter with law enforcement, and it is fair to question whether he deserved to die because he was difficult to arrest and was in possession of a handcuff that could be construed as a weapon. The transcripts of these interviews may support the contention of Wallen's family and its attorney that the actions of Marshall and Underhill constituted the use of excessive force and unjustified deadly force.



The autopsy report of Steven Wallen's head injuries noted numerous cuts and scrapes in addition to a gunshot wound measuring three-eighths of an inch in diameter and located just above the left temple. The .40-caliber, copper and gray metal slug fragmented into at least a dozen pieces according to the report.

Statements and descriptions attributed to Marshall and Underhill in this story are derived from the transcripts, which are official Sheriff's Department records.

The SN&R also has obtained court and government records from San Diego that reveal this isn't the first time Underhill has been near the center of a controversy. In January 2001, Underhill was part of a special tactical response team of deputies at the San Diego County Jail. The team was holding a handcuffed, mentally ill man face down on a metal bed when he died of restraint asphyxia--a lack of oxygen caused by a highly agitated state, exacerbated by the imposed restraint.

SN&R reached Underhill at his home in South Lake Tahoe, but he declined to comment on the Wallen or San Diego jail incidents. Marshall did not respond to voice mails and faxed requests for an interview.

It was a brisk evening in late spring, and deputies

Marshall and Underhill were on routine patrol when they received a call from the dispatcher. Underhill, 25, was new to the department and in his fourth week of patrol training. Marshall, a 34-year-old, 12-year veteran, was designated as his training officer. Underhill had worked for 21 months as a county jail

deputy for the San Diego County Sheriff's Department and then spent about 13 months employed by the San Diego Police Department, where he had his first experience with patrol work.

At 8:30 p.m., the deputies were asked to respond to a code 415--verbal disturbance in progress--at 2881 Laurel Drive in Pollock Pines. They considered it a common service call, and they proceeded with the lights and siren off. The dispatcher initially told the deputies that somebody was banging on the door of the residence and demanding entry. But, during the deputies' 10-minute drive to the site, they received a radio update informing them that the suspect, identified as Steven Wallen, lived at the home.

Underhill told Hoagland later it didn't seem like an unusual call. "[Y]ou know, when the initial call came out, I've been to so many 415 verbal disturbances, I just didn't, I didn't think a whole lot of it. And especially once we found out [from] the update that the guy actually did live at the house, it wasn't, my mind-set wasn't that it was gonna be a big deal," he said.

Marshall and Underhill were still on their way when dispatch gave them some details. Roberta Segura, the reporting party who had made the original 911 call, had said Wallen had twisted her arm. Segura had left the house and would be waiting for the officers in her car located down the street. With Underhill at the wheel, the deputies turned down Laurel Drive and stopped where Segura was sitting in her green Ford Explorer. Both officers got out. While Underhill spoke with Segura, Marshall walked down the street and saw Wallen seated on a motorcycle in front of the house. Underhill said he asked Segura, "Were you the one that got your arm twisted?" Segura said she was, and Underhill asked if she needed any medical attention. Segura said she didn't but told the deputy that Wallen (with whom she, Wallen's mother and Wallen's stepfather shared the home) was "high."

Segura, 58, had known Wallen and his family for years and had seen the 5-foot-8-inch, 170-pound lumber-mill worker do too much meth before, she said. The 27-year-old man had been trying to clean up, she said, but this appeared to be another relapse. Because he was behaving irrationally, she said she felt it was best for authorities to handle the incident.

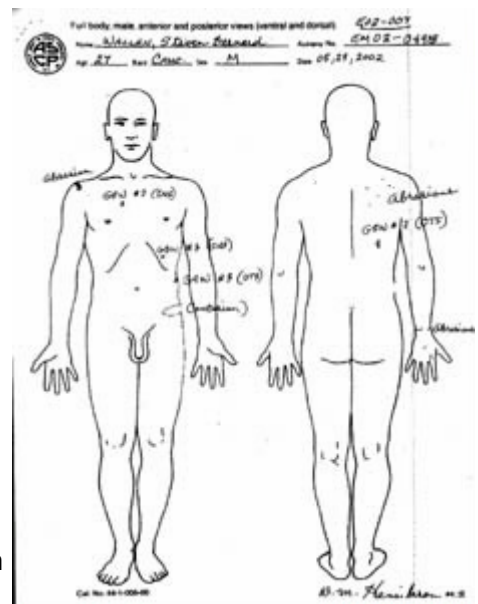
"I just wanted him to be subdued and taken to a safe place to detox," she explained later. She said Wallen had taken his stepfather's Harley-Davidson out of the garage, unrealistically thinking he could somehow start it without the key.

"It was ludicrous. His behavior was not logical," she recalled.

When Marshall reached Wallen, he noticed that Wallen had one hand on the right handlebar grip of the bike and the other hand in his front pants pocket. When Marshall ordered Wallen to take his hand out of his pocket, Wallen then placed that hand on the left handlebar grip.

Then Marshall began asking some routine questions. "[I] kind of moved to the front [of the bike] and started asking, 'Well what happened?' You know, 'What's going on tonight?'" Marshall told investigators. When Wallen didn't answer, Marshall asked Wallen if the bike had a kickstand. Wallen didn't respond and just stared at the deputy. Marshall checked Wallen's eyes with a flashlight and noticed that his pupils were enlarged, which led him to conclude Wallen was under the influence of a stimulant.

Meanwhile, Underhill had finished talking with Segura and had parked the patrol car near Marshall and Wallen, pointing the vehicle's spotlight on the area. The young trainee walked up to Marshall and Wallen, taking a position about three or four feet to Marshall's right. Underhill also noticed that Wallen's pupils were oversized. Marshall again asked Wallen to get off the bike, and Wallen again ignored the request, but did ask Marshall to take the light out of his eyes.



The autopsy report diagrams of the wounds on Steven Wallen's body show two bullets had entered his chest and exited his backside. The report also noted multiple signs of blunt force trauma including lacerations, contusions and abrasions.

El Dorado County Sheriff's Department
Taped Interview - transcription

Case Number:	02-4817
Crime:	OFFICER INVOLVED SHOOTING
Victim:	STEVEN WALLEN
Interviewed:	DEPUTY MATT UNDERHILL
Date:	MAY 22, 2002
Time:	
Interviewed by:	DETECTIVE TOM HOAGLAND
Interviewed by:	DETECTIVE PAUL MOSCHEN

Det. Hoagland: Okay, today's date is May the 22nd of the year 2002. Myself, Detective Hoagland is present with Detective Paul Moschen. We're at the Logan Building doing follow up on an Officer Involved Shooting. Also present is Deputy Matt Underhill, and his Attorney David S. Matigas. Okay. Okay, Matt we went through the walk through out there, alright. And that's what we're here to do here is to get a little more... that was to get a better idea of occurred.

Dep. Underhill: Okay.

Det. Hoagland: Okay, that helps us, you know, with the questions that we're gonna ask now. Alright, so the tape is rolling but this is just a read... I don't want to say informal, but I mean I want your complete honesty. And don't worry about any jargon and this and that. I mean I just want to know what happened out there. Okay, so why don't start from the very beginning. You were working with DA, Deputy Marshall?

Dep. Underhill: Correct.

Det. Hoagland: Okay, and you're on the training program right now?

Dep. Underhill: Yes.

Det. Hoagland: Okay, how long have you been with El Dorado Sheriff's Office?

The typed transcripts of the Sheriff's Department interviews with deputies Matt Underhill and Rich Marshall reveal an account of the Wallen incident that is different in important aspects from the account the department's media officer provided to the media.

Underhill apparently became concerned. "I could see pretty quickly that this person wasn't gonna follow any, any of the commands, so I attempted to give him some commands and detract [sic] from Rich [Marshall] to see if he would listen to me," Underhill said. Underhill decided he would handcuff Wallen as he sat on the bike, and ordered Wallen to put his hands behind his back. Perhaps he was stubborn or confused by who was giving orders, but Wallen didn't respond and continued to stare straight ahead at Marshall. Underhill said he repeated the command, and when Wallen again failed to respond, Underhill pulled a canister from his utility belt and sprayed Wallen in the face with a one- to two-second burst of oleoresin capsicum, a chemical agent also known as pepper spray.

This would be the first of several questionable use-of-force decisions the relatively inexperienced deputy would make that night. The use of a chemical agent against an unarmed, non-combative subject is contrary to the El Dorado County Sheriff's Department's written use-of-force policy. For most law enforcement agencies, the application of a chemical agent is generally restricted to suspects who are violent or pose a threat to officers or the public. Restrictions on use are because, among other things, the chemical agent can trigger disorientation, anxiety, panic and aggression in a subject. This application of an elevated level of force was contrary to what Underhill was taught

in his Peace Officer Standards and Training courses at the police academy in San Diego. According to the interview transcripts, Marshall also failed to intervene in the trainee's actions. But, to understand the ramifications of these acts, an explanation of some aspects of California peace officer use-of-force training is helpful.

The California Commission on POST dictates the training criteria and standards for

all peace officers in the state. All new recruits are required to attend a minimum of 664 hours of classroom training and testing, and the instruction is broken down into 41 separate courses or "learning domains." "Use of Force" is the title and subject matter of learning domain 20.

In essence, there are four levels of force: low, moderate, high and deadly/lethal. Each level of force is appropriate to a given situation a peace officer may encounter. At each level of force, various use-of-force options are available. The options include the use of verbal commands, physical restraint techniques, batons, chemical agents such as mace and oleoresin capsicum, and firearms. In general, an officer has the discretion to use any force option appropriate to a certain level, provided the level is appropriate to the circumstances.

POST teaches that an officer's selection of the force option and amount of force used should be based on the level of resistance of the suspect and other factors, such as whether the suspect has committed a crime, is trying to escape or is threatening to use force against the officer or another person. The POST instruction also cautions students that, under California law, if unlawful or unreasonable force is used, the person being arrested may lawfully resist to overcome that force.

Chapter six of the use-of-force workbook addresses the issue of intervention. POST defines intervention as the act of preventing or stopping the inappropriate or unlawful behavior of another. "The community expects that its peace officers will use only reasonable amounts of force. Likewise, it expects that someone, including other officers, will intervene if reasonable levels of force are exceeded," the text explains. "During a high-stress situation such as making an arrest, peace officers may experience emotional or angry reactions to the suspect. As a result, they may start applying excessive force without realizing what they are doing. At this point, it is imperative that a fellow officer step in immediately and diffuse the situation."

The training acknowledges that intervention is not always easy or simple, and examples of verbal and physical intervention methods are suggested. Recruits are reminded that they are legally and ethically required to intervene when a fellow officer is out of line.

The chapter concludes with the consequences for the use of unreasonable force; recruits are warned that the excessive use of force by a peace officer can constitute a crime under state and federal law. They are also informed that because the officer's agency is responsible for the conduct of an officer while on duty, the agency also may be held liable under federal civil-rights law and may be subject to a lawsuit for negligent or inadequate training or for failure to supervise adequately. In addition, "The unreasonable use of force by an officer can discredit and result in loss of public support to an officer's agency," concludes the chapter.



Photo by Larry Dalton

Connie Bryant (with companion Mike McGovern) believes her son Steven Wallen was murdered by El Dorado County Sheriff's deputies when an arrest went bad.

The El Dorado County Sheriff's Department also classifies its use-of-force options into four categories. The lowest level consists of the use of verbal and non-verbal commands and is appropriate for use on cooperative subjects, according to the department's policy. The next level provides for the use of various physical tactics, such as joint manipulation, grappling techniques and the use of temporary restraining devices such as handcuffs and leg restraints. These options are specified for use on subjects who are passively or defensively resisting an officer's authority. The third level permits the use of chemical agents, electrical stunning devices, and the carotid neck restraint hold, which, when properly applied, renders a subject temporarily unconscious. These options are sanctioned for use on suspects who are attempting to interfere with the officer's actions by inflicting pain or physical injury on the officer without the use of a weapon or object. The last level, lethal force, authorizes the use of a firearm or any force that has a reasonable likelihood of causing death or serious physical harm. That level is allowed for use on subjects who have committed an attack using an object, weapon or empty hand when the officer reasonably believes the assault will result in serious physical injury or death. This use-of-force continuum can be used as an elevator and not a ladder. For instance, if officers encounter a subject who is immediately combative, they are not required to give verbal commands before defending themselves. Skipping steps may be appropriate "given the resistance encountered."

When Underhill coated Wallen's face with pepper spray, Marshall recalled that as the cloud of gas came toward him, he had to back up to avoid being affected. He had been hit with the spray a couple of times before. "It's not very pleasurable. You have a hard time breathing. Your eyes, your nose and your mouth burn," he said. He may have been surprised at Underhill's decision to use the spray because it was Marshall's experience that the chemical agent generally isn't effective on subjects who are under the influence of a stimulant. In fact, the tactic had the potential to make matters worse. "I've had reactions where they've become more violent after they've been sprayed," Marshall said. But Wallen didn't become violent. According to Marshall, the subject gritted his teeth and struggled to keep his eyes open, while continuing to stare at the deputy and passively sitting on the motorcycle with his hands on the handlebars.

Underhill described what he was thinking as Wallen continued to sit on the bike, his face drenched with pepper spray. "I'm thinking for sure that he's going into our custody. A, for the battery on the reporting party and for being under the influence," he said.

Underhill, it appears, was now determined to take Wallen in, one way or another. When detective Hoagland interviewed Underhill early the next morning, Hoagland asked him if Marshall was still giving any commands at this point in the encounter. "No. I'm pretty much taken over now in

commands," the trainee replied.



Lt. Kevin House demonstrates the "edged weapon" handcuffs for television news.

Underhill said he next tried unsuccessfully to apply a wrist-flex tactic on Wallen in order to handcuff him but that Wallen's grip on the handlebar was unmovable. Marshall, however, doesn't recall Underhill attempting this move. The deputies do concur that Underhill next attempted the carotid neck restraint. The chokehold-like maneuver cuts off the blood flow to the brain and causes a suspect to become unconscious within five to 15 seconds. This would be the second instance in which Underhill chose a use-of-force method that was inconsistent with the policy of his department and the state POST training. Again, Marshall apparently disregarded the important intervention aspect of the state POST standards.

The carotid restraint has a checkered history of problems and, because of its potential for misuse, the tactic has been banned in more than one California law enforcement jurisdiction. When used improperly, the restraint can be deadly. In 1992, a 16-year-old high school student in San Diego died after application of the hold. In 1994, a federal judge in Los Angeles issued an order temporarily prohibiting the California Highway Patrol from using the carotid restraint except in life-threatening situations, after the death of a homeless Vietnam veteran. A CHP officer had used the technique on the man, whose son later was awarded \$470,000 in damages for the tragedy.

Most agencies that do allow the use of the carotid restraint specify that it be applied only to prevent serious injury or death to an officer or to a member of the public. The neighboring Placerville Police Department, where Marshall worked as an officer before becoming an El Dorado County Sheriff's deputy, permits the hold only "when the officer reasonably believes that such a hold appears necessary to prevent serious injury or death to an officer or other person(s)." The El Dorado County Sheriff's Department classifies the hold at the same use-of-force level as chemical agents and allows its use against a subject trying to inflict pain or physical injury to an officer.

Chris Cross is the defensive-tactics core instructor at the San Diego regional POST training academy where Underhill received his training. Cross said students are taught that the carotid restraint is generally authorized for use only on a subject who is actively resisting or assaultive. "So, if someone were trying to escape and/or they were fighting the officer that was trying to apprehend them, [officers] could apply the hold and render that person unconscious," Cross explained.

Underhill approached Wallen from behind as he sat on the bike. Then, Underhill put his left arm around Wallen's neck and applied the carotid restraint. At the same moment, Marshall grabbed Wallen's left hand off the handlebars. "But, at the same time, the bike started coming over, and they came with it," Marshall said. Wallen ended up face down on the ground with Underhill on top of him. Marshall still had a grip on the subject's left hand and brought it to the small of Wallen's back intending to handcuff him. At the same time, Underhill had his knee in the upper portion of Wallen's back. As Underhill brought Wallen's right arm behind his back he attached a Peerless model 301 handcuff to Wallen's right wrist. But, before the deputies were able to secure the second wrist, Wallen dislodged them. Marshall rose to his feet and pulled out his baton, while Underhill attempted to subdue the subject by, among other things, trying to knee him in the face. Marshall went to strike Wallen with the baton, but, at the same moment, Underhill rolled between Marshall and Wallen, blocking an effective blow. Then Wallen broke free from Underhill and started to run.

He did not escape unscathed, though. He was now bleeding from the mouth and nose. An autopsy conducted two days later determined that his head and face had signs of multiple blunt-force traumas. Deep cuts were noted at the back of Wallen's head and in his mouth. He had bruises on his head, left torso just above the hip, and in his mouth. And his skin was scuffed on both sides of his

face, his shoulder, his back and his right wrist, according to the report.

Marshall said Wallen ran about 25 feet and then stopped, turned around and began walking toward the opposite side of the road. According to Segura, the woman who made the 911 call and was still watching the scene from her parked car, the deputies were roughly between Wallen and the driveway to his house and it appeared to her that Wallen was essentially trying to sidestep around the deputies and get to the driveway access to the hillside residence. An embankment was blocking his route to the house. The crime scene diagram and the deputies' description of Wallen's angled movements toward the embankment indicate that this observation makes sense. High on drugs, cut, bruised and bleeding, perhaps he was instinctively trying to go home, but he had to reach the driveway.

Marshall noticed that Wallen still had the handcuff secured on one wrist, and claims he notified Wallen that because he had the handcuff he was now in possession of an "edged weapon." This subjective interpretation was not insignificant because, under California law, it could be used to justify the officers' use of deadly force.



The crime scene diagram of the Wallen

But Chris Gill, the vice president of Peerless Handcuff Company, said that the edges of a handcuff are rounded. "It's certainly designed not to be a weapon," he said.

Shortly after the incident, Lt. House demonstrated for the media how Wallen allegedly converted the unsecured handcuff into an edged weapon. House held the open portion of a handcuff in one hand, which clearly illustrated that it could be used as a hook type of weapon. But House did not attach the other end of the handcuff to his wrist, to show how the handcuff was on Wallen, and House used a different model of cuff than the one identified in the investigation as being used by Underhill. The distinctions are significant. The two wrist cuffs on the handcuff Underhill used were connected by a hinge, and not a chain as they were on the cuff used by House. The chain allows the loose cuff to be manipulated somewhat, but the hinge restricts its movement. An informal test conducted by an employee at a local police equipment supply store revealed that it is more difficult to use the loose end of a handcuff as a hook, while the other cuff is attached to the wrist, when the cuffs are hinged rather than attached by a chain.

But at this point in the incident, fear may have surpassed logic. "I am terrified at this point, I just, I know this is going to shit," Marshall said. The deputies were backing up roughly down the middle of the street, while Wallen continued to move at an angle toward the embankment in front of his house and the driveway access beyond.

With their handguns drawn, the officers continued to give commands such as "You need to get on the ground," and "Don't take another step, or I'll shoot." Wallen continued his essentially sideways advancement toward the driveway, but because of the angle he was moving, the position of the deputies, and the driveway, he was also getting closer to the deputies. The deputies claim Wallen periodically was holding out the handcuff as a weapon as he moved. And, when he got to within eight to 10 feet of the officers, which police training says is an unsafe distance from a subject with an edged weapon, Marshall decided it was time to use lethal force.



Photo by Stephen James

A candlelight vigil and march was held a week after Steven Wallen was shot and killed by El Dorado County Sheriff's Department deputies. Friends and family of Wallen somberly walked to the location where he spent his final moments alive.

But instead of taking the first shot, he delegated that task to the trainee. "Just do him," he told Underhill.

Between them, the deputies fired a total of four rounds, three of which impacted Wallen. Underhill and Marshall said Wallen continued to move forward after being hit twice in the chest with slugs. Underhill decided to take a final shot that entered Wallen's head at the left temple. According to the autopsy report, the .40-caliber, copper-jacketed, hollow-point bullet fragmented into "at least a dozen pieces" within Wallen's skull. No exit wound was found.

After Wallen collapsed on the ground, Underhill finally secured the loose handcuff on Wallen's other wrist. Underhill estimated that the entire incident, from his initial contact with Wallen as he sat on the motorcycle to the time the last shot was fired, took "a little over a

minute," and the 911 and dispatch transcripts show that this estimate was fairly accurate.

The next day, House, the El Dorado County Sheriff's Department media officer, issued a short written statement, aspects of which seemed to conflict with the deputies' accounts. "Upon arrival in front of the residence, deputies were confronted by 26-year-old Steven B. Wallen. He immediately attacked the two deputies, and a struggle ensued in the roadway. Wallen was extremely combative and violent. Officers used chemical agent spray, which had no effect. Wallen continued to fight violently," said a portion of the press release.

Ten days after the incident, an investigative team assigned to review the matter announced its findings. The team consisted of officials from the Sheriff's Department, the Placerville Police Department and the El Dorado County District Attorney's Office. They concluded that the officers fired their service weapons in defense of their lives and that "the deputies involved acted without negligence and did not commit any crimes as described in the Penal Code for the State of California."

Portions of the tale would become more exaggerated every time House told it. In a Sacramento Bee story published two days after the release of the investigative team's findings, House provided Bee staff writer Peter Hecht a newly modified version of the incident. "House said the officers pulled their patrol car in front of the motorcycle Wallen was pushing. As the officers got out, House said, Wallen left the bike and attacked the officers, 'just whaling away' and exhibiting behavior 'consistent with someone under the influence of narcotics,'" wrote Hecht.

When SN&R asked House to explain the discrepancies, he claimed he was only provided limited information from his own agency about the incident. "I'm not the investigator, I have nothing to do with the investigation. What I'm trying to do is appease [the] media and make information available, and that's what I did." House declined an offer to provide an updated version of the incident. "I don't have most [of] the information you're asking for," he said, and referred further questions to Hoagland, although he admitted Hoagland likely would refer questions back to him. Hoagland did not respond to voice-mail and fax requests for an interview.

In fact, Sheriff Hal Barker delegated his response to Undersheriff and Sheriff-elect Jeff Neves. Neves emphasized that the department tries to be as accurate as possible with the information it disseminates, but he admitted the information released to the public about Wallen's immediate attack on the officers might have been incomplete. "[T]hat pattern of behavior exhibited itself, but there could have been additional detail I suppose that could have been added into there of steps that were taken prior to that behavior exhibiting itself," he said. With respect to the actual incident, Neves defended his deputies and their prompt resolution of the incident. "Officers can't just stand there for hours waiting for some reaction out of this person." Neves also mentioned a previously

unacknowledged additional risk faced by the officers as they confronted Wallen. "He's still seated on the motorcycle, and should he be able to start it, that could, in and of itself, pose a threat to the officers."

About a month and a half after the incident, El Dorado County District Attorney Gary Lacy announced that he had reviewed the matter and determined that the shooting was not unlawful under California law. With respect to whether the use-of-force methods were appropriate, Lacy defers. "Whether or not this was according to the use-of-force policy of the Sheriff's Department, or otherwise, that's for the Sheriff's Department. My finding was limited solely to whether or not their conduct was criminal," he said. Lacy also didn't feel that the abbreviated timeframe from initial contact to gunfire was relevant. "Sometimes officers have the ability to control the pace at which something moves, and sometimes they don't. And, in this particular case, I'm of the opinion as both a prosecutor and a citizen that I wouldn't want the officers just walking away from this guy just because he refused to obey their commands."

The head law enforcement officer of El Dorado County did offer a subtle concession. "I'm not by any means saying that they did things perfectly or that being a Monday morning quarterback we couldn't go back and find ways in which they could have done things better," he said.

Connie Bryant, Wallen's mother, feels the peace officers could have done things considerably better and says bluntly that her son was murdered. She has retained Sacramento attorney Stewart Katz who said he would file a federal civil-rights lawsuit alleging exactly that. Through Sacramento attorney Parker White, Wallen's father, Steven B. Wallen, has filed a claim for \$2.5 million against the county as a prerequisite to his own litigation.

William Vizzard, professor and chairman of the Division of Criminal Justice at California State University Sacramento, used the Wallen incident for discussion in a summer school course. "I knew as soon as I saw [the incident in the news] there would be a lawsuit," he said. Vizzard was a peace officer for 30 years and said he feels a jury will have to decide whether or not the shooting was justified. "The handcuff was potentially a weapon ... but capable of causing a life-threatening injury? I'd have a hard time with that," he said.

As a result of legal actions, it appears Underhill will be getting a compulsory education in civil-rights law. The incident in which he was involved at the San Diego County Jail resulted in his being named in a July 2001 claim the family of the victim, Carlos Alberto Miranda, filed with San Diego County. In that incident, Miranda died after being forcibly extracted from his cell and restrained in order to be medicated. According to court records, the deputies allegedly held the handcuffed man face down on a metal table with such force that he turned blue and then died of restraint asphyxia. Underhill was holding down the left side of the upper body of the man. The death was officially classified as accidental, but a subsequent lawsuit has been filed against the county, the Sheriff's Department and the supervisor of the tactical response team. Among other things, the complaint alleges that the response team was "poorly and/or inadequately trained, managed and supervised." Marion Birge, one of three attorneys representing the victims' family, said Underhill would be deposed in connection with that litigation, which is scheduled for trial in March of next year.

It has been more than three months since the night Steven Wallen died, and

Roberta Segura is still convinced that Wallen did not pose a serious threat to the deputies. "It never entered my mind that they were going to shoot him. There didn't seem to be any real need," she said. In hindsight she wonders if she should have made the 911 call that began the course of events. "I'm questioning my own judgment. I didn't feel anyone's life was in danger," she said.