



**VICENTE ROBERT MARTINEZ
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

CPRC Case No. 14-036

RPD Case No. P14-175586

Approved on
April 27, 2016

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Date of Incident: November 18, 2014 @ 1431 Hours

Location: 10479 Keller Avenue, Riverside

Decedent: Vicente Robert Martinez

Involved Officers: Officer Marco Ortiz, #1352

I. Preamble:

The finding of the Community Police Review Commission (“Commission”) as stated in this report is based solely on the information presented to the Commission by the Riverside Police Department (“RPD”) criminal investigation case files, and follow-up investigative report submitted by CPRC Independent Investigator, Mike Bumcrot of Bumcrot Consulting, Norco, California. The Commission reserves the ability to render a separate, modified, or additional finding based on its review of the Internal Affairs Administrative Investigation. Since the Administrative Investigation contains peace officer personnel information, it is confidential under State law, pursuant to CPC §832.7. Any additional finding made by the Commission that is based on the administrative investigation is also deemed confidential, and therefore cannot be made public.

II. Finding:

On February 24, 2016, by a unanimous vote of 9 to 0, the Commission found that the officer's use of deadly force was consistent with RPD Policy 4.30, Use of Force, based on the objective facts and circumstances determined through the Commission's review and investigation.

Rotker	Hawkins	Ybarra	Huerta	Smith	Jackson	Roberts	Andres	Adams
✓	✓	✓	✓	✓	✓	✓	✓	✓

III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof of “Preponderance of Evidence.” Preponderance generally means “more likely than not,” or may be considered as just the amount necessary to tip a scale. This also means that the Commission is not required to have certainty in their findings, nor are they required to reach a finding as “beyond a reasonable doubt” which is necessary in criminal cases.

The Preponderance of Evidence standard of proof is the same standard applied in most civil court proceedings.

IV. Incident Summary:

On November 18, 2014, Riverside Police Department narcotics detectives assembled a team to locate and arrest Vicente Martinez. A confidential informant had advised them that Martinez was selling narcotics, carrying a gun, and using methamphetamines. The informant provided detectives with the description and license plate number of the vehicle Martinez was known to drive. Detectives verified that the vehicle was registered to Martinez at 5433 Bushnell Avenue in Riverside. A records check of Martinez revealed he had a criminal history.

Based on that history and the belief he would be armed with a gun, narcotics detectives sought assistance from the Riverside PACT team in locating and apprehending Martinez. The PACT team is a group of police officers and deputies from multiple agencies throughout Riverside County. One of their duties is to conduct compliance checks of persons who are on parole, probation, mandatory supervision, supervised release, and post-release community supervision. The PACT team supervisor made sure his team had the information about Vicente Martinez, including the vehicle description and a photograph. They devised a plan to conduct a traffic stop of him as he left his home on Bushnell. PACT Team Officers Ortiz, Adcox, Mercadefe, and Arangure were designated as vehicle stop officers. They were paired up with Officers Ortiz and Adcox were riding together and had the primary responsibility to stop Martinez as he drove away from his house. All four officers were wearing uniforms identifying them as police officers, but were driving unmarked black SUVs fitted with emergency lights and sirens.

All detectives and officers took up positions in the area of the Bushnell address. Narcotics detectives confirmed the suspect vehicle was not at the Bushnell address. Within minutes, one of the narcotics detectives, along with Officers Ortiz and Adcox, spotted the suspect vehicle being driven north on Jones Avenue. Officer Ortiz, as the police SUV driver, was able to visually confirm that Martinez was the driver of the vehicle. The narcotics detective asked them to conduct a traffic stop. They followed Martinez for a short distance and watched as he failed to come to a complete stop at a stop sign. They activated their emergency red lights in an effort to get Martinez to stop, but he failed to do so.

Although Martinez was driving the approximate speed limit, he did not stop the vehicle. Martinez kept putting his hand out of the window and holding up a finger as though he were signaling them that he would stop momentarily. He continued driving so Officer Ortiz activated the SUV's siren. Officers Mercadefe and Arangure, in the second police SUV, fell in behind Officers Ortiz and Adcox. Martinez proceeded to drive at a slower pace, but continued making a couple of turns onto other streets. Martinez arrived at his residence and accelerated his vehicle as he drove into a long driveway leading up to his home at 5433 Bushnell. He was followed into the driveway by Officer Ortiz. Martinez stopped his vehicle and jumped out, facing the officers as he raised his hands up in the air. Officers Ortiz and Adcox repeatedly ordered Martinez to the ground, but instead, he turned and ran further into the yard and away from the officers. He fell after going over a flimsy chain linked fence and the officers continued telling him to stop. He continued running into the yard at 10479 Keller Avenue and ran into a small tree.

As the officers continued their foot chase, they were slightly separated by a building and trees. As Martinez attempted to right himself from striking the tree, Officer Ortiz saw him raise a black handgun and point it in the direction of both officers. They were approximately 20 feet away from Martinez at that point. Officer Ortiz believed that Martinez intended to shoot either him or Officer Adcox so he fired his sidearm at Martinez several times, striking him five times. Martinez fell to the ground where he was taken into custody and handcuffed. The officers requested medical aid and upon arrival determined Martinez was deceased.

Officer Adcox saw Martinez with the gun and felt that he (Martinez) was aiming it at him and coming towards him. When Officer Adcox realized the threat to himself, Officer Ortiz had already begun shooting Martinez. Officer Adcox could see the rounds striking Martinez. As Martinez was falling to the ground, Adcox felt the threat had stopped and therefore did not fire his own weapon.

V. CPRC Follow-Up:

The Commission requested a cover-to-cover review of the Criminal Casebook by CPRC Independent Investigator Mike Bumcrot of Bumcrot Consulting, located in Norco, California. Mr. Bumcrot is a nationally recognized expert in homicide and Officer-Involved Death cases. The purpose of this review is for Mr. Bumcrot to provide the Commission with his findings based upon his experience and expertise. Mr. Bumcrot felt that the investigation conducted by the Riverside Police Department was thorough and all evidence collected and preserved was completed accordingly.

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of testimony, including that of Officer Jeffery Adcox, who was present when the shooting occurred, several officers that were part of the surveillance team following the decedent, the involved officer, and a Deputy Coroner. Other evidence included police reports and photographs, involved weapons, forensic examination results, and a report by the independent CPRC investigator.

VII. Applicable RPD Policies:

All policies are from the RPD Policy & Procedures Manual.

- Use of Force Policy, Section 4.30.

The United States Supreme Court has ruled on one case that has particular relevance to the use of force in this incident. All decisions by the United States Supreme Court are law throughout the United States. The case is incorporated into RPD's Use of Force Policy.

Graham v. Connor, 490 U.S. 396 (1989), considered the reasonableness of a police officer's use of force, and instructed that the reasonableness must be judged from the perspective of a reasonable officer on scene.

VIII. Rationale for Finding – Within Policy:

Officer Ortiz and all other officers involved in the surveillance and pursuit of Martinez had information that he was allegedly trafficking narcotics and armed with a handgun. The information on Martinez was provided to police by a confidential informant. In addition, Martinez had a criminal record in regard to drug and narcotic sales. RPD officers and members of the PACT Team initiated a surveillance in the area of Martinez' residence in order to locate him and further investigate the alleged activities.

Martinez drove into the area of his residence in the vehicle that he was suspected to be driving. Officer Ortiz looked at Martinez as he drove by and confirmed he matched the description. It was decided that a traffic stop would be initiated and Officers Ortiz and Adcox moved into a position to do so. As the officers followed Martinez, they noticed that he failed to come to a complete stop at a stop sign and continued driving. Officers Ortiz and Adcox continued following Martinez with the emergency lights and siren activated. Martinez failed to stop and proceeded driving at a slow speed until he arrived at his home on Bushnell.

Martinez accelerated up his driveway and was followed by Ortiz and Adcox. Martinez suddenly stopped his vehicle and jumped out and faced the officers with his hands raised up in the air. Ortiz and Adcox exited their vehicle and ordered Martinez to the ground. Martinez failed to comply as he turned and ran further into his backyard.

Officers Ortiz and Adcox gave foot chase and followed Martinez as he entered the yard at 10479 Keller Avenue where he ran into a tree. At this point, Martinez produced a handgun and pointed it in the direction of the officers. Ortiz feared the actions of Martinez as a threat to his life and that of Officer Adcox and fired his handgun at him. Ortiz fired eight shots, striking Martinez five times. They took suspect Martinez into custody and called for medical aid; Martinez died at the scene. Ortiz was the only officer that fired his weapon.

The actions of Martinez left Officer Ortiz no other alternative but to defend himself, fellow officers and citizens by use of deadly force in order to stop him. Martinez had several opportunities to stop and follow the directions of Ortiz and Adcox. It was unfortunate, but Martinez was responsible for his own death in this instance by pointing a gun at pursuing officers. Officer Ortiz had split seconds to decide to use deadly force and the Commission believes he did so within the policy of the RPD.

Witnesses at the scene, including the two additional responding PACT officers, only heard the gunfire so could add no additional details about the shooting. The gun Martinez had was loaded with eleven rounds and was reported stolen in 2011. He also had a baggie of methamphetamines in his pants pocket. The toxicology report indicated he had marijuana, amphetamine and methamphetamine in his system. Detectives followed up with the wife of suspect Martinez, who allowed officers on scene to search her home. Detectives found weapons, ammunition, weapon gear including a ballistic vest, a scanner, and surveillance equipment. In addition, Martinez' wife was on the phone with him while officers were following him and he told her he was about to be stopped by the police. This eliminates any potential conflict about whether Martinez knew it was the police department following and trying to stop him. Inside the suspect vehicle, detectives located multiple knives, a collapsible baton, and keys that had been shaved for use in stealing cars as further proof of Martinez' criminal activity potential.

IX. Dissenting Opinion:

There were no dissenting opinions.

X. Recommendations:

None.

XI. Closing:

The Commission offers its empathy to the community members, police officers, and City employees who were impacted by the outcome of this incident, as any loss of life is tragic, regardless of the circumstances.

APPENDIX

RPD Press Release / Press-Enterprise Articles	Section A
Fact Sheet	Section B
Bumcrot Consulting Reports of Investigation	Section C
RPD Policy 4.8 (Rev. 6, 5/26/11): Investigations of Officer Involved Shootings and Incidents Where Death or Serious Likelihood of Death Results	Section D
RPD Policy 4.30, (Rev. 9, 4/5/11): Use of Force Policy	Section E

Section A

RPD Press Release

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Press-Enterprise Articles





*City of Arts & Innovation*

# PRESS RELEASE

**Police Department**  
**SERGIO G. DIAZ**  
**Chief of Police**

## **FOR IMMEDIATE RELEASE**

November 18, 2014

Contact:

Troy Banks

Sergeant, Robbery – Homicide

tbanks@riversideca.gov

(951) 353-7106

## **OFFICER INVOLVED SHOOTING**

RIVERSIDE, CA – On Tuesday, November 18, 2014, The Riverside Police Department's Narcotic Unit was conducting an investigation in the area of Bushnell Avenue and Keller Avenue. The PACT Team (Post-Release Accountability & Compliance Team), which is a multi-agency task force, was assigned to assist with the investigation. Members of the PACT Team attempted to stop the vehicle the suspect was driving. The driver did not initially stop his vehicle and continued driving in the area. The driver stopped his vehicle in a driveway in the 5400 block of Bushnell Ave. The suspect exited his vehicle but refused to follow the officer's directions. The suspect then fled on foot with the officers giving chase.

The suspect ran into a backyard in the 10400 block of Keller Ave. followed by the officers. The suspect turned and pointed a loaded firearm in the direction of the officers which resulted in an officer involved shooting. The suspect was struck several times and fell to the ground.

The officers immediately requested medical aid and attempted to provide first aid to the suspect. Members of the Riverside Fire Department and AMR (American Medical



Response) arrived and pronounced the suspect deceased. No officers were injured during the incident.

Detectives from the Robbery / Homicide Unit responded to investigate. They were assisted by technicians from the Forensic Unit. Representatives from the Riverside County District Attorney's Office and the Sheriff- Coroner's Office are also investigating. The Riverside County Sheriff-Coroner's Office will release the victim's name after next of kin are notified. The investigation is on-going at this time.

Anybody with information on this case is asked to contact Detective Dave Smith at 951-353-7103 or Detective Greg Rowe at 951-353-7136.

##P14-175586##



## RIVERSIDE: Police shoot, kill suspect (UPDATE)

*A narcotics investigation led to a fatal officer-involved shooting in Riverside on Tuesday afternoon, Nov. 18, police said.*

**BY RICHARD BROOKS AND MICHAEL WATANABE / STAFF WRITERS**

*Published: Nov. 18, 2014 Updated: Nov. 19, 2014 8:38 a.m.*



A Riverside police officer shot a person Tuesday, Nov. 18, Keller Avenue in the area of Bushnell Avenue and Gramercy Place in Riverside. No officers were injured.

RICHARD BROOKS, STAFF

### **UPDATE:**

*Circumstances of the shooting added.*

A narcotics investigation led to a fatal officer-involved shooting in Riverside on Tuesday afternoon, Nov. 18, police said.

The shooting happened about 2:30 p.m. in the 10400 block of Keller Avenue near La Granada Elementary School.

No officers were injured.

"The suspect is deceased," Lt. Mike Cook said shortly before 4:30 p.m. from the scene.

The gunfire erupted at the end of a narcotics investigation, and the gun was recovered at the scene, he said.

The incident began when officers taking part in a drug probe tried to stop the suspect's vehicle, Riverside police later said in a written release. The release doesn't specify why the vehicle was targeted.

The driver – who officials didn't name until his next of kin could be reached -- didn't stop until he reached a driveway in the 5400 block of Bushnell Avenue, the release said. He then fled on foot, and officers gave chase.

When the suspect reached the backyard of a home on Keller, he stopped, turned and pointed a gun at officers, the release said. Officers then shot and killed the suspect.

Officers called in medical aid and attempted first aid on the suspect. Fire personnel and ambulance crews arrived and pronounced the man dead.

Some area residents said they saw bits and pieces of the incident.

"I heard a police car coming, with the sirens," said neighborhood resident Jennifer Garcia. "I saw the police car fly down the street. And then I heard, 'Pow, pow, pow.'"

"Then mobs of police cars came and blocked off the street."

Police taped off a section of Bushnell and nearby Keller.

The incident prompted a 10-minute lockdown of La Granada Elementary on Keller. Alvord Unified School District spokesman Shawn Loescher said the school was on an abbreviated schedule, letting out at 1 p.m., so most students were gone before the shooting.

But those in after-school programs were held inside, Loescher said. Parents were notified by a recorded phone message, and those with students in the after-school program were allowed to pick up their children early. Few took the school up on the offer, Loescher said.

Operations at the district office, also on Keller, were unaffected, he said.

Anybody with information on the case is asked to contact Detective Dave Smith at 951-353-7103 or Detective Greg Rowe at 951-353-7136.

## RIVERSIDE:

# Man shot by police ID'd; had criminal record

*Vicente Martinez, 34, was shot and killed after running from police and pointing a gun at them, according to authorities.*

**BY BRIAN ROKOS / STAFF WRITER**

*Published: Nov. 20, 2014 Updated: 5:45 p.m.*



Vicente Martinez  
COURTESY OF THE MARTINEZ FAMILY

### **IF YOU WISH TO HELP**

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The family is soliciting donations to assist with expenses. Anyone wishing to donate can go to [giveforward.com](http://giveforward.com) and search for Vincent Martinez.

Martinez fled on foot, however, a siren could be heard as officers pursued in their vehicles.

Martinez is survived by three daughters and his wife, Tamara. Relatives, who said he went by the first name Vincent, described him as a family man with a good sense of humor.

Martinez also had a troubled past.

He was convicted of possessing a controlled substance in 1998; being under the influence of a controlled substance in 2000; grand theft auto and false

The Riverside County coroner on Thursday, Nov. 20, formally identified the man shot to death by Riverside police as Vicente Martinez, 34.

Police said they were conducting a narcotics investigation near Martinez's house Tuesday when they spotted his car and tried to stop it shortly before 2:30 p.m. Martinez kept driving until he reached his driveway, pulled in and got out of the car, then led officers on a foot chase before pulling a loaded gun, police said in a news release. Martinez died in a neighbor's backyard in the 10400 block of Keller Avenue.

Family members asserted that police did not identify themselves before shooting. In an audio recording of the police broadcast moments before

imprisonment in 2001; stalking, making criminal threats and violating a court order to prevent domestic violence in 2002; identity theft in 2006; being a prisoner in possession of a weapon in 2008; driving under the influence in 2012; and malicious disturbance in 2014, according to Riverside Superior Court records.

The woman he recently married, Tamara Luna, filed for a restraining order against Martinez in 2002, court records show. She said in a text message Thursday that Martinez was her best friend and “an amazing father.”



## RIVERSIDE:

# Man shot by police remembered as funny, family-oriented

*Relatives say they don't know why narcotics investigators pulled him over. He fled from officers and pointed a loaded gun at them, police say.*

### **PREVIOUSLY REPORTED:**

- [Police shoot, kill man after foot chase, officials say](#)

**BY PETER SUROWSKI / STAFF WRITER**

*Published: Nov. 19, 2014 Updated: Nov. 20, 2014 8:51 a.m.*

Wednesday brought a lot of tears and a lot of questions for the family of a man who was fatally shot the day before by Riverside police.

The man – identified by relatives as 34-year-old Vincent Martinez – led officers on a foot chase before pulling a loaded gun, police said in a news release. Martinez died in a neighbor's backyard in the 10400 block of Keller Avenue.

Police said they were conducting a narcotics investigation in the area with the assistance of the Post-Release Accountability & Compliance Team, a multi-agency task force, when they spotted Martinez's car and tried to stop it shortly before 2:30 p.m. Police have not specified why, and because the suspect has not been officially identified, they could not comment on whether he had a criminal record.

Martinez refused to yield and drove to a driveway that led to his home in the 5400 block of Bushnell Avenue, according to relatives. Then he jumped out of his car, ran past his house and jumped a fence into his neighbor's yard, with officers in pursuit.

In the yard, police say Martinez pointed a gun in the direction of officers, who opened fire, striking Martinez several times. Officers called in medical aid and attempted first aid. Fire personnel and ambulance crews arrived and pronounced Martinez dead.

No officers were injured.

Several of Martinez's aunts and uncles gathered at their home nearby and talked about the man who was a nephew to them, but also a husband, father and cousin.

"He was a family-oriented person," said his cousin, Mark Soliz.

He left behind a wife whom he had only recently married and three children – one a teenager and two in elementary school.

A man outside Martinez's house said his wife was in no condition to speak to a reporter Wednesday.

His family was left with many unanswered questions: Why did the police try to pull him over? Where on his body did the bullets hit? Why, the family wonders, did the officer not identify himself before shooting?

Relatives recalled hearing the man shout at Martinez to stop before firing about seven shots. However, "they didn't say anything" that would have identified the pursuer as a police officer, Soliz said. "They just started shooting."

Riverside police Lt. Mike Cook said he couldn't comment on whether the officers identified themselves. Details of the incident, including how police contacted the suspect, were part of an ongoing investigation, Cook said.

The last time Martinez's family saw him, he was playing horseshoes with his uncle, Robert Martinez, near his own home.

# Section B

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## Fact Sheet





MARTINEZ OID – FACT SHEET  
14-036 | P14-175586

**Date Occurred:** November 18, 2014  
**Time of Occurrence:** 1431 Hours  
**Decedent:** Vicente Robert Martinez  
**Location:** 10479 Keller Ave., Riverside (Private Residence)

**Officer(s) Involved:** Officer Marco Ortiz, #1352

**Officer Witnesses:** Officer Jeffery Adcox, #1463  
Officer Christina Arangure  
Officer Daniel Mercadefe  
Detective Eric Detmer

**Civilian Witnesses:** None

**Officer Injuries:** None

**Suspect's Injuries:**

Decedent Martinez sustained gunshot wounds to the right arm and torso.

**FACT SHEET**

**Gunshots Fired by Officer Ortiz:**

Officer Ortiz' duty weapon was examined by a forensic specialist at the California State Department of Justice. The examiner found that his weapon functioned properly during the examination. The following evidence is based upon the charting of Officer Ortiz' duty weapon by RPD Detective Tillett.

**8 total rounds were fired between the two officers.**

**Vicente Robert Martinez:**

Springfield .40 Cal semi-automatic Pistol. (11) live rounds were found in the magazine and the chamber was empty. A CLETS check revealed that the pistol was reported stolen in 2011 in Murrieta, Ca. The stolen gun report was taken by the Riverside County Sheriff's Department. (See TAB 60).

# MARTINEZ OID – FACT SHEET

## 14-036 | P14-175586

### FACT SHEET

The fact sheet is numbered and designed to point you to important factual information located in the criminal case book that will help guide you in your review process. It is not designed to take the place of a cover to cover review. It is up to you to review the “fact sheet” data before or after a cover to cover review. Each point of reference is preceded by a TAB number followed by a page number and paragraph number.

**TAB 1 – OID Summary, Pages 1 – 8:** Detective David Smith, Lead Investigator. The summary provides a detailed overview of the incident.

**TAB 3 – Original Report, Page 1 – 4, Narrative:** Detective David Smith. Took the initial crime report listing the crime as PC 245(D)(1) – Assault with a Deadly Weapon on a Peace Officer. File #P14-175586. Officers Ortiz and Adcox were listed as the Victims of an Assault with a Deadly Weapon on a Peace Officer with Martinez listed as the Suspect. Detective Smith wrote in the narrative that he responded to 10479 Keller Ave. in regard to an officer involved shooting. Officers Ortiz and Adcox attempted to initiate a car stop on Vicente Martinez during a surveillance of Martinez’ residence after information had been received that he (Martinez) was in possession of methamphetamine and a handgun. During the surveillance, Martinez arrived in the area driving the vehicle that was described to the surveillance team. Ortiz and Adcox attempted to make a car stop on Martinez who failed to yield the police vehicle overhead emergency lights and siren. After a short vehicle pursuit, Martinez stopped in a driveway and fled on foot. Ortiz and Adcox engaged in a foot pursuit of Martinez who at one point produced a handgun and pointed it at Ortiz and Adcox. Ortiz fired his service weapon at Martinez who was hit and later succumbed to his injuries. All subsequent reports in this investigation are “supplemental reports.”

**TAB 4 – Supplemental Report:** Detective E. Detmer. Obtained the information on Martinez from a confidential informant that led to the surveillance. Served a search warrant at Martinez’ residence subsequent to the shooting and collected evidence.

**TAB 5 – Supplemental Report:** Detective T. Lomeli, PACT member and part of the surveillance team of Martinez. Interviewed witnesses and assisted in the search of Martinez’ residence.

**TAB 6 – Supplemental Report:** Detective Scott Levesque, PACT member and part of the surveillance team of Martinez. Assisted in search of Martinez’ residence.

**TAB 7 – Supplemental Report:** Detective C. Williams, PACT member and part of the surveillance team of Martinez. Obtained initial information from Officer Ortiz at the scene. Directed personnel at the scene to specific assignments.

**MARTINEZ OID – FACT SHEET**  
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**TAB 8 – Supplemental Report:** Sgt. D. Corbett, PACT member, but not involved in the surveillance. Responded to the scene after the shooting. Spoke with Officer Adcox at the scene and obtained public safety information from him. Described the scene from his perspective.

**TAB 9 – Supplemental Report:** Officer K. Huynh, PACT member and part of the surveillance team of Martinez. Arrived at the scene when the shooting occurred. Provided a statement.

**TAB 10 – Supplemental Report:** Corporal J. Marquez, PACT member and part of the surveillance team of Martinez. Arrived at the scene when the shooting occurred. Provided a statement.

**TAB 11 – Supplemental Report:** Inv. M. Petti, Riverside County D.A. investigator and PACT member. Part of the surveillance team of Martinez. Arrived at the scene when the shooting occurred. Provided a statement.

**TAB 12 – Supplemental Report:** Detective R. Stanley. PACT member and part of the surveillance team of Martinez. Arrived at the scene when the shooting occurred. Provided a statement.

**TAB 13 – Supplemental Report:** Sgt. M. Cobb. Responded to the scene as the uniformed field supervisor. Directed officers to secure a perimeter. No additional pertinent activity reported.

**TAB 14 – Supplemental Report:** Non-essential activity.

**TAB 15 – Supplemental Report:** Non-essential activity.

**TAB 16 – Supplemental Report:** Non-essential activity.

**TAB 17 – Supplemental Report:** Non-essential activity.

**TAB 18 – Supplemental Report:** Non-essential activity.

**TAB 19 – Supplemental Report:** Non-essential activity.

**TAB 20 – Supplemental Report:** Detective Weddle. Responded to the scene and assigned to locate and obtain witness statements.

**TAB 21 – Supplemental Report:** Detective Espinoza. Responded to the scene and assigned to locate and obtain witness statements.

**TAB 22 – Supplemental Report:** Detective Sepulveda. Responded to the scene and assigned to locate and obtain witness statements.

**TAB 23 – Supplemental Report:** Officer N. Asbury – Responded to the scene and assigned to locate and obtain witness statements.

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**TAB 24 – Supplemental Report:** Non-essential activity.

**TAB – Supplemental Report:** Officer Hibbard. Responded to the scene to assist. Marked spent shell casings and left the scene. No additional activity reported.

**TAB 26 – Supplemental Report:** Non-essential activity.

**TAB 27 – Supplemental Report:** Non-essential activity.

**TAB 28 – Supplemental Report:** Non-essential activity.

**TAB 29 – Supplemental Report:** Non-essential activity.

**TAB 30 – Supplemental Report:** Non-essential activity.

**TAB 31 – Supplemental Report:** Non-essential activity.

**TAB 32 – Supplemental Report:** Non-essential activity.

**TAB 33 – Supplemental Report:** Non-essential activity.

**TAB 34 – Supplemental Report:** Non-essential activity.

**TAB 35 – Supplemental Report:** Detective Smith. Interview of Officer Ortiz

**TAB 36 – Supplemental Report:** Detective Jim Simons. Interview of Officer Adcox

**TAB 37 – Supplemental Report:** Detective Rowe, Co-Case Agent. Interview of Tamara Luna, Martinez' spouse.

**TAB 38 – Supplemental Report:** Detective R. Wheeler. Interview of Officer Mercadefe.

**TAB 39 – Supplemental Report:** Detective R. Cobb. Interview of Officer Arangure and charted her weapon.

**TAB 40 – Supplemental Report:** Detective Jim Brandt. Crime scene report. Described the scene and collected evidence.

**TAB 41 – Supplemental Report:** Evidence Technician S. McKay-Davis. Processed crime scene and collected evidence.

**TAB 42 – Supplemental Report:** CSI Tech L. Velin. Evidence collection at the crime scene and recorded it with video camera.

**MARTINEZ OID – FACT SHEET**  
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**TAB 43 – Supplemental Report:** CSI Tech T. Ellis. Assisted in the processing of the crime scene and provided a crime scene sketch.

**TAB 44 – Supplemental Report:** Detective M. Medici. Reported on the search of Martinez' vehicle.

**TAB 46 – Supplemental Report:** Non-essential activity.

**TAB 47 – Supplemental Report:** Detective A. Tillett. Charted Officers Ortiz' and Adcox' weapons.

**TAB 48 – Supplemental Report:** CSI Tech S. Lane. Took photographs and assisted in charting the weapons belonging to Officers Mercadefe, C. Arangure, J. Adcox, and Ortiz. Prepared the evidence log and booked evidence.

**TAB 49 – Supplemental Report:** Detective Rowe and Evidence Tech L. Velin. Attended the autopsy and reported on their observations and information obtained from the pathologist.

**TAB 50 – Supplemental Report:** Evidence Tech L. Velin. Recovered evidence items at the Coroner's Office and booked them into evidence.

**TAB 51 – Supplemental Report:** Non-essential CSI activity.

**TAB 52 – Supplemental Report:** Non-essential CSI activity.

**TAB 53 – Autopsy Protocol Report:** Reported by Chief Forensic Pathologist Jennifer Park, O.D. Cause of death – Multiple gunshot wounds.

**TAB 54 – Physical Evidence Examination Report:** Submitted by the State of California Department of Justice. Provided a report on the examination of weapons.

**TAB 55 – Supplemental Report:** Detective Smith and Evidence Tech Selena McKay-Davis and CAL ID examiner Patricia Campos. Fingerprinted Martinez' weapon and located one fingerprint. The fingerprint came from an unknown person. It was not from Martinez or any of the officers.

**TAB 56 – Supplemental Report:** Non-essential activity.

**TAB 57 – Audio logs:** Redacted – Non-essential in this Tab.

**TAB 58 - Video logs:** Redacted – Non-essential in this Tab.

**TAB 59 –** Non-essential information.

MARTINEZ OID – FACT SHEET  
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**TAB 60 – Theft report of weapons taken in 2011 by Riverside County Sheriff:** One of the weapons taken in the theft included the one that was in Martinez' possession at the time of the shooting.

**TAB 61 – Non-essential – Redacted material**

**TAB 62 – Letter from Riverside County District Attorney Michael Hestrin dated November 10, 2015.** Found no criminal liability on the part of Officer Marco Ortiz.

By Frank Hauptmann  
CPRC Manager

# Section C

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Mike Bumcrot Consulting

Report of  
Investigation





# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** November 28, 2014

**SUBJECT:** Officer Involved Shooting Death of Vicente Robert Martinez, which occurred on November 18, 2014

**CASE:** Riverside Police Department File #P14-175586

**LOCATION:** 10479 Keller Avenue, Riverside

On November 25, 2014, I attended the Executive Briefing of the officer involved shooting death of Vicente Martinez. The briefing was held at the Riverside Police Department's Magnolia sub-station, conducted by Homicide Detectives, and directed towards Riverside Police Department Command Staff. I learned that on the day of the incident Narcotics detectives received information that Vicente Martinez was in possession of methamphetamine and a handgun. A surveillance was set up near Mr. Martinez's residence located at 5433 Bushnell Avenue, and he was observed driving in the area.

Mr. Martinez's vehicle, a 2014 Nissan Frontier, was observed to fail to stop at the stop sign located at Keller Avenue and Jones Avenue and a traffic stop was attempted. Mr. Martinez failed to yield to the police emergency lights and waved in the direction of pursuing police officers. Mr. Martinez continued to his residence, which was the rear unit of a duplex. He exited his vehicle, after driving down a very long driveway, and placed his hands in the air. Several Riverside police officers got out of their police vehicles and ordered him to the ground. Mr. Martinez began to walk backwards and suddenly, turned and ran towards the backyard of his residence. He climbed the fence



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# MIKE BUMCROT CONSULTING

and ended up in the backyard of 10479 Keller Avenue, running around the corner of the garage. Officers Marco Ortiz and Jeffrey Adcox followed Mr. Martinez around the corner of the garage and observed that Mr. Martinez had stopped and was pointing a .40 caliber pistol at Officer Adcox. Fearing for his partner's life, Officer Ortiz drew his duty handgun and fired eight shots, striking and killing Mr. Martinez.

Subsequent investigation revealed the handgun in possession of Mr. Martinez was loaded with 11 live rounds and had been reported stolen in 2011. A quantity of methamphetamine was also recovered in Mr. Martinez's pants pocket.

On November 26, 2014, I responded to the location of the shooting to conduct a neighborhood canvass. The purpose of this canvass was to search for potential witnesses who had not been located by Riverside Police Department at the time of the incident.

I observed the scene to be a residential neighborhood with very large, deep lots. I made note that Mr. Martinez's residence was on Bushnell Avenue, 3 houses north of Keller Avenue. I also observed the location of the shooting was on Keller Avenue, 3 houses east of Bushnell Avenue. There was a fence that separated the two locations.

I made contact at several residences on Keller Avenue from Bushnell Avenue to Jones Avenue and on Bushnell Avenue from Keller Avenue to Campbell Avenue. I was unable to locate any additional witnesses to the shooting. The residents of the area were generally cooperative. I will review the facts of this case when Riverside Police Department provides me access to their files.



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## REPORT OF INVESTIGATION

**DATE:** January 3, 2016

**SUBJECT:** Officer Involved Shooting Death of Vicente Robert Martinez, which Occurred on November 18, 2014 at 1431 Hours

**CASE:** Riverside Police Department File #P14-175586, CPRC #14-036

**LOCATION:** 10479 Keller Avenue, Riverside

On December 29, 2015, I was asked by Frank Hauptmann, Manager of the Community Police Review Commission, to review the circumstances surrounding the officer involved shooting death of Vicente Martinez by members of the Riverside Police Department. I was also asked to provide my expert opinion in a written report on the manner in which the case was investigated by the Riverside Police Department. I received several hundred pages of police reports, photographs, audio recordings, and other documents contained in the presentation by Riverside Police Department to the Riverside Community Police Review Commission. I also reviewed legal issues, as well as officer involved shooting research conducted by Dr. Bill Lewinski of the Force Science Research Center.

It is my conclusion that Officer Marco Ortiz acted in lawful self defense and in defense of his partner, Officer Jeffrey Adcox at the time he fired his semi-automatic pistol. See Conclusion Section.

The following analysis is based on reports prepared by the Riverside Police Department, statements from Officers Ortiz and Adcox, as well as witness officers who provided statements. It should be noted that no civilians witnessed the actual shooting



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which was not surprising because the actual incident occurred in a back yard after a foot pursuit. See photo below:



## FACTUAL ANALYSIS

On November 18, 2014, Officers Marco Ortiz and Jeffrey Adcox were in their office, which houses the Post Release And Accountability and Compliance Team (PACT). This team is a multi-department task force that conducts compliance checks of persons



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on parole, probation, mandatory supervision, supervised release, and post release community supervision.

Narcotics Detective Eric Detmer entered the PACT office and stated that he had received information from a citizen informant that Vicente Martinez was selling and using methamphetamine and was in possession of a handgun. Detective Detmer asked for the assistance of the PACT team in surveilling Mr. Martinez and provided them with a photograph of Mr. Martinez, as well as information on his vehicle and criminal background.

Undercover narcotics officers drove to Mr. Martinez' residence at 5433 Bushnell Ave., Riverside, and observed his vehicle, a 2014 Nissan pickup truck to not be at the location. As the narcotics detectives set up a surveillance on Mr. Martinez' house, PACT team members responded to the area to assist detectives as needed. It was determined that if a traffic stop was warranted, Officers Ortiz and Adcox would be the primary unit and Officers Daniel Mercadefe and Christina Arangure would be their backup. It should be noted that all of the officers were driving unmarked police vehicles with a push bar in front, spotlights, and red light to the front. All officers were dressed in a Riverside Police Department uniform with police shoulder patches, police badge, body armor, and web gear. As Officers Ortiz and Adcox drove around the area, they observed Mr. Martinez as he was failing to come to a complete stop at the 4 way stop sign at Keller Ave. and Jones Ave., a violation of Section 22450 (a) of the California Vehicle Code.

Officer Ortiz drove behind Mr. Martinez and activated his vehicles forward facing red light. When Mr. Martinez failed to yield, Officer Ortiz activated his siren and Mr. Martinez continued to drive, pointing his finger out his driver's window. Officers Mercadefe and Arangure pulled their vehicle behind Officers Ortiz and Adcox and, they too, activated their forward facing red light and siren.

Mr. Martinez continued to drive in what officers would later describe as a low speed pursuit. He continued a few blocks to his residence, which was at the end of a long driveway behind another house.



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As Mr. Martinez turned into his long driveway, he rapidly accelerated to the end and stopped with the 2 unmarked police vehicles behind him. See attached photos below:



P14175586SMD: EBI56696



P14175586SMD: EBI56697

Mr. Martinez immediately exited his vehicle and faced the officers with his hands raised. He was ordered to get down on the ground but instead he began to walk backwards away from the police. He then turned to his left and began to run through the yard, with Officers Ortiz and Adcox chasing him on foot.

Mr. Martinez ran to a chain link fence, which separated his residence and the back yard of 10479 Keller Ave. See attached photos below:



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P14175586SMD: EBI56712



P14175586SMD: EBI56713

As he began to climb the fence, Mr. Martinez fell into the back yard of the Keller Ave. address. Officers Ortiz and Adcox ran up to the fence and ordered Mr. Martinez to remain on the ground. Instead, he got up and continued running towards the Keller Ave. residence.

Officers Ortiz and Adcox holstered their pistols and jumped the fence, continuing the chase. After running about fifty feet, Officer Ortiz observed Mr. Martinez turn towards the officers, holding a black semi-automatic handgun in his right hand and point the weapon at them. Officer Ortiz drew his pistol and fired eight shots, striking Mr. Martinez



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and causing him to fall to the ground. Officers Mercadefe and Arangure arrived on scene and first aid was applied to Mr. Martinez until paramedics arrived. He was declared dead by Riverside Fire Department personnel.

The firearm in the possession of Mr. Martinez was found about thirty-four feet from him. The handgun was loaded with eleven bullets in the magazine and no bullet in the chamber. The weapon was discovered to have been stolen from a residence in Murrieta in 2011. See attached photos below:



P14175586SMD: EBI56730



P14175586SMD: EBI56731

## EXPERT QUALIFICATIONS

I was employed as a peace officer for the Los Angeles Sheriff's Department for 34 years. I worked as a jail deputy, 18 months as a patrol officer, and four years assigned to the Special Enforcement Bureau (SWAT team). My last 27 years on the department, I was assigned to the Detective Division, including over 22 years assigned to the



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Homicide Bureau. I investigated over 450 homicides and suspicious deaths and over 100 Officer Involved Shootings, including the murders of ten police officers.

In 1994, I assisted in writing the LASD Homicide Bureau Investigative Manual. I was also selected to be a member of the Joint LASD/LAPD Crime Lab Development Committee as well as the JET Committee to develop Homicide Bureau job standards and selection criteria. In 1995, I was selected as California's Deputy Sheriff of the Year by the California Organization of Police and Sheriffs (COPS) for the investigation, arrest, and conviction of a suspect in the murders of two local policemen.

For over 15 years, I have taught "High Profile Murder Investigations", "Homicide Scene Management", and Officer Involved Shooting Investigations" for the Robert Presley Institute of Criminal Investigation, police academies, advanced training classes, supervisor training, college classes, Homicide School, and in-service training. I am currently on staff with the Police Policy Studies Council where I teach and consult nationally on officer involved shooting, homicide, and suspicious death investigations. I am currently the investigator for the Riverside Police Review Commission. Although I retired from LASD in 2002, I was immediately signed to a contract to train newly assigned homicide detectives. In 2006, I was also assigned to the LASD Cold Case team where I have reviewed over one thousand unsolved murders and specifically work the unsolved DNA and latent print cases.

## **INVESTIGATION AND REVIEW**

The investigation into the officer involved shooting death of Vicente Martinez was conducted by the Riverside Police Department and the Riverside County District Attorney's Office. I reviewed all the reports and photographs submitted to the Community Police Review Commission and researched deadly force legal issues, as well as studies completed by the Force Science Research Center. The District Attorney found there was no criminal liability.



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## LEGAL ANALYSIS

California law provides that the use of deadly force in self defense and defense of another if it reasonably appears to the person claiming the right to use such force that he actually and reasonably believed that he or another person was in imminent danger of great bodily injury or death. People v. Williams (1977) 75 Cal App. 3<sup>rd</sup> 731

The use of deadly force in self defense or in defense of others is justifiable if the person claiming the right of self defense actually and reasonable believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger, and (3) that he used no more force than was reasonably necessary to defend against that danger. CALCRIM No. 505

In protecting himself or another, a person may use all force, which he believes reasonably necessary which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury, which appears to be imminent. CALCRIM No. 3470

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety. People v. Collins (1961) 89 Cal. App. 2d 575, 589.

## CONCLUSION

The review of reports and the evidence examined in this case reveals that Vicente Martinez was apparently involved in the use and transportation of illegal drugs, while armed with a stolen handgun. Narcotics Detective Eric Detmer received information from a citizen informant that Mr. Martinez was “using a lot of speed” and was selling narcotics “while armed with a gun in his right front pants pocket”.

Detective Detmer made a tactical decision to ask for assistance of the PACT Team, a squad of officers experienced in dealing with persons on parole or supervised probation.



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All of Mr. Martinez' criminal past was redacted. In fact, in Tab 3, the initial report written by Detective Dave Smith, I noted that one of the charges listed was 29800 (a) (1) P.C., felon in possession of a firearm.

When officers responded to the area of Mr. Martinez' residence, Officers Ortiz and Adcox observed Mr. Martinez fail to come to a complete stop at a four way stop sign, in violation of the California Vehicle Code. Officer Ortiz activated his vehicle's forward facing red light and saw Mr. Martinez looking at him in his side view mirror and stick his arm out his open window and point ahead, indicating he was looking for a safe place to pull over. Officer Ortiz activated his siren but there was no attempt to stop the "slow speed pursuit".

Mr. Martinez accelerated to the end of his long drive way, got out of his vehicle and placed his hands in the air, indicating he was aware the police were following him. Ignoring commands to "get on the ground", Mr. Martinez ran from officers, "diving" over a chain link fence and again ignored commands to "stay on the ground". Mr. Martinez continued to run towards the residence at 10479 Keller Ave. when he suddenly turned towards the officers, holding a semi-automatic handgun in his right hand. Officer Ortiz said that Mr. Martinez tripped and appeared to be confused having two different targets presented to him. Before Mr. Martinez could decide which officer to engage, Officer Ortiz drew his weapon and fired, knocking Mr. Martinez to the ground. Officer Ortiz would later say that he was briefed that Mr. Martinez "was a convicted felon with a violent history" and the weapon looked like "a giant black handgun".

He also said that as Mr. Martinez was falling, his body was turning away and he was still holding the gun in his hand. As Officer Ortiz approached the wounded Mr. Martinez, he saw the handgun on the ground, some distance away and "I'm assuming that when he fell, that the gun went flying out of his hand, or as he was turning, the gun went flying out of his hand".

Officer Ortiz said that because of his prior briefing about Mr. Martinez, "I assumed he had a gun". When asked if he could see Mr. Martinez actually pulling the trigger on his



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handgun, Officer Ortiz answered, "I didn't notice that, I just saw a big black handgun. I believe this guy was going to shoot at me or my partner and I was doing it to protect my life and his." When asked why he stopped shooting, Officer Ortiz said, "Because the threat had stopped".

Officer Jeffrey Adcox would later tell detectives that after Mr. Martinez jumped over the chain link fence, his view was partially obscured by trees or bushes but suddenly saw Mr. Martinez standing near the front of a garage type structure. Mr. Martinez was pointing a black semi-automatic handgun at him. Before he could draw his own weapon, he heard seven to eight gunshots from Officer Ortiz' position. He saw several bullets impact Mr. Martinez as well as impacts in the dirt near where Mr. Martinez fell on his stomach, left hand pinned under his body and right arm outstretched near his head. Officer Adcox said "I saw the suspect with a gun when he went down, when he fell I don't know where the gun went. I think Tony said he tossed the gun or the gun flew out of his hands. I can't really remember." He also said if his partner hadn't shot Mr. Martinez, one of the officers could have ended up being shot.

Detectives also interviewed Mr. Martinez' wife, Tamara Luna. She said that she has known Mr. Martinez since she was 15 years old and they have a 17-year-old daughter together. She said Mr. Martinez was not good to her and they were apart for several years while he was in prison. She acknowledged that Mr. Martinez was a La Sierra Brown Knights gang member with all the prerequisite tattoos. She said when Mr. Martinez got out of prison he seemed to have changed. They began living together about 1 ½ years ago and got married about 6 months ago. About 2 weeks before they were married, she caught him using "speed". She continued finding drugs, glass pipes, and plastic Baggies. She has seen him with golf ball size amounts of drugs in Baggies. Lately Mr. Martinez has been leaving for days without telling her of his whereabouts. A couple of weeks ago, Mr. Martinez showed her a black semi-automatic handgun he said he was carrying.

The day of the shooting she left the house about 1215 to pick up her daughter. Mr. Martinez was asleep on the couch and she could see the outline of a handgun in his right front pants pocket. She picked up her daughter and was taking her to the doctor.



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She received a telephone call from Mr. Martinez at 1429 and they talked for 2 minutes and 3 seconds. The call ended when Mr. Martinez advised her he was about to get stopped and he hung up on her. She was driving on Arlington Ave. and saw a police car driving fast with its emergency lights on and thought they were going after Mr. Martinez.

I reviewed the autopsy protocol and learned that Mr. Martinez was struck 5 times out of the eight shots fired. The strikes were:

1. Gunshot wound to left hip, front to back, left to right, and up
2. Gunshot wound to left hip, left to right, slightly back to front, and up
3. Gunshot wound to medial back, left to right, back to front, and up
4. Gunshot wound to lateral back, left to right, back to front, and up
5. Gunshot wound to right upper arm, back to front, and down

It should not go unnoticed that the toxicology report indicated that marijuana, amphetamine, and methamphetamine were detected in Mr. Martinez' body. Also at the time of autopsy a Baggie containing 15 grams of methamphetamine was recovered in his right, front pants pocket.

My training and experience suggests that the first bullet to strike Mr. Martinez was gunshot wound #1, which would cause a dynamic rotation of his body as he was falling to the ground. The remaining bullet strikes were back to front while falling. This dynamic rotation could also account for Mr. Martinez' weapon being recovered thirty-four feet from his outstretched hand.

An interesting side note is that a latent fingerprint was recovered from Mr. Martinez' handgun. This fingerprint did not belong to Mr. Martinez or any police officers at the scene. A check with Automated Fingerprint Identification System (AFIS) was unsuccessful.

I find that this officer involved shooting was in lawful self defense and the investigation into the shooting death of Vicente Martinez was completed in a fair and impartial manner and met or exceeded POST standards of practice.



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# Section D

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RPD Policy 4.8  
(Rev. 5, 10/8/08)

Investigations of  
Officer-Involved Shootings  
& Incidents Where Death  
or Serious Likelihood of  
Death Results





Effective Date: 10/84  
Revision 1 Date: 10/06/97  
Revision 2 Date: 01/30/02  
Revision 3 Date: 04/05/02  
Revision 4 Date: 05/09/05  
Revision 5 Date: 10/20/08  
Revision 6 Date: 05/26/11  
Approval:

  
Sergio G. Diaz  
Chief of Police

**4.8 INVESTIGATIONS OF OFFICER INVOLVED SHOOTINGS AND INCIDENTS WHERE DEATH OR SERIOUS LIKELIHOOD OF DEATH RESULTS:**

**A. POLICY:**

The following procedures shall be followed when a member of this Department, whether on or off duty, or any member of any law enforcement agency, uses, or attempts to use, deadly force through the intentional or accidental use of a firearm or any other instrument in the performance of his/her duties or is otherwise involved as a principal in an incident where death or serious likelihood of death results. A member is considered a principal for the purposes of this policy if he/she participates in and/or is otherwise physically involved in the incident. Such incidents include, but are not limited to:

1. Intentional and accidental shootings;
2. Intentional and accidental use of any other deadly or dangerous weapon;
3. Attempts to affect an arrest or otherwise gain physical control over a person for a law enforcement purpose; and,
4. Deaths of persons while in police custody or under police control following a use of force.

**B. PROCEDURES:**

1. Whenever an employee of this Department uses, or attempts to use, deadly force through the intentional or accidental use of a firearm or any other instrument in the performance of his/her duties, or is otherwise involved in an incident where death or serious likelihood of death results as defined above, he/she shall immediately notify his/her supervising officer.
2. The supervisor shall notify the Watch Commander without unreasonable delay.
3. The Watch Commander shall notify the on-call Centralized Investigations Sergeant. The on-call Centralized Investigations Sergeant shall notify the Centralized Investigations Lieutenant (or Captain in his/her absence). The Centralized Investigations Lieutenant will determine if a response by the Officer Involved Shooting Team (OIS Team) is necessary. If so, the Centralized Investigations Lieutenant will notify the Robbery/Homicide Sergeant who will respond the OIS Team.
4. If an employee discharges a firearm, or uses other deadly force, or is otherwise involved in an incident where death or serious likelihood of death results outside the Riverside City limits, the employee shall immediately notify the local law enforcement agency having jurisdiction where the incident occurred. As soon as

possible, the employee shall notify the Riverside Police Department Watch Commander. The Watch Commander will notify the on-call Centralized Investigations Sergeant and other personnel as designated in this policy. The on-call Centralized Investigations Sergeant shall make the notification as above in B3. If the incident occurs within Riverside County, the use of deadly force shall be investigated pursuant to the Riverside County Law Enforcement Administrator's protocol. In those cases outside the City of Riverside, the involved employee shall notify the Riverside Police Department Watch Commander as soon as possible and a written memorandum shall be filed with the Watch Commander without delay.

### **C. ROLES AND RESPONSIBILITIES**

Personnel responding to an officer involved shooting or other deadly use of force incident or officer involved incident where death or serious likelihood of death results should recognize and adhere to the roles and responsibilities as listed below.

#### **1. Roles:**

- a.** The Centralized Investigations Bureau will focus on all criminal aspects of the incident.
- b.** The Riverside County District Attorney may be present to oversee the focus on all criminal aspects of the investigation and may conduct a parallel investigation.
- c.** The Riverside Police Office of Internal Affairs may be present to review training, procedural, and policy matters connected with the incident.
- d.** The Riverside City Attorney may respond to the scene to review the case with regard to any potential civil liability to the City of Riverside and its officers.
- e.** Peer Support Officers shall be called to provide employee(s) support and assistance in understanding the investigative process and to attend to the officer(s)' personal needs. The Watch Commander or Centralized Investigations Lieutenant will determine the appropriate time and place for peer support to respond. Although confidentiality within the Peer Support Program is provided under the Evidence Code, and the Riverside Police Department will not require Peer Support Officers to reveal confidential conversations with involved employees, Peer Support Officers are cautioned that a court may determine no privilege exists regarding immunity or communication between the Peer Support Counselor and the involved employee(s).
- f.** Psychological Services shall be called to assist the employee(s) involved with information on coping with psychological changes which can occur as a result of being involved in a critical incident. A licensed mental health professional afforded psychotherapist-patient privilege under the Evidence Code shall interview the officers involved. The Watch Commander or Centralized Investigations Lieutenant will determine the appropriate time and place for post-incident psychological counseling.

Involved employees may decline to discuss the specific facts of the critical incident with the psychological counselor.

- g.** The Press Information Officer shall be summoned to the scene if necessary to act as a single source of information to the news media. The Investigations Lieutenant or his/her designee will brief the PIO as to information deemed appropriate for release. The PIO shall provide regular updates and a written press release to the news media when appropriate.
- h.** The Riverside Police Officers Association (RPOA) shall be notified of the critical incident whenever the ensuing investigation is handled by this department and the incident involves a member of the RPOA. In such cases, notification will be made by the Centralized Investigations Sergeant at the following RPOA telephone number: (951) 403-4657. Representative(s) of the RPOA will be permitted access to the involved officers at the scene and at the Centralized Investigations Bureau. RPOA will designate which representative(s) will respond. RPOA Representatives on duty shall be relieved of further duty with pay unless they are witnesses to or directly involved in the critical incident. RPOA Representatives will not unreasonably be denied access to the officers they are representing. No report will be required of RPOA Representatives. While the Police Department will not require RPOA Representatives to reveal communications with member officers they are representing, a court may determine that no privilege exists in criminal matters. Accordingly, officers are encouraged to obtain legal representation.

**2. Responsibilities:**

**a. Involved/Witnessing Employee Shall:**

- 1.** Provide care for all injured persons.
- 2.** Request supervision and suitable assistance.
- 3.** Secure the scene of the incident and protect it from alteration and contamination.
- 4.** Apprehend offenders.
- 5.** Brief the responding supervisor, providing a public safety statement to assist in identifying and/or locating the suspect, number of rounds fired, trajectory of rounds fired, information necessary to protect the crime scene, or information to protect the public and other officers from continuing harm of a fleeing suspect.
- 6.** Ensure witnesses and/or other involved persons (including police personnel) do not discuss the incident prior to being interviewed by the OIS Team.

7. Prepare an accurate and complete police report of the incident and have it approved by a supervisor. The report may be prepared by the involved employee(s) by dictating the report for transcription, furnishing a complete and accurate statement to police investigators, or by submitting a complete and accurate written report. Such report should be prepared as soon as possible after the incident unless the employee is injured or emotionally unable to promptly make a police report. The Investigations Lieutenant will determine when the report will be prepared or the employee interviewed. When making their reports, involved officers shall not be considered as having waived their rights under the Public Safety Officers Procedural Bill of Rights Act, the federal and California Constitutions, and other relevant statutory protections.
8. Unless approval is granted by the Chief of Police or his/her designee, the involved employee(s) shall not talk to the news media or anyone else regarding the incident or investigation until the entire criminal investigation is completed. Exceptions are: the interviewing detective and/or supervision from the OIS Team, legal representatives, RPOA representative, Peer Counselor, a member of the clergy, or a psychological services provider.
9. Involved employee(s) will provide a blood sample, when in accordance with law, when administratively compelled, or when in compliance with the department's alcohol and drug testing policy.

**b. Field Supervision Shall:**

1. Provide medical aid to any injured parties.
2. Take immediate charge of the scene. Establish a crime scene perimeter with a single point of entry and exit. Assign an officer to restrict access only to necessary police and/or medical personnel and to maintain a log of persons entering and exiting the crime scene.
3. Ensure preservation of the scene for investigators. Supervise Field Operations personnel and ensure they carry out assigned duties.
4. Make immediate inquiry into issues of public safety and scene security, i.e., including number of rounds fired, trajectories of rounds after discharge, and the description, location, or direction of travel of any outstanding suspects. No further questions will be asked of the involved employee(s).
5. Ensure that no items of evidence are handled or moved unless contamination or loss of evidence is imminent. If contamination or loss of evidence is likely, notation (or preferably a photograph) must be made of its location and condition before it is moved. Photographs will only be taken upon the express direction of a member of the shooting team or the Field Supervisor.

6. Assign an officer to accompany any injured persons to the hospital to:
  - a. Recover and secure any item of physical evidence.
  - b. Place suspect in custody if appropriate.
  - c. Record any spontaneous or other unsolicited statements.
  - d. Record information regarding medical condition and personnel treating the injured person.
7. Notify the Watch Commander.
8. Establish an appropriate command post.
9. Ensure that the weapons used are not handled by anyone at the scene. Safety should be paramount. Weapons in possession of the involved employee(s) should be left with the employee(s) until requested by the OIS Team.
10. Transportation of the involved employee(s) from the scene to the Investigations station shall be arranged using uninvolved, on-duty personnel or peer counselors.
11. Assign an on-duty, non-involved officer to accompany the involved and/or witness employee(s) to the station to ensure that they are not allowed to discuss the incident with other officers or employees. Involved officer(s) shall be sequestered until such time as they meet with the assigned detectives and/or supervisors assigned to the OIS Team for the purposes of providing an interview. Exceptions are: legal representatives, RPOA representative, Peer Counselor, a member of the clergy, or a psychological services provider.
12. All witnesses should be located and documented, including hostile witnesses.
13. Ensure that each employee present, excluding those directly involved in the incident, peer officers and RPOA representatives, completes a supplemental report before the end of shift. The report should include the employee's name, identification number, unit number, and specific actions at the scene. The completed report is to be submitted directly to the Officer Involved Shooting Team Supervisor.
14. Brief the responding OIS Team.
15. Notify the Press Information Officer if necessary. Provide an initial press release to the news media present if necessary. The information released shall be brief and generalized with absolutely no names released or confirmed. The PIO shall also prepare a written press release covering the same information previously

released. Any subsequent media contact shall be the responsibility of the PIO or Investigations Lieutenant or his/her designee.

**c. Watch Commander Shall:**

1. Notify the Centralized Investigations on-call Sergeant.
2. Notify the employee's Division Commander.
3. Notify the Deputy Chief of Operations
4. Notify on-call Peer Support personnel and RPOA representative, and coordinate the response of the Psychological Services provider with the Centralized Investigations Lieutenant.
5. Ensure the presence of sufficient personnel to control the scene and to allow adequate police services for the remainder of the city.
6. Maintain or cause to be maintained an accurate account of police personnel involved in the incident and any employee(s) called to assist in providing basic police services.
7. Unless directed otherwise, conduct a debriefing of the incident and prepare the after action report as required by Riverside Police Department Manual of Policy and Procedures Section 4.58, Debriefing of Critical Incidents.
8. Ensure that the necessary reports are completed in compliance with Riverside Police Department Manual of Policy and Procedures Section 4.30, Use of Force.

**d. Centralized Investigations Lieutenant Shall:**

1. Notify and assign Robbery/Homicide Sergeant(s) to the investigation.
2. Notify the Investigations Division Commander of the investigation.
3. Notify the City Attorney.
4. Notify the Internal Affairs Lieutenant or appropriate Internal Affairs Sergeant in his/her absence.
5. Respond to the scene to assume command of the investigation and serve as liaison with Area Commanders, Division Commanders, Office of Internal Affairs, City Attorney, and the District Attorney's Office.
6. Provide the Press Information Officer with updated information that can be released to the media. In the absence of the PIO, the Investigations Lieutenant or his/her designee shall be the single

release point for all press information and be responsible for preparing and distributing the written press release.

7. Ensure that public information concerning the findings and conclusions of the criminal investigation are not disclosed until the involved employee(s) have been first notified.
8. Schedule a debriefing at the conclusion of the initial investigation to ensure all aspects have been covered and to discuss considerations for improvement.
9. Submit the completed investigation to the District Attorney's Office and attend the DA staffing of the investigation with the OIS Sergeant and the case agent.
10. Ensure that the involved employee(s) meets with the Psychological Services provider.
11. Ensure that the OIS Team, including supervisors, complies with this Policy and that involved officers are afforded their procedural rights under the Public Safety Officers Procedural Bill of Rights and related laws.

**e. Officer Involved Shooting Team Shall:**

1. Conduct a thorough and accurate criminal investigation of the incident, including:
  - a. Documenting, photographing, and collecting all evidence at the scene. Photographs taken after the arrival of the shooting team will be at their direction only.
  - b. Interviewing all victims, witnesses, suspects, or other involved persons. All interviews will be tape recorded unless impractical or the circumstances prevent it.
  - c. Advise the involved employee(s) of their Constitutional rights if there is a possibility of a criminal violation on the part of the employee(s) and when it is anticipated the case will be submitted to the District Attorney's Office for filing. Rights advisals are not required for employees who are solely witnesses and criminal prosecution will not occur.
  - d. If the involved employee(s) is advised of his/her Constitutional rights prior to writing or dictating a report or being questioned, and the employee declines to waive those rights, no further questioning will occur.
  - e. Advise the involved or witness employee(s) that they may consult with a department representative or attorney prior to the interview taking place, and this department representative or attorney may be present during the interview.

- f.** No administratively compelled statement(s) will be provided to any criminal investigators.
- g.** Involved employee(s) may be ordered to provide samples of blood when objective symptoms consistent with the use of alcohol, a drug or narcotic are exhibited by the involved employee(s), or when reasonable suspicion exists to believe an employee(s) is under the influence of alcohol, a drug or narcotic. All blood samples will be retained by the Riverside Police Department. All blood results will be sent directly to the Centralized Investigations Sergeant overseeing the OIS Team. Blood results will then be forwarded to the OIS case agent.
- h.** Interviews or questioning of involved officers shall whenever possible take place in an office or room not regularly used to interview suspects or civilian witnesses. Officers shall not be interviewed in a suspect interview room or a room equipped to remotely monitor (audio and/or video) interviews. Injured officers shall not be interviewed at a hospital or medical care center unless circumstances require an emergency interview before the officer is released.
- i.** Notify and consult with the Deputy District Attorney concerning legal issues connected to the investigation.
- j.** Ensure all reports have been written and submitted in a timely manner.
- k.** Take custody of involved employee's weapon(s) for submission to DOJ and range inspection.
- l.** Ensure involved employee(s) have replacement weapons.
- m.** The Officer Involved Shooting Team Sergeant will complete a synopsis of the incident, forwarding a copy to the affected Division Commander and Chief of Police within twenty-four hours of the incident.
- n.** Ensure the investigation is completed in a timely manner and submitted to the Centralized Investigations Lieutenant for review.
- o.** Attend the District Attorney's Office staffing of the investigation with the OIS Sergeant and Centralized Investigations Lieutenant. Staffing to be arranged by the Lieutenant.
- p.** The OIS case agent and investigations supervisor will be responsible for the collection of all police reports and related documents. These documents will remain under



their control until the investigation concludes and is submitted to the Centralized Investigations Lieutenant.

q. Prior to the conclusion of the investigation, police reports, photographs, and other related documents will be released only with the approval of the Centralized Investigations Lieutenant.

2. No employee shall ever threaten, coerce, intimidate, or harass an involved officer or his representative for: 1) exercising their rights under this Policy, the Public Safety Officers Procedural Bill of Rights Act, and any other protections afforded peace officers under the law; or 2) choosing to write or dictate a report rather than being interviewed. Violations of such rights or failing to comply with or afford the officer his rights and elections under this Policy shall be grounds for disciplinary action.

f. **Internal Affairs Shall:**

1. The Internal Affairs Lieutenant shall be responsible for conducting an independent administrative investigation.

2. Inform the Chief of Police or his/her designee with regard to the information obtained in the course of their investigation.

3. All Internal Affairs Investigations shall be separate from the investigation conducted by the Officer Involved Shooting Team. Information obtained from the Officer Involved Shooting Team will be used to aid the Internal Affairs investigation. No information obtained from a compelled interview will be disclosed to the Officer Involved Shooting Team.

4. Interviews with witnesses, suspect(s) or involved employee(s) will not be conducted until after they have been interviewed by the Officer Involved Shooting Team, or a determination made that the officer will not be interviewed, or the officer declines to make a voluntary statement.

g. **Public Information Officer and Press Releases:**

1. Refer to the Riverside Police Department Policy and Procedures Manual Section 5.4, News Release and Media Relations and Access Policy.

D. **RELIEF FROM DUTY**

1. In the best interest of the community, the Department and the involved employee(s), the employee(s) shall, as soon as practical, be relieved from active duty by the Watch or Division Commander. The involved employee(s) may be placed on paid Administrative Leave status for a minimum of one day, during which time he/she shall be provided full salary and benefits. The involved employee(s) shall not be returned to full duty until such time as the Personnel Services Bureau has received a "clearance for return to full duty" from the

department's contracted psychological services provider. Once the clearance notification is received, the Personnel Services Bureau Lieutenant shall communicate this information to the Bureau Commander overseeing the employee's bureau or assignment.

- 2.** At the discretion of the Chief of Police or his/her designee, those employees who witnessed the traumatic incident or otherwise assisted the involved employee(s) may also be placed on paid Administrative Leave status as described above.

# Section E

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RPD Policy 4.30  
(Rev. 9, 4/5/11)

Use of Force Policy



Effective Date: 8/93  
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Revision 9 Date: 04/08/11  
Approval:

  
Sergio G. Diaz  
Chief of Police

#### **4.30 USE OF FORCE POLICY:**

##### **A. PURPOSE:**

The purpose of this policy is to provide officers of this department with guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, each officer is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

##### **B. PHILOSOPHY:**

The use of force by law enforcement personnel is a matter of critical concern both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters and when warranted, may use force that is objectively reasonable to defend themselves; defend others; effect an arrest or detention; prevent escape; or, overcome resistance in order to carry out their duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. It is also understood that vesting officers with the authority to use objectively reasonable force to protect the public welfare requires a careful balance of all interests.

##### **C. SERIOUS BODILY INJURY:**

For the purposes of this policy, the definition for serious bodily injury shall coincide with California Penal Code Section 243(f)(4) as including, but not limited to: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and, serious disfigurement.

##### **D. POLICY:**

It is the policy of this Department that officers shall use only that amount of force that is objectively reasonable, given the facts and circumstances perceived by the officer at the time of the event to defend themselves; defend others; effect an arrest or detention; prevent escape; or, overcome resistance. Objective reasonableness must be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any interpretation of reasonableness must allow for the fact that police officers are often forced to make split-second decisions about the amount of force that is necessary in a particular situation in circumstances that are tense, uncertain and rapidly evolving (Tennessee v. Garner, 471 U.S. 1 (1985); Graham v. Connor, 490 U.S. 386, 397 (1989); and, Scott v. Harris, 550 U.S. 372 (2007).

Given that no policy can realistically predict every possible situation an officer might encounter in the field, it is recognized that each officer must be entrusted with well-reasoned discretion in determining the appropriate use of force in each incident. While it is the ultimate objective of every law enforcement encounter to minimize injury to everyone involved,

nothing in this policy requires an officer to sustain or risk physical injury before applying reasonable force.

It is recognized that officers are expected to make split-second decisions and that the amount of time an officer has available to evaluate and respond to changing circumstances may impact his/her decision. While various degrees of force exist, each officer is expected to use only that degree of force reasonable under the circumstances to successfully accomplish the legitimate law enforcement purpose in accordance with this policy.

Circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the standard tools, weapons or methods provided by the Department. Officers may find it more effective or practical to improvise their response to rapidly unfolding conditions they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree reasonably necessary to accomplish a legitimate law enforcement purpose.

**E. FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE:**

When determining whether or not to apply force and/or evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration. These factors include, but are not limited to:

1. The conduct of the individual being confronted (as reasonably perceived by the officer at the time).
2. Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion and number of officers vs. subjects).
3. Influence of drugs/alcohol (mental capacity).
4. Proximity of weapons.
5. The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.
6. Time and circumstances permitting, the availability of other options (what resources are reasonably available to the officer under the circumstances).
7. Seriousness of the suspected offense or reason for contact with the individual.
8. Training and experience of the officer.
9. Potential for injury to citizens, officers and suspects.
10. Risk of escape.
11. Other exigent circumstances.

**F. USE OF FORCE TO EFFECT AN ARREST:**

Any peace officer that 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. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape

or to overcome resistance (California Penal Code § 835a).

**G. COMPLIANCE TECHNIQUES:**

Compliance techniques may be very effective in controlling a passive or an actively resisting individual. Officers should only apply those compliance techniques for which they reasonably believe the use of such a technique appears necessary to further a legitimate law enforcement purpose. The application of any compliance technique shall be discontinued once the officer determines that compliance has been achieved.

**H. LESS LETHAL FORCE:**

Each officer is provided with equipment, training and skills to assist in the apprehension and control of suspects as well as protection of officers and the public. To do this, non-deadly force applications should be considered by officers. These may include, but are not limited to, chemical irritants, electronic control devices, less lethal munitions, and canine deployment as described in the Riverside Police Department Policy Manual §§ 3.23, 4.43, 4.49, and 8.1 respectively.

**I. CAROTID RESTRAINT:**

Only officers who have successfully completed Department approved training on the use of the carotid restraint hold and the Department Use of Force Policy are authorized to use this technique. After initial training, officers shall complete periodic training on the use of the carotid restraint hold as prescribed by the Training Unit. Newly hired police officers are restricted from the use of this technique until successfully completing this training.

After the application of any carotid restraint hold, the officer shall ensure the following steps occur:

1. Any individual who has had the carotid restraint hold applied, regardless of whether he/she was rendered unconscious, shall be promptly examined by paramedics or other qualified medical personnel.
2. The officer shall inform any person receiving custody of, or any person placed in a position of providing care for, that the individual has been subjected to the carotid restraint hold and whether the subject lost consciousness as a result.
3. Any officer applying the carotid restraint shall promptly notify a supervisor of the use or attempted use of such a hold.
4. The use or attempted use of the carotid restraint shall be thoroughly documented by the officer in the related criminal report.

**J. DEADLY FORCE:**

Officers are authorized the use of deadly force to: protect themselves or others from an immediate threat of death or serious bodily injury; or prevent a crime where the suspect's actions place persons in jeopardy of death or serious bodily injury; or, to apprehend a fleeing felon for a crime involving serious bodily injury or the use of deadly force where there is a substantial risk that the person whose arrest is sought will cause death or serious bodily injury to others if apprehension is delayed. Officers shall, to the extent practical, avoid using deadly force that might subject innocent bystanders or hostages to possible death or injury.

1. Drawing or exhibiting Firearm: Officers shall only draw or exhibit a firearm when there is a reasonable likelihood of danger to the officer or other persons.

2. Discharge of Firearm: In addition to life-threatening situations as described, officers may discharge a firearm or use any other type of deadly force in the performance of their duties, under the following circumstances:
  - a. To kill a dangerous animal that is attacking the officer or another person(s), or which if allowed to escape, presents a danger to the public.
  - b. When humanity requires the destruction of an animal to save it from further suffering, and other disposition is not possible.
  - c. To give an alarm or call assistance for an important purpose when no other means are available.
  - d. Generally, a member of the Department shall not discharge a firearm as a warning shot.
  - e. Generally, a member of the Department should not discharge a firearm at or from a moving vehicle unless in the necessary defense of human life in accordance with this policy.

**K. REPORTING USE OF FORCE INCIDENTS:**

Any use of force shall be reported to a supervisor as soon as practical if any of the following conditions exist:

1. The application of force by the officer appears to have caused physical injury to the suspect or required medical assistance.
2. The application of force by the officer included personal body weapons, a chemical irritant, electronic control device, carotid restraint, baton, or firearm.
3. The application of force by the officer appears to have rendered the suspect unconscious.

**L. EMPLOYEE RESPONSIBILITIES:**

Any member of the Department involved in reporting a use of force application shall:

1. Summon medical aid, as needed.
2. Immediately notify a supervisor.
3. Adhere to the provisions of section 4.8 of the Riverside Police Department Policy and Procedure Manual if the application of force caused serious bodily injury or death.
4. Report the full details of the application of force in the related Department criminal report.
5. If off duty, notify the on duty Watch Commander immediately.

**M. SUPERVISOR RESPONSIBILITIES:**

A supervisor shall respond to an incident in which there has been a reported application of force. The supervisor is expected to:

1. Ensure that any injured parties are examined and treated.



2. Obtain the basic facts from the involved officer(s). Absent an allegation of misconduct or excessive force, this will be considered a routine contact in the normal course of duties.
3. Ensure proper documentation of statements made by the suspect(s) upon whom force was applied under the following guidelines:
  - a. Spontaneous statements by the suspect(s) should be incorporated into the related criminal report.
  - b. Supervisors may use their discretion when deciding whether or not to interview the suspect(s) or a witness.
  - c. If a Supervisor decides to interview the suspect(s), a voluntary Miranda waiver must be obtained and the suspect(s) statement shall be included in the related criminal report.
4. Ensure that photographs have been taken of any areas involving visible injury and complaint of pain as well as overall photographs of uninjured areas.
5. Identify witnesses not already included in related criminal reports.
6. Review and/or approve all related criminal reports, video and audio recordings.
7. Complete and submit the Supervisor Administrative Review/Investigation Report and the related criminal reports within 5-days via the chain of command.

The Watch Commander, after reviewing all available information, shall make appropriate notification to the Internal Affairs Unit as soon as practical, if he or she believes an application of force has violated department policy.

In such cases, the Internal Affairs Unit shall be responsible for conducting all administrative investigations involving the application of force.