



**DAVID HERNANDEZ LEDEZMA
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

CPRC Case No. 12-002

RPD Case No. P12003517

Approved on
December 11, 2013

Table of Contents

Page

I. Preamble	1
II. Finding	1
III. Standard of Proof for Finding	1
IV. Incident Summary	2
V. CPRC Follow-Up	4
VI. Evidence	5
VII. Applicable RPD Policies	5
Other Related RPD Policies	6
VIII. Rationale for Finding	7
IX. Recommendations	8
X. Closing	9
Appendix	11

Date of Incident: January 7, 2012 at 4:10 PM

Location: 10745 Cypress Avenue, Riverside

Decedent: David Hernandez Ledezma

Involved Officers: Officer Jeff Putnam, #1450
 Officer Roman Espinosa, #1691
 Officer Paul Miranda, #1501

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”) “redacted” criminal investigation case files, and follow-up investigative report submitted by CPRC Independent Investigator, Mike Bumcrot of “Mike 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. Because 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 October 23, 2013, by a vote of 7 to 0 (2 absent), the Commission found that the officers' use of deadly force was consistent with policy (RPD Policy 4.30 – Use of Force Policy), based on the objective facts and circumstances determined through the Commission’s review and investigation.

Rotker	Hawkins	Ybarra	Taylor	Ortiz	Jackson	Roberts	Maciel	Adams
✓	✓	✓	✓	✓	✓	✓	Absent	Absent

III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof known as the “Preponderance of Evidence.” Preponderance generally means “more likely than not,” or may be considered as just the amount necessary to tip the scale. The Commission does not need to have certainty in their findings, nor do they need to support their finding “beyond a reasonable doubt.”

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

IV. Incident Summary:

(This summary is based on investigative reports, witness statements and evidence).

On Saturday, January 7, 2012, Rebecca Ledezma and her husband, David Ledezma, had attended a memorial car wash fund-raising event in the City of Riverside. While in attendance, David drank approximately twelve beers. An unidentified individual at the event, reported to be a friend of Rebecca's, informed Rebecca that David had been unfaithful with another woman. Rebecca confronted David about his apparent infidelity, once David and Rebecca departed from the car wash. As David drove their vehicle, they both engaged in a verbal argument. David escalated the argument and hit Rebecca in the face and head several times, causing her nose to bleed. Rebecca made an attempt to use her cellular telephone to summon police assistance, but David took the telephone away from her. He also engaged the power window locks to prevent Rebecca from screaming for help from the vehicle's window. David was driving fast and unsafe, as this was occurring.

When they arrived home (10745 Cypress Avenue, Riverside) David sped into the driveway, parked, and exited the vehicle. David yelled to his daughter (Yvette Ledezma), "You better talk to your mom before she thinks about calling the cops."

Another family member at the location (Yvonne Delacruz) witnessed David arrive home and described his manner of driving as "driving very fast into the driveway." Yvonne also saw Rebecca's bloody nose and disheveled appearance. Rebecca immediately asked Yvonne to call the police. As Yvonne spoke to the police dispatcher on the telephone, she heard the sound of David's voice yelling and glass breaking in the driveway.

At 1614 hours, the Riverside Police Department's Dispatch Center broadcast that a 245 PC (Assault with a Deadly Weapon) occurred at 10745 Cypress Avenue and that the reporting party was Yvonne Delacruz. At 1616 hours, additional comments were added informing responding officers that the reporting party stated that her uncle, David Ledezma, had just assaulted her aunt, Rebecca Ledezma. David Ledezma was described as a male who was currently vandalizing the aunt's vehicle. Rebecca Ledezma refused medical intervention although her nose was bleeding. At 1617 – 1619 hours, additional comments were added describing David as a Hispanic male adult, 5 foot 8 inches in height, 150 pounds, and thin build, wearing unknown type clothing and that David was currently toward the back of the residence vandalizing a vehicle. David was next described as wearing a long-sleeved blue T-shirt and blue jeans. No weapons were observed and David "had been drinking." It was unknown if he had consumed drugs.

This call was assigned to Officer Paul Miranda, who had Riverside Police Department Explorer Martin Martinez as a ride-along observer. Officers Jeff Putnam and Ramon Espinosa were assigned to “assist” on the call.

Officer Miranda and Police Explorer Martinez were the first to arrive. Officer Miranda saw David Ledezma at the far end of the driveway near a Dodge Intrepid. The vehicle’s hood was open and David appeared to be taking items out of the vehicle.

Officer Miranda contacted Rebecca Ledezma inside the residence. He observed her bloody nose and disheveled appearance. Rebecca told Officer Miranda that David had hit her in the face and head, and had pulled her hair.

Officers Putnam and Espinosa arrived on scene shortly thereafter and received a brief call synopsis from Officer Miranda before they attempted to make contact with David. All three officers and the explorer walked abreast down the driveway toward David. As they reached the midway point of the driveway, Officer Miranda called out to David, asking him to come to them. David refused and yelled, “I did not do anything.” The officers observed that David had mechanical tools in his hand, which they told him to drop. Again, David refused.

At this point, David dropped the tools, but pulled a folding blade knife from his pants pocket. He placed the blade against his neck and threatened to kill himself. All the officers issued verbal commands instructing David to immediately drop the knife. David replied, “Fuck you. Just shoot me.” The officers estimated they were less than 20 feet from David during this portion of the encounter. Officers Miranda and Espinosa both drew their firearms and Officer Putnam drew his Taser as a less-lethal alternative. The officers continued ordering David to drop his knife.

David suddenly dropped the knife, but quickly bent down and retrieved a two to three foot dark-colored metal pipe from the ground, which he hurled toward the officers with full force. (This item was later recovered and described as Evidence Item RL22 – black metal pipe). Officer Putnam immediately deployed his Taser with one dart making body contact and the second dart missing the target. This rendered the Taser ineffective. All the officers quickly moved and ducked to avoid being struck by the metal pipe. Officer Putnam discarded the Taser and drew his firearm. David quickly picked up a second piece of metal pipe from the ground. This pipe was described as two to three feet in length and white or grey in color. With the pipe raised above his head in a threatening manner, David appeared to quickly advance toward the officers. (This item was later recovered and described as Evidence Item RL22 – white metal jack handle).

Witness statements vary as to the events that took place that evening. Some only heard gunshots, while others saw the entire incident from a limited view or only saw a part of the incident. Several eye witnesses stated that Ledezma had a knife, and that he was given commands by officers to drop the knife. As the event continued, several witnesses saw

Ledezma pick up, swing and / or throw a stick or sticks at the officers, who then discharged their weapons at him. A couple of independent neighboring witnesses said Ledezma held an approximately 2' – 3' long metal pole and threw it, with full force, at the officers.

All three officers feared being hit, injured, or killed by David. The officers' position in the driveway afforded them no cover or concealment and David was rapidly closing the distance that existed between himself and the officers. All three officers fired upon David to eliminate his threat. As they fired, Officer Putnam tripped on a dirt mound as he moved toward his left. David fell to the pavement, but continued to move around. Officer Putnam continued to fire at David, because it appeared to him that David was still advancing in a threatening manner. The officer's description of the shooting was "rapid succession" and "very fast."

Explorer Martin Martinez was positioned behind the officers as the shooting occurred and his primary attention was on preventing family members and neighbors from becoming involved in the incident.

The officers made a radio broadcast of an Officer-Involved Shooting with the suspect down. They requested immediate medical aid, a supervisor, and backup units to secure hostile family members and neighbors.

Mr. Ledezma was transported to an area hospital, where he later succumbed to his injuries. The shooting scene was secured as a crime scene and an Officer-Involved Shooting Investigation was requested.

V. CPRC Follow-Up:

Mr. Mike Bumcrot, CPRC Independent Investigator, wrote an investigative report on all actions taken by him in his review of this case. A copy of the report is included in Appendix Section B. After reviewing the entire redacted criminal investigation prepared by RPD investigators, Mr. Bumcrot reported that, in his opinion as a nationally recognized homicide investigator, the RPD investigation was accurate, thorough, and included all necessary investigative follow-up that needed to be done in this case.

Mr. Bumcrot canvassed the neighborhood of the shooting in order to identify additional witnesses that were not interviewed by the RPD investigators. Mr. Bumcrot spoke to family members who provided him with an approximately 3' long piece of PVC pipe that they believe is the pipe that was thrown at the officers by David Ledezma. The family located the PVC pipe in the backyard of the Ledezma home and felt that RPD investigators had left it behind and did not collect it as potential evidence. Mr. Bumcrot took custody of the PVC pipe and immediately took it to RPD, turning it over to RPD Homicide Detective Rick Hobbs.

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of testimony, including that of several police detectives and officer witnesses, the involved officers, and a Deputy Coroner. Other evidence included police reports and photographs, all involved weapons, forensic examination results, and a report by the CPRC independent investigator.

VII. Applicable RPD Policies:

RPD POLICY 4.30 – USE OF FORCE

D. POLICY:

It is the policy of this Department that officer(s) shall use only that amount of force that is objectively reasonable, given the facts and circumstances perceived by the officer(s) at the time of the event to defend themselves; defend others; effect an arrest or detention; prevent escape; or, overcome resistance.

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(s) at the time).

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.

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.

The United States Supreme Court has ruled on one (1) 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 the Use of Force Policy of the RPD.

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.

Other Related RPD Policies:

RPD POLICY 4.23 – DOMESTIC VIOLENCE POLICY

E. PROCEDURES

1. Public Safety Dispatcher's Responsibilities:

- a. The dispatcher who receives a domestic violence call can provide the responding officers with vital information that could save the victim's and the officer's life. The dispatcher will, whenever possible, dispatch at least two officers to every incident.
- b. All calls reporting threatened, imminent or ongoing domestic violence, and the violation of any protective order, including orders issued pursuant to PC §136.2, and restraining orders, shall be ranked among the highest priority calls.
- c. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance.
- d. Dispatchers should give high priority to all domestic violence calls for assistance regardless of the existence of an order.
- e. If the reporting party reports a violation of any protective order, stay-away order, or other restraining order, the dispatcher should dispatch an officer(s) prior to verifying the validity of the order and attempt verification while the responding officer(s) is en route to the scene.
- f. In addition to information normally gathered, an effort should be made to determine and relay the following to the responding officers:
 - (1) Whether the suspect is present and, if not, the suspect's description and possible whereabouts;
 - (2) Whether weapons are involved;
 - (3) Whether the offender is under the influence of drugs or alcohol;
 - (4) Whether there are children present;

- (5) Whether the victim has a current protective or restraining order;
- (6) Complaint history at that location.

RPD POLICY 2.15 – FIREARMS

RPD POLICY 3.9 – REQUIRED EQUIPMENT TO BE CARRIED ON DUTY

RPD POLICY 3.23 – SWORN PERSONNEL – EQUIPMENT

RPD POLICY 4.43 – TASER CONTROL DEVICE

RPD POLICY 4.49 – LESS LETHAL WEAPONS SYSTEMS AND DEPLOYMENT

VIII. Rationale for Finding:

The Riverside Police Department's Policy and Procedure, USE OF FORCE POLICY: 4.30 D, April 12, 2011, states:

“It is the policy [sic] of the 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).”

California Penal Code § 835a states:

“Any peace officer who 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 efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

Mr. Ledezma was agitated and uncooperative with commands given by officers when asked to drop a variety of hand tools he was holding; when he was ordered to drop a folding knife that he retrieved from his pocket and held to his throat, demanding that

officers shoot him; and when ordered to drop an approximate 2' – 3' metal pipe and threw with full force at the officers who were standing approximately 20' away. A Taser was deployed at this point, but was ineffective due to one of the two prongs not making contact with Mr. Ledezma's person. After deployment of the Taser, Mr. Ledezma picked up a second metal pipe, approximately 2' – 3' long. He held it over his head in a threatening manner as if he was going to throw it in the same manner as the first pipe, but instead began to advance on the officers. It was at this point that the three officers fired their duty weapons at Mr. Ledezma.

The CPRC believes that, in this particular case, the three officers acted in compliance with the Riverside Police Department's Policies and Procedures, and that their use of force in this case was not only reasonable but necessary. Due to Suspect Ledezma's demeanor and actions, the officers reasonably concluded that there was a present threat to their lives. Rule 4.30 of the Riverside Police Department's Policies and Procedures regarding "Use of Force," allows use of force that "is objectively reasonable, given the facts and circumstances perceived by the officers at the time of the event to defend themselves." Based on the facts of this investigation, the CPRC concludes that Suspect Ledezma's actions preceding the shooting, and at the time of the shooting, could only reasonably be interpreted by the officers as a threat to their lives.

IX. Recommendations:

The Commission made a policy recommendation to the Chief of Police that RPD modify Policy 4.23, Domestic Violence Policy, to have dispatch personnel check, confirm, and / or broadcast relevant offender information pertaining to location history and / or the criminal history of the offender. The Commission approved this policy recommendation for submission to RPD (Appendix Section L).

The Commission also made a policy recommendation regarding the revision of RPD Policies 3.9 Required Equipment To Be Carried On Duty, 3.23 Sworn Personnel – Equipment, and 4.30 Use of Force Policy, adding language concerning officers' use of Less Lethal Weapons. This recommendation was withdrawn after the Commission learned that RPD is currently in the process of revising its policies to require all uniformed police officers to carry a Taser (Appendix Section M).

I. **Closing:**

The CPRC felt that this was an unfortunate situation for the Ledezma family and police officers that did not need to escalate to the extent that it did. David Ledezma feloniously assaulted his wife, causing injury. When police were called to the scene by family members, the officers attempted to make contact with David Ledezma in order to investigate a potential felony assault involving Domestic Violence. David Ledezma armed himself with dangerous weapons while engaged in verbal dialogue with officers.

David Ledezma was given several opportunities to cooperate with police officers and drop weapons that he had in his hands, but for some unknown reason, chose not to comply and continued to pose a physical threat to the officers and family members standing nearby. David Ledezma created the circumstances that resulted in his death. Had he cooperated with officers from the onset of the contact he had with them, this shooting would likely not have occurred.

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

APPENDIX

RPD Press Release / Press-Enterprise Articles	Section A
Mike Bumcrot Consulting Report of Investigation	Section B
Fact Sheet	Section C
RPD Policy 4.8 (Rev. 5, 10/8/08): 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
RPD Policy 2.15, (Eff. 10/84): Firearms	Section F
RPD Policy 3.9, (Rev. 3, 5/1911): Required Equipment to be Carried on Duty	Section G
RPD Policy 3.23, (Rev. 5, 4/2/09): Sworn Personnel - Equipment	Section H
RPD Policy 4.23, (Rev. 5, 2/1/06): Domestic Violence Policy	Section I
RPD Policy 4.43, (Rev. 7, 6/4/10): Taser Control Device	Section J
RPD Policy 4.49, (Rev. 3, 2/1/08): Less Lethal Weapons Systems and Deployment	Section K
Policy Recommendation: RPD Policy 4.23 Domestic Violence Policy	Section L
Policy Recommendation: RPD Policy 3.9 Required Equipment To Be Carried On Duty RPD Policy 3.23 Sworn Personnel – Equipment RPD Policy 4.30 Use of Force Policy	Section M

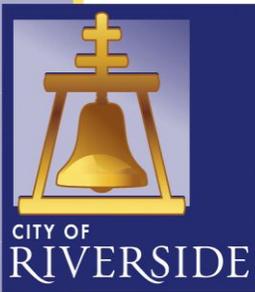
Section A

RPD Press Release

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## Press-Enterprise Articles





# ***PRESS RELEASE***

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Riverside Police Department • 4102 Orange Street • Riverside, CA 92501

## **FOR IMMEDIATE RELEASE**

**Date: Monday, January 9, 2012**  
**Contact: Sergeant David Amador**  
**Phone: 353-7107**

### **Officer Involved Shooting - Update**

Riverside, CA – On Saturday, January 7, 2012, at approximately 4:10 pm, police officers from the Riverside Police Department responded to the 10700 block of Cypress Avenue in the City of Riverside regarding a domestic violence call. This incident resulted in an officer involved shooting.

Detectives have learned that David Ledezma, 52, of Riverside, and his wife had been driving home and got into an argument. Mr. Ledezma assaulted his wife causing a bloody nose. When they got home, the wife asked family members to call the police.

When officers arrived, Mr. Ledezma, was removing what appeared to be tools out of the trunk of a vehicle and throwing them in the front yard. Family members pointed out Mr. Ledezma as the person they had called about. Several officers contacted the suspect who was uncooperative and very angry. The suspect refused to follow directions from the officers. Mr. Ledezma pulled a pocket knife out of his pants pocket, opened it and then put it against his neck and threatened to stab himself. The officers told the suspect several times to drop the knife which he eventually dropped.

Mr. Ledezma walked away from the officers and picked up a large metal pipe. He was again ordered by officers to drop the pipe but he refused. Mr. Ledezma raised the pipe over his shoulder and threw it at the officers. The officers had to move to avoid being hit with the pipe.

A less lethal TASER was deployed by one of the officers, but it was ineffective. Mr. Ledezma picked up another large metal pipe and began hitting objects in the yard with it. Mr. Ledezma was ordered to drop the pipe by the officers. He refused to drop the pipe, raised the pipe above his shoulder and moved towards the officers. Fearing for their safety, the three officers discharged their duty weapons striking Mr. Ledezma several times.

Medical aid was summoned and the suspect was treated by personnel from the Riverside Fire Department and American Medical Response (AMR). AMR transported the suspect to a local hospital where he succumbed to his injuries.

Detectives from the Centralized Investigations Bureau's Robbery/Homicide Unit and technicians from the Forensic Evidence Unit continue to investigate this incident.

Anyone with information related to this incident is asked to contact Detective Rick Cobb at (951)353-7135 or Detective Rick Wheeler at (951)353-7134.

###P12- 003517###

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# RIVERSIDE: Police shoot man during confrontation

Police are called out to a domestic incident on the city's west side and a man is shot

BY RICHARD K. DeATLEY

STAFF WRITER

[rdeatley@pe.com](mailto:rdeatley@pe.com)

- [WEBLINK RAW VIDEO: Officer-involved shooting interview](#)

Published: 07 January 2012 08:21 PM

Riverside police shot and killed a man during a confrontation Saturday afternoon that followed a domestic disturbance call on the city's west side, a police spokesman said.

The shooting in the 10700 block of Cypress Avenue happened at about 4 p.m. said Riverside police Lt. Guy Toussaint.

A person who reported the disturbance identified the suspect to officers, who then tried to contact the man. There was a confrontation between the man and officers, Toussaint said.

"During the confrontation, an officer-involved shooting occurred," he said.

He said the man was taken by ambulance to a local hospital where he was pronounced dead. He was described as a Hispanic male in his early 50s.



RICHARD K. DEATLEY/STAFF PHOTO

Riverside police investigate the scene of an officer-involved shooting Saturday at Cypress and Mitchell avenues in Riverside. The suspect died in the shooting.

Police had not released his name as of 8 p.m. Saturday.

Toussaint said an officer suffered minor injuries during the incident.

Police said they did not know whether the man had displayed a weapon, nor did they say whether a weapon had been recovered.

“All I know is that a confrontation occurred,” Toussaint said.

The block where the shooting took place was sealed off by officers as the investigation continued Saturday night.



# RIVERSIDE: Police identify man shot by officers

BY DAVID KECK

STAFF WRITER

Published: 08 January 2012 01:00 PM

Police identified a man officers shot and killed after responding to a domestic violence call on Saturday afternoon as 52-year-old David Ledezma of Riverside, according to a Riverside police news release.

Ledezma was shot after a confrontation with officers at about 4:10 p.m., the release stated. Officers from the Riverside Police Department responded to 10700 block of Cypress Avenue in Riverside regarding a domestic violence call.

The person who called police pointed out a suspect. The officers contacted the suspect and a confrontation occurred which resulted in an officer involved shooting, the release stated.

An ambulance took the man to a local hospital where he died.



# RIVERSIDE: Family calls police shooting excessive

They say police used a stun gun and fatal bullets on a 52-year-old Riverside man nearly simultaneously

BY LESLIE PARRILLA  
STAFF WRITER  
[lparrilla@pe.com](mailto:lparrilla@pe.com)

Published: 09 January 2012 07:57 PM

- [WEBLINK PE: Police identify man shot by officers \(Jan. 8, 2012\)](#)
- [WEBLINK PE: Police shoot man during confrontation \(Jan. 7, 2012\)](#)



Relatives of David Hernandez Ledezma held each other and cried Monday as they questioned why the man had to die after a domestic violence dispute at his Riverside home.

LESLIE PARRILLA/STAFF PHOTO  
Yvette Ledezma, right, and Nyessa Ron, at the site where their father and grandfather, respectively, was shot by police.

Family members said Riverside police could have used only the Taser they originally fired instead of almost simultaneously spraying fatal bullets that struck and killed Ledezma.

Police said Ledezma threw a metal pipe at officers, and that they initially Tasered him but the weapon was ineffective.

Ledezma's niece, Yvonne DeLaCruz, who was at the Riverside home in the 10700 block of Cypress Avenue, had called police around 4 p.m. Saturday to report that her uncle, 52, had hit his wife and was acting belligerent. She told police that he was in his backyard and had been drinking but was not armed.

“He was taking his tools out of the trunk of a car,” Yvette Ledezma, 33, of Riverside, said of her father. Three officers stood about 20 feet from him with their guns drawn, she and other family members said. There were about 10 relatives at the home, at least four who witnessed the shooting.

DeLaCruz said she saw her uncle put a knife to his throat, and then she turned around.

“I didn’t want to look anymore,” DeLaCruz said.

The man’s nephew, Anthony Margadonna, 22, of Riverside, had stepped out of the house when he saw police officers with guns in the backyard.

“I heard them say, ‘Drop the knife.’ ”

But when Margadonna looked, he only saw his uncle standing in front of a car hood holding onto a rod that propped the hood up.

DeLaCruz heard police say, “Put it down, David.”

Ledezma told police he was not going to jail because he didn’t do anything, Yvette Ledezma said.

Her father was in the last stages of cirrhosis of the liver from an alcohol addiction and feared going through alcohol withdrawal while incarcerated. DeLaCruz added that Ledezma was unemployed and depressed. He had previously served time in 1993 and 2002 for battery and domestic violence, respectively. A case was dismissed against him in 1999 for battery on a peace officer.

Shortly after police told Ledezma to drop the knife, DeLaCruz said her uncle was Tasered.

“As soon as I saw the Taser string go out, the bullets started flying,” she said.

Family members heard at least a dozen shots before Ledezma fell to the ground and was bleeding from his abdomen and leg. He asked for water as police kept him at gunpoint.

Relatives said Ledezma was not rendered medical assistance until the paramedics arrived. Officers searched the car he was standing near and his bedroom.

Family members said they don't understand why police did not use less-than-lethal force and why the Taser was used in conjunction with lethal ammunition.

They also questioned whether police followed procedure in trying to talk to Ledezma before escalating to lethal force. They described officers as very nervous, with one tripping on something in the cluttered yard.

Riverside police said in a news release late Monday that when they arrived Ledezma was throwing tools in the yard, was uncooperative and angry. He pulled a pocket knife from his pants pocket, opened it and placed it against his neck, threatening to stab himself, police said.

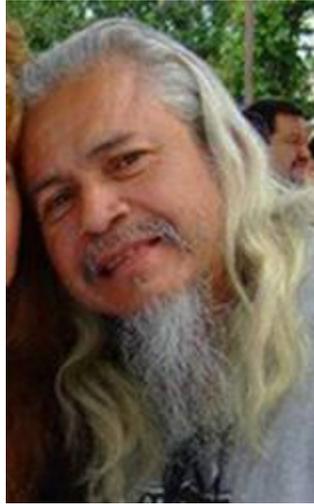
The officers told him to drop the knife, which he did. But he walked away, picked up a large metal pipe, refused to drop it, and then raised it over his shoulder and threw it at the officers. They moved to avoid being hit, and then used a Taser, but it was ineffective.

They said Ledezma picked up another large metal pipe and began hitting objects in the yard. He refused to drop the pipe, police said, and then raised it above his shoulder and moved toward the officers.

Fearing for their safety, the three officers fired their weapons and struck Ledezma several times.



## RIVERSIDE: Commission begins review of officer-involved shooting



David Ledezma /CONTRIBUTED IMAGE

BY LESLIE PARRILLA

STAFF WRITER

[lparrilla@pe.com](mailto:lparrilla@pe.com)

Published: 25 January 2012 09:24 PM

A police review commission has begun investigating a fatal officer-involved shooting that it was briefed on Wednesday before listening to pleas from family members to hold three officers accountable for excessive force.

The Riverside Community Police Review Commission listened to an update in the shooting of David Ledezma, 52, of Riverside, who was killed by police Jan. 7 at his home in the 10700 block of Cypress Avenue shortly after 4 p.m. Ledezma had served jail time for domestic violence and had allegedly struck his wife that day, prompting a relative to call officers, according to police.

Riverside Police Assistant Chief Christopher Vicino told the commission his department's investigation could be complete in six weeks before it's submitted to the Riverside County district attorney's office to determine if officers committed a crime.

The civilian commission reviews police-involved deaths and citizen complaints about the Police Department. It has assigned independent investigator Mike Bumcrot to the case.

Vicino summarized the shooting for the commission Wednesday, releasing few new details but said one of the pipes Ledezma threw, or was about to throw at the three officers, was a plastic PVC pipe. It was unclear if Ledezma was holding the PVC or the metal pipe when officers shot him because they said he was a threat.

Vicino also said Ledezma could be heard on a police recording saying, "Just shoot me."

About a dozen angry family members asked the commission why officers fired 18 shots, hitting Ledezma four times. Vicino said police are trained to fire "until the threat has ended."

Ledezma was at his home holding tools and working on a car in the backyard of his residence when police arrived. He dropped the tools, then held a knife to his throat and threatened to stab himself before dropping it to the ground, as officers had demanded.

He then threw a metal or PVC pipe in their direction, police said, causing them to dodge the object. Then Ledezma picked up another pipe and raised it over his shoulder and moved toward officers, according to police. That's when one officer fired a Taser, but it failed to work because high wind caused an electrical probe to miss Ledezma, who was about 20 feet away.

All three officers then fired their service weapons, killing Ledezma, police said.

## RIVERSIDE:

# Police panel unlikely to seek changes after fatal shooting



David Ledezma was shot and killed by officers on Jan. 7, 2012, outside his home after they responded to a domestic violence call.

1 of 2



**BY BRIAN ROKOS**  
**STAFF WRITER**

**August 28, 2013; 08:36 PM**

Riverside's Community Police Review Commission on Wednesday, Aug. 28, did not sound inclined to recommend changes in how officers handle potentially lethal situations in the wake of the January 2012 shooting death of a man who wielded a pipe at three officers.

"I have my concerns about what happened out there," Commissioner Ken Rotker said. But he added that he did not want to burden officers with more policies and procedures that could complicate the split-second decisions that they must make.

The commission is empowered to make recommendations; the Police Department does not have to adopt its policy suggestions.

Commissioner Robert Taylor said he'd like to examine a different aspect of the case: the information dispatchers give officers en route to a scene. The issue may be discussed at next month's meeting.

"Especially when there is a history of a violent offender who might be involved," Taylor said. Of the seven members present, only Taylor and Rotker discussed policy issues Wednesday.

Dispatchers sometimes alert officers that police had been to residences previously for assaults, drug sales and other crimes. No such warning was given in this case, however. It's unclear what affect that would have had on the outcome: David Ledezma's death. He was 52.

As it was, Riverside police many times had been to the house on Cypress Avenue where David and Rebecca Ledezma lived before officers responded to a report of domestic violence on Jan. 7, 2012.

Court records show that Ledezma had a history of assaulting his wife, and that he had been ordered to attend anger management classes.

Police and the family differ on what happened when police arrived.

Police say they saw Rebecca Ledezma bleeding after, they later learned, her husband had hit her and pulled her hair during an argument in the car over whether he was cheating on her, according to the city's Aug. 26 motion to dismiss the wrongful death lawsuit. Police said David Ledezma then threatened and frightened them.

They said Ledezma was working on a car and complied when ordered to drop his tools. But then Ledezma, who the family said was dying from liver trouble, picked up a knife and held it to his throat, threatening to kill himself.

Officers Ramon Espinosa and Paul Miranda pulled out their guns and Officer Jeff Putnam pulled out a Taser.

Ledezma eventually dropped the knife and then picked up a 2- to 3-foot metal pipe and threw it at officers, the city said. Putnam fired his Taser, but it was ineffective because one probe missed Ledezma.

Ledezma then picked up another pipe, the city said, held it above his head like he was about to throw it and walked toward officers. All three officers then fired their guns. Putnam, after tripping over debris, fired a second round of shots after he saw Ledezma still advancing.

The family, in its lawsuit, said officers had no reason to be on the property and that Ledezma was unarmed.

“Mr. Ledezma made no aggressive movements, no furtive gestures, and no physical movements which would suggest to a reasonable officer that he was armed,” the lawsuit says. The Riverside County district attorney's office declined to prosecute the officers, and the Police Department ruled that the officers acted within policy. The Community Police Review Commission's investigator reached the same conclusion.

Follow Brian Rokos on Twitter: [@Brian\\_Rokos](https://twitter.com/Brian_Rokos) and online at [blog.pe.com/crime-blotter/](http://blog.pe.com/crime-blotter/)



# Section B

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Mike Bumcrot Consulting

Report of  
Investigation



# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** January 27, 2012

**SUBJECT:** Officer Involved Shooting Death of David Ledesma, which occurred on January 7, 2012

**CASE:** Riverside Police Department File #P12-003517

**LOCATION:** 10745 Cypress Ave., Riverside

I was asked by Frank Hauptmann, Manager of the Community Police Review Commission to conduct a neighborhood canvass at the location of the officer involved shooting death of David Ledesma. The purpose of the canvass was to search for potential witnesses who had not been located by Riverside Police Department on the day of the incident. If any witnesses were identified, I was asked to conduct a thorough interview and provide a copy of said interview to Riverside Police Department.

On January 13, 2012, six days after the shooting death of Mr. Ledesma, I responded to the location and contacted several residents but was unable to locate any witnesses to the shooting.

On January 25, 2012, I attended the briefing of the Police Review Commission regarding the Ledesma shooting, conducted by Riverside Assistant Chief of Police Christopher Vicino. Also present were several members of the Ledesma family as well as several members of the community. Assistant Chief Vicino gave a PowerPoint presentation of the facts surrounding the officer involved shooting followed by comments from several Ledesma family members. After the presentation, I spoke with the Ledesma family at length. I was advised that they had found 2 neighbors who had witnessed the shooting, were critical of the incident, and told a different version from the Police Department's account. They were also afraid of the Police Department. I was



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also told that they were in possession of a piece of lumber that one of the shooting officers had tripped over, as well as a piece of pvc pipe that Mr. Ledesma was holding just prior to the shooting. It was arranged for me to meet with the Ledesma family at their residence to collect any possible evidence, interview the 2 neighbors, and be shown through the crime scene.

On January 27, 2012, I responded to 10745 Cypress Ave., along with my partner Dennis Robbins. We contacted several Ledesma family members, including Mr. Ledesma's wife Rebecca, and some of their children. Although the entire family was agitated and upset, it was learned that none of the family members, except Mrs. Ledesma, was present at the location at the time of the shooting. For this reason, we dealt mostly with Mrs. Ledesma, who parked her car in the same position it was in at the time of the incident. She said that as the officers approached her husband, he was working under the hood of her car. She was asked by the officers to stay in the front yard as they walked towards her car which was parked in the rear yard. She heard a conversation between her husband and the officers as they approached. She saw one of the officers step back, stumble, and fall onto his back. She then heard several gunshots. When asked about the piece of lumber her family had said the officer had tripped over, she stated there was no lumber, that the officer had tripped over the uneven ground.

We noticed several apparent bullet strikes on a trailer frame which was parked next to the Ledesma automobile. We also saw apparent bullet strikes in the back fence and the wall of a shed. We were advised that an attorney, hired by the Ledesma family, had recovered some firearms evidence, as well as the length of pvc pipe mentioned earlier.

The Ledesma children were then asked to identify the 2 neighbors who had witnessed the shooting. We were provided with written statements on Riverside Police Department Complaint Control Forms that had been obtained by the Ledesmas. One form had the name Ariel Ramirez, 10761 Cypress Ave. written on it. Mr. Ramirez wrote



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that he was in his residence at the time of the incident when he heard gunshots. He ran outside to see someone lying on the ground surrounded by policemen with guns in their hands. We interviewed Mr. Ramirez who could add nothing further. The other witness was identified as Miguel Serna, 10765 Cypress Ave., who wrote that he saw officers walking towards Mr. Ledesma, telling him to drop the knife, which he did. He then saw Mr. Ledesma bend down and pick up a pole, which he threw at the officers. He then heard 6-7 gunshots. We responded to Mr. Serna's residence and learned from his mother that he was in school and his parents do NOT want him to make a statement. A business card was left with a request to contact us.

A check of the Riverside Police Department witness list, provided by Detectives, revealed that both of these witnesses had been interviewed the day of the incident.

A copy of the Complaint Control Forms was provided to Detective Rick Wheeler.

I will complete my review of the officer involved shooting when Riverside Police Department provides access to their files.



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# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** February 29, 2012

**SUBJECT:** Officer Involved Shooting Death of David Ledesma, which occurred on January 7, 2012

**CASE:** Riverside Police Department File #P12-003517

**LOCATION:** 10745 Cypress Ave., Riverside

### **Found Property - 3 Ft. length of white PVC pipe**

On February 28, 2012, I received a telephone call from Nicholas Ron, stepson of David Ledesma. Mr. Ron stated that he was in possession of evidence that was not recovered by Riverside Police Department at the time of the death of Mr. Ledesma.

On February 29, 2012, I responded to 8388 Randolph St., Riverside and contacted Mr. Ron, who showed me a cardboard box containing blue vinyl gloves and empty beer cans with apparent bullet holes in them. Mr. Ron said the gloves were discarded by numerous police officers who had provided first aid to Mr. Ledesma and the beer cans were recovered from the shooting scene. He also provided a Q-tip that he said contained the DNA of Mr. Ledesma. Mr. Ron was advised by me that nothing in the box constituted evidence that would assist in the investigation.

Mr. Ron then produced the above listed length of PVC pipe and stated that Mr. Ledesma used the pipe to hold up the hood of his car. He said that when police responded to the location on the day of the incident, Mr. Ledesma was in the back yard working on his car. When officers first contacted him, he produced a knife but dropped it when ordered to. He then grabbed the length of pipe and began striking a trailer,



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ordering the officers to leave his property. When ordered to drop the pipe, Mr. Ledesma threw the pipe to his left, away from the officers, who then shot him.

Mr. Ron was asked if he witnessed the incident and he stated that he was not at the location but was told what happened by the teenager who lives next door (Miguel Serna).

I took possession of the PVC pipe after asking Mr. Ron to place his initials on it. I then met with Detective Rick Cobb who will book the pipe into evidence as found property. Investigation continuing.



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# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** March 1, 2012

**SUBJECT:** Officer Involved Shooting Death of David Ledesma, which occurred on January 7, 2012

**CASE:** Riverside Police Department File #P12-003517

**LOCATION:** 10745 Cypress Ave., Riverside

On February 29, 2012 at 2215, I received a telephone call from Nicholas Ron who stated that he was currently at 10765 Cypress St., Riverside, at the residence of Miguel Serna. I remembered that this address was directly next door to the scene of the officer involved shooting death of David Ledesma and on January 27, 2012, I had talked to Miguel Serna's mother, asking to have Miguel call me. Mrs. Serna advised me that the family did not want her minor son to make a statement and I left her a business card.

Mr. Ron told me that Miguel Serna wanted to make a statement and a male voice came on the line, identifying himself as Miguel Serna. Miguel's voice was cracking and he appeared to be very nervous. He said that at the time of the incident, he was just returning home and was approaching his front door, which faces the Ledesma home. He saw Mr. Ledesma in his backyard, surrounded by uniformed police officers. Mr. Ledesma was holding a knife, shouting at the officers who were telling him to drop the knife, which he did. He then saw one of the officers shoot Mr. Ledesma with a taser, knocking him down. He then said Mr. Ledesma got up, picked up a "bar", and threw it at the officers. I heard Mr. Ron, in the background, say "you mean the PVC pipe." Miguel then said "Yeah, I mean the pipe". Mr. Ron then repeated "PVC pipe" and Miguel said "Oh yeah, PVC pipe."



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Miguel continued, stating that after the item was thrown, he heard 4-5 gunshots. Again, in the background, I heard Mr. Ron say, "they fired 18 shots," Miguel then said "I mean 18 shots". Miguel said that he made a statement to a female patrol officer the night of the incident. He could add nothing further. Mr. Ron came back on the phone and said that Miguel's grandparents had also witnessed the shooting but would not make a statement because of a Los Angeles Police connection in the family. He said that he would subpoena them for a civil trial.

Investigation continuing.



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## REPORT OF INVESTIGATION

**DATE:** March 8, 2012

**SUBJECT:** Officer Involved Shooting Death of David Ledesma, which occurred on January 7, 2012

**CASE:** Riverside Police Department File #P12-003517

**LOCATION:** 10745 Cypress Ave., Riverside

On March 8, 2012, I received a telephone call from Valerie Hernandez, daughter of David Ledesma. She stated that she had in her possession four photographs that were taken immediately after her father had been shot. She asked if I would like her to email the photographs to me. I provided Ms. Hernandez with my personal email address and a few minutes later, I received four photographs depicting several Riverside Police Officers and a Police Explorer milling around the scene. Under the photographs was written "these are some of pics, if you zoom in on the second one you can see my dad laying there after he was shot.."

A copy of the photographs are attached to this report.



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# Section C

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## Fact Sheet



**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

**Date Occurred:** January 7, 2012  
**Time of Occurrence:** 1616 Hours  
**Decedent:** David Hernandez Ledezma  
**Location:** 10745 Cypress Avenue, Riverside

**Officer(s) Involved:** Officer Jeff Putnam #1450, Unit Designator C426, Unit 3931  
Officer Ramon Espinosa #1691, Unit Designator C426, Unit 3931  
Officer Paul Miranda #1501, Unit Designator C438, Unit 3925

**Officer Witness(s):** None

**Civilian Witnesses:** RPD Explorer Martin Martinez  
Yvette Ledezma (daughter of David Ledezma)  
Rebecca Martinez (wife of David Ledezma)  
Anthony Margadonna (family friend to David Ledezma)  
Yvonne De La Cruz (niece of David Ledezma)  
Yolanda Serna (unknown relationship)

**Suspect's Injuries:** Sustained four (4) gunshot wounds. Ledezma was transported to Riverside Community Hospital where he died of his injuries at 1814 hours. The autopsy was performed on January 11, 2012. He sustained one (1) gunshot wound to his chest, which grazed his liver, one (1) gunshot wound to the right knee that broke his leg, one (1) gunshot wound to the upper right leg, and one (1) gunshot wound above the left knee.

The fact sheet is numbered and designed to point you to important factual information located in the criminal casebook 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. The endnotes will direct you to a specific "Tab," page, paragraph and / or "line number" on reports that have each line of the narrative numbered.

1. CAD printout of call activities. Officers were dispatched in regard to a domestic violence call. Information to officers from the caller was that her uncle, David Ledezma, had just "242'd" (physically battered) her aunt, Rebecca Ledezma. The male is "594" (vandalizing) the aunt's vehicle. The aunt refused medical attention, but was still bleeding from the nose. The suspect was located to the back of the house. He had been drinking, no weapons were seen, and it was unknown if drugs were involved. Additional details were provided to dispatch from personnel at the scene.<sup>1</sup>
2. Officer G. Leone's response to the scene. He saw officers Miranda, Putnam, and Espinosa in the rear yard of the residence. A group of people were yelling at the officers

**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

and a male adult was lying on his stomach on the ground. A brief statement was obtained from Witness Margadonna who claimed he was a family friend. Margadonna initially tried to flee from the scene. Claimed he saw what happened.<sup>2</sup>

3. Officer K. Corbett responded to the scene and canvassed the neighborhood. He interviewed Vanessa and Ariel Ramirez, two neighbor witnesses who were together in the same home when the incident occurred. Both heard gunshots, looked outside, and saw the three officers and several residents from the Ledezma home in the back yard. They reported seeing the officer(s) with guns and family members concerned and screaming.<sup>3</sup>
4. Officer J. Mutuku canvassed the neighborhood for witnesses and interviewed Yolanda Serna and Desiree Rodriguez who reside in the same home.

Serna was cordial friends with Ledezma and claimed that he (Ledezma) and his significant other regularly drank heavily and argued loudly. Serna saw Ledezma throw, at full force, an approximately 2' - 3' long metal pole directly at the officers standing in front of him. Ledezma then picked up a second unknown item and she heard approximately six gunshots.

Rodriguez heard loud arguing between Ledezma and his significant other. She saw approximately five (5) uniformed officers enter the yard with guns drawn. Rodriguez saw Ledezma pick up an approximately 2' - 3' long metal pole and throw it full force directly at the officers. She then heard gunshots.<sup>4</sup>

5. RPD Officer S. Hunt (#1680) arrived on scene and conducted an initial interview with Ledezma's daughter, Yvette. Yvette said Ledezma and Rebecca returned home from a benefit car wash. Rebecca had learned that Ledezma had cheated on her and the two were arguing. Ledezma then physically assaulted Rebecca who wanted the police called. When the officers arrived, Yvette followed the officers into the rear yard. Upon contact with Ledezma, he (Ledezma) put a knife to his throat and threatened to kill himself. The officers ordered Ledezma to drop the weapon, but he refused. Ledezma then picked up a "stick" and walked toward the officers. All three officers 'tased' Ledezma. Yvette then became upset during the interview and said she was not going to testify against her father. The interview then ceased.<sup>5</sup>
6. RPD Officer E. Meier (#1317) arrived on the scene and conducted an initial interview with Witness De La Cruz who is the family member that phoned police. De La Cruz was at home when Ledezma and Rebecca arrived home. Ledezma parked their vehicle in the rear area of the home. Rebecca got out of the vehicle and approached De La Cruz and asked her to call the police because Ledezma beat her up. De La Cruz saw that Rebecca had a bloody nose. De La Cruz remained on the phone with the dispatchers and while doing so could hear breaking glass in the backyard. She said Ledezma was breaking things. Officers arrived and walked up the driveway. Ledezma then said

**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

something like, "Come in my yard motherfuckers." Ledezma was holding a switchblade knife in his hand. Officers repeatedly told him to drop the knife, but he was not cooperative. Ledezma stepped toward officers with the knife in his hand. The officers' commands then got louder and more intense, but Ledezma did not stop. De La Cruz heard a Taser and about 15 gunshots. She turned away, then saw Ledezma on the ground. De La Cruz said there was a history of domestic violence between Ledezma and Rebecca. She also said Ledezma was dying from liver failure and didn't care about anything.<sup>6</sup>

7. Sergeant K. Banks, a field supervisor, arrived at the scene and made contact with the involved officers. He obtained a public safety statement from the officers to obtain the number of gunshots fired, direction, and suspect(s) information. He learned that approximately 17 shots were fired between the three officers. The involved officers pointed out metal pipes and a Taser weapon that were used in the altercation. Sgt. Banks ensured that these items of evidence were marked and protected at the scene.<sup>7</sup>
8. Officer J. Miller arrived on the scene to assist. He located and identified Rebecca Ledezma as the spouse of suspect David Ledezma. She told Officer Miller she was involved in a physical and verbal altercation with the husband, David, and that she had asked her nieces to call the police. She did not witness the shooting.<sup>8</sup>
9. RPD Officer Disla (#1499) arrived on the scene and was assigned the crime scene log. The log identifies all persons who entered the crime scene, the assignment they had, the time they entered, and the time they left.<sup>9</sup>
10. RPD Officer C. Reeves (#1523) arrived on the scene and was directed by the scene supervisor, Sgt. Banks, to remain standing watch over a knife that was lying on the ground near Ledezma until his (Ledezma's) body was removed and the crime scene secured by crime scene tape.<sup>10</sup>
11. Detective B. Jones (#1227) arrived on the scene, formed an arrest team, secured inner perimeter crime scene and marking of evidence.<sup>11</sup>
12. Detective Arangure (#1564) and fellow detectives Adcox, Leone, and Jones, were the first assisting officers that arrived on the scene. They saw the involved officers standing in the rear yard with their guns drawn and pointed at a subject who was lying on the ground (Ledezma). Four (4) adults were screaming at the officers and trying to go to Ledezma's aid. They assisted in the arrest and handcuffing of Ledezma, along with placing evidence markers on the side of each shell casing, a Taser, a knife, and pipes. These items were located on the ground near where Ledezma was found lying on the ground.<sup>12</sup>

**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

13. Officer R. Railsback arrived on the scene to assist and was immediately directed to protect evidence items until they could be secured within the taped off crime scene. Evidence items included a white pipe, a black pipe, and a Taser gun.<sup>13</sup>
14. RPD Officer Blaszak (#1405) arrived on scene and secured the crime scene with crime scene tape.<sup>14</sup>
15. RPD Officer Zach Fishell responded to 6116 Stover Avenue, a neighboring residence. A stray bullet, fired by one of the officers, had entered the kitchen through a window and was found embedded in the oven. Officer Fishell retrieved the bullet and booked it into evidence.<sup>15</sup>
16. RPD Officer Schmitz arrived on the scene and was instructed to ride in the ambulance with Ledezma. He activated his digital recorder during transportation. He observed Ledezma being moved into Operating Room #6 for surgery. He was then told by an RN that Ledezma had succumbed to his injuries. Officer Schmitz described the gunshot wounds as related to him by the RN. Ledezma was pronounced deceased by Dr. Peter Wawro. Officer Schmitz turned Ledezma's personal belongings over to Riverside County Deputy Coroner Mendoza.<sup>16</sup>
17. RPD Detective Rick Cobb conducted a tape-recorded interview with Officer Miranda, one of the three officers who fired their weapons. He described the call, his observations, contact with Ledezma, and the activities that led him to fire his weapon at Ledezma. Officer Miranda said another officer fired a Taser at Ledezma that was not successful. He described the two pipes that Ledezma threw at him that caused him to fear for his life.<sup>17</sup>
18. RPD Detective Rick Cobb's interview of Officer Putnam. Officer Putnam described his observations of the incident and what caused him to fire his weapon at Ledezma. Officer Putnam saw Ledezma with a knife held to his own throat, threatening to kill himself. Ledezma then picked up a an approximately 2' long white pipe and threw it very hard at him and the other officers as though he were throwing a "tomahawk." Officer Putnam retrieved his Taser and fired it at Ledezma. It did not work and seemed to anger Ledezma more. Ledezma picked up another pipe that was larger and thicker than the first. With this pipe in hand. Ledezma took one to two steps toward Putnam and the other officers. Fearing for his life, Putnam dropped the Taser and retrieved his sidearm and fired it at Ledezma. When he fired his weapon, he (Putnam) tripped over a pile of dirt and continued to fire at Ledezma while lying on the ground.<sup>18</sup>
19. Detective Rick Cobb's interview of Officer Ramon Espinoza. Officer Espinoza described his observations of the incident that led to him firing his weapon at Ledezma. Officer Espinoza saw Ledezma with a knife to his own throat, threatening to commit suicide. He saw Ledezma pick up a 2' - 3' long metal pipe that looked solid and like a tire iron. Ledezma threw the pipe full force directly at him and the other officers from a distance of

**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

approximately 21'. Espinoza said he had to dodge the pipe so that it would not strike him. He saw Officer Putnam deploy his Taser at Ledezma, but it did not strike him (Ledezma) with both prongs so it did not work. Ledezma picked up another white or grey 2' -3' long pipe that looked like the first pipe. Ledezma lifted the pipe over his head and took one to two steps toward him and the other officers. Espinoza feared for his life since he felt the pipe could seriously injure or kill him. Espinoza fired his weapon at Ledezma four (4) to five (5) times until he (Ledezma) fell to the ground. Espinoza said there was no cover between him, Ledezma, and the other two officers.<sup>19</sup>

20. Detective Rick Wheeler's interview with Yvette Ledezma (daughter of decedent), Rebecca Ledezma (wife of decedent), and RPD Police Explorer Martin Martinez who was on a ride-along with Officer X. Each of these interviews contains the personal observations of each witness.

Yvette Ledezma saw what she described as a "white stick" that was picked up by Ledezma. She saw him wave it around and strike it against a metal shed. She did not see him throw it at officers. She saw the officers fire their weapons at Ledezma. Yvette provided Det. Wheeler with photos that she took with her cell phone during the incident. She also drew a diagram of what she felt was important. These were later booked into evidence.

Rebecca Ledezma described her observations. She claims she did not see the shooting, but only heard the shots.

Explorer Martinez saw part of the shooting, but had his attention diverted by excited family members who were yelling at the officers.<sup>20</sup>

21. Detective Sanfilippo's interview with Yvonne De La Cruz, the niece and Godchild of Rebecca Ledezma. Yvonne mentioned the on-going domestic violence between David and Rebecca. She claimed that Ledezma learned a year ago that he was dying from a liver problem and that he had not been the same since. Yvonne saw the initial contact between the officers and Ledezma. She saw him place a knife to his own throat. Yvonne turned away when she saw Ledezma do this. She saw an officer fire a Taser at Ledezma. She could see the officers but not Ledezma because her view was partially obstructed by a metal shed. She also saw the officers fire their weapons, but could not see what Ledezma was doing.<sup>21</sup>
22. RPD Police Photographer T. Ellis submitted a photo log of the various photos taken. These include the body of Ledezma at the hospital, the injuries to Rebecca Ledezma, the three officers involved, and the Police Explorer. T. Ellis also charted the firearms used by each officer in the shooting.<sup>22</sup>

**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

23. Detective Lowe's crime scene investigation. He described crime scene, searched for and identified evidence, oversaw crime scene photography, sketch, measurements of evidence, and collection.<sup>23</sup>
24. Forensic Technician S. Lane's crime scene investigation. She located, identified, and collected evidence, measured items of evidence, photographed items, and provided a crime scene diagram.<sup>24</sup>
25. Detective Sanfilippo was present when ID Tech Lane charted the firearms of each officer. She described each officer's firearm, make, model, serial number, and the number of live rounds found in the firearm and magazines.<sup>25</sup>
26. Detective Rick Cobb's interview with Witness Anthony Margadonna, Ledezma's nephew. Margadonna was initially reluctant to be interviewed since he was angry with officers because one of them took his cell phone away. Once he got his cell phone back he wanted to be interviewed. Margadonna said he was five feet (5') behind officers when they shot Ledezma. Margadonna claimed that Ledezma did not have a knife and was shot with a Taser when he (Ledezma) had a stick in his hand. When Ledezma was hit by the Taser, it knocked the stick out of his hand. The officers then shot Ledezma with their handguns. Margadonna said that Ledezma never threw anything at the officers and did not step toward the officers. Margadonna said that Ledezma was at the rear of his own vehicle when he was shot. This is contrary to the evidence that established that Ledezma was shot while standing by the front of his vehicle.<sup>26</sup>
27. RPD Officer Mendonca responded to the scene to assist and interviewed an independent witness. The witness saw officers approach Ledezma who was holding a knife. Officers ordered him to drop the knife 10-15 times. Ledezma threw the knife to the side and picked up a 2' long pipe. Officers ordered him to drop it numerous times. He saw an officer "Tase" Ledezma, but it did not work. Ledezma then threw the pipe at the officers. He then heard gunshots and left.<sup>27</sup>
28. Detective Rick Cobb conducted a follow-up interview with the witness interviewed in #27 above. The first interview by Officer Mendonca was not tape recorded. Det. Cobb tape-recorded the follow-up interview where the witness statement is slightly different.<sup>28</sup>
29. Detective Rick Wheeler attended the autopsy of Ledezma that was performed by Dr. Fajardo. Det. Wheeler provided details of the procedure that included the fatal injury that resulted in Ledezma's death.<sup>29</sup>
30. Detective Rick Cobb was given a piece of white PVC pipe from CPRC Investigator Mike Bumcrot. Mr. Bumcrot obtained it from a Ledezma family member who claimed it was evidence left behind by officers and the pipe that the family believed was thrown by Ledezma. Det. Cobb documented receiving the PVC pipe and noted that a similar pipe

**Ledezma OID Fact Sheet**  
CPRC Meeting Date: July 24, 2013  
Version 1

was photographed at the scene, but it was determined not to be a piece of evidence or the item thrown or used by Ledezma.<sup>30</sup>

31. Detective Rick Cobb requested that shooting officers Miranda and Espinosa look at two items of evidence seized at the scene. Item #1, booked into evidence as RL20, was a white metal jack handle. Item #2, booked into evidence as RL22, was a black metal jack handle. Both officers looked at the items and had no further statements to add to their initial interviews.<sup>31</sup>
32. Detective Rick Cobb submitted the handguns used by Officers Putnam, Miranda, and Espinoza to the California Department of Justice, Bureau of Forensic Services. The purpose of this is to obtain an independent examination of the firearms used by each officer as well as bullet fragments that were retrieved as evidence. A report by the examiner from the Department of Justice is attached under Tab 32.<sup>32</sup>
33. Crime scene photographs.<sup>33</sup>

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<sup>1</sup> Official CAD printout – Tab 77, P.2-15

<sup>2</sup> Memorandum by Officer G. Leone – Tab 3, p.2, 2<sup>nd</sup> and 4<sup>th</sup> para

<sup>3</sup> Supplemental Report, Officer Corbett - Tab 5, p1 3<sup>rd</sup> para and p.2 1<sup>st</sup> para; p.2 3<sup>rd</sup> para

<sup>4</sup> Supplemental Report, Officer Mutuku - Tab 6, p.1 and 2.

<sup>5</sup> Supplemental Report, Officer Hunt - Tab 12, p.2, para 2-3

<sup>6</sup> Supplemental Report, Officer Meier – Tab 16, p.2, para 3-5

<sup>7</sup> Supplemental Report, Sgt. K. Banks – Tab 19, p.1, para.1, p.2 para 1

<sup>8</sup> Supplemental report, Officer Miller – Tab 21, p.2, 1<sup>st</sup> para.

<sup>9</sup> Supplemental Report, Officer Disla – Tab 22, p.2 para. 1, p. 3-5 (log entries)

<sup>10</sup> Supplemental Report, Officer Reeves – Tab 22, p.2

<sup>11</sup> Supplemental Report, Det. Jones – Tab 33, p.2, para 2, lines 8-28

<sup>12</sup> Supplemental Report, Det. Arangure – Tab 34, p.2, para 2, lines 6-29.

<sup>13</sup> Supplemental Report, Officer Railsback – Tab 35, p.1, 1<sup>st</sup> para narrative

<sup>14</sup> Supplemental Report, Officer Blaszak – Tab 37, p.1, para1 narr

<sup>15</sup> Supplemental Report, Officer Fishell – Tab 40, p.1 narr and continued onto top of p.2

<sup>16</sup> Supplemental Report, Officer v. Schmitz – Tab 50, p.2 & 3 narratives

<sup>17</sup> Supplemental Report, Det. Cobb – Tab 51, p.2 & 3 narratives

<sup>18</sup> Supplemental Report, Det. Cobb – Tab 52, p.2 & 3 narrative

<sup>19</sup> Supplemental Report, Det. Cobb – Tab 53, p.2 & 3 narrative

<sup>20</sup> Supplemental Report, Det. Wheeler – Tab 54, p.2-11 narratives

<sup>21</sup> Supplemental Report, Det. Sanfilippo – Tab 55, p.1-3 narratives and p. 4 drawing

<sup>22</sup> Supplemental Report, Forensic Photographer T. Ellis – Tab 57, p.1-10

<sup>23</sup> Supplemental Report, Det. Lowe – Tab 58, p. 1-12

<sup>24</sup> Supplemental Report, Forensic Tech Lane – Tab 59, p. 1-20

<sup>25</sup> Supplemental Report, Det. Sanfilippo – Tab 60, p.1 narrative

<sup>26</sup> Supplemental Report, Det. Cobb – Tab 61, p2 & 3 narrative

<sup>27</sup> Supplemental Report, Officer Mendonca – Tab 62, p.1, narrative

<sup>28</sup> Supplemental Report, Det. Cobb – Tab 63, p.2, para 1-5

<sup>29</sup> Supplemental Report, Det. Wheeler – Tab 64, p.2 lines 1-42

<sup>30</sup> Supplemental Report, Det. Cobb – Tab 68, p.2 para 1-5

<sup>31</sup> Supplemental Report, Det. Cobb - Tab 70, p.2, para 1-5

<sup>32</sup> Department of Justice Forensic Exam Report, Sr. Criminalist Brian Reinarz – Tab 75, p. 1-4

<sup>33</sup> Crime scene photographs, photos of officers and their firearms and aerial photos of the scene - Tab 78



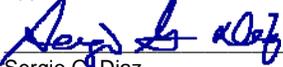
# Section D

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**RPD Policy 4.8  
(Rev. 6, 5/26/11)**



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  
Revision 1 Date: 07/26/96  
Revision 2 Date: 05/21/97  
Revision 3 Date: 06/01/99  
Revision 4 Date: 01/05/2000  
Revision 5 Date: 05/09/02  
Revision 6 Date: 02/02/04  
Revision 7 Date: 11/01/04  
Revision 8 Date: 04/16/09  
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.



# Section F

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RPD Policy 2.15  
(Eff. 10/84)

Firearms



Effective Date: 10/84  
Revision Date:  
Approval:

\_\_\_\_\_  
Ken Fortier  
Chief of Police

**2.15 FIREARMS:**

Members shall not display their firearms or draw them in any public place except for inspection or use. Members firing a gun accidentally or intentionally, except on the target range, shall immediately report it. Members shall not intentionally fire their gun except as authorized by law. (See also Weapons, Use and Care of).



# Section G

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## RPD Policy 3.9 (Rev. 3, 5/1911)

### Required Equipment to be Carried on Duty



Effective Date: 10/84  
Revision 1 Date: 01/08/96  
Revision 2 Date: 01/02/01  
Revision 3 Date: 05/19/11  
Approval:

  
Sergio G. Diaz  
Chief of Police

**3.9 REQUIRED EQUIPMENT TO BE CARRIED ON DUTY:**

Officers on duty in the field shall carry the following required equipment:

**A. UNIFORM DUTY:**

1. Firearm - Fully loaded with extra rounds
2. Handcuffs and case
3. Flashlight
4. Notebook
5. Pen and pencil
6. Baton
7. Issued identification card
8. California Driver's License
9. Handcuff and shotgun key
10. All required report forms
11. Helmet
12. Leather gear as described in Section II
13. "RIPP" Restraining Hobble shall be readily available for use.
14. Ballistic vest shall be worn by all first responders assigned to field duties and working in a uniformed capacity.

**B. PLAIN CLOTHING:**

1. Firearm - Fully loaded with extra rounds
2. Flashlight - during hours of darkness
3. Handcuffs and key
4. Notebook
5. Pen and/or pencil
6. Issued identification card
7. California Driver's License

**C. EXCEPTIONS:**

1. **Undercover Work:** Officers detailed to under cover duty, wherein it is mandatory that their identity as an officer be concealed, may be excused by their Commanding Officers from the provisions of all or part of Subsection "B" above.
  2. **Indoor Work:** Officers engaged in uniform work while indoors may be exempt by their Commanding Officers from the provisions of all or part of Subsection "A" above. However, such officers shall have the required equipment available for immediate use while on such duty.
- D.** All optional items must be approved by the Chief of Police. The ASP is approved for optional carrying by officers, only after training by a certified ASP instructor.

# Section H

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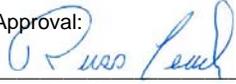
RPD Policy 3.23  
(Rev. 5, 4/2/09)

Sworn Personnel -  
Equipment



Effective Date: 10/84  
Revision 1 Date: 01/08/96  
Revision 2 Date: 05/21/97  
Revision 3 Date: 07/25/2001  
Revision 4 Date: 06/30/04  
Revision 5 Date: 04/02/09

Approval:

  
Russ Leach  
Chief of Police

### 3.23 **SWORN PERSONNEL - EQUIPMENT:**

#### A. **POLICY:**

The following issued or optional equipment is authorized for use by sworn personnel. Any additional optional items will be subject to approval by the Chief of Police. Unless otherwise specified by this Policy, optional equipment will not be issued or paid for by the Department but may be acquired at the officers' own expense.

#### B. **HELMET:**

1. **General Duty:** Black Kevlar Ballistic, with attached face shield.
2. **Motorcycle:** Black high crown with white backing.

#### C. **IMPACT WEAPONS:**

The Mid-Range Baton shall be part of the regular equipment of an officer and shall be furnished by the Department. The Expandable Baton and Ten Inch Baton are authorized optional items and may be carried in lieu of the Department issue baton; however, uniformed officers must have a Mid-Range Baton readily available when in the field. The following impact weapons are authorized for sworn personnel after appropriate certification by an authorized Department defensive tactics instructor.

##### 1. **Mid-Range Baton:**

This item shall be solid hard wood, composite hard wood known as Diamond Wood or anodized aluminum. This baton is 26 or 29 inches in length, black in color with smooth surface.

##### 2. **Expandable Baton:**

This optional item must be the 21 inch, 29 inch or 31 inch baton. Either black or silver anodized aluminum with a black foam or rubber grip.

##### 3. **Ten Inch Baton:**

This optional item must be constructed of either hard wood or hard plastic, 10 inches in length, black with a smooth finish.

##### 4. **Long Baton:**

This baton shall be 42 inches in length and constructed with hard wood only. This baton must be black or blond in color with a smooth surface. This baton shall be for Mobile Field Force only, and used only during Mobile Field Force deployment.

**D. CHEMICAL AGENT:**

Departmental issued aerosol Oleoresin Capsicum (OC) agent.

**E. FIREARM:**

Glock, .40 caliber Models 22, or 23, and for Special Operations Division personnel only the Springfield .45 caliber, semi-automatic handgun, with magazines, or personally owned handgun subject to Department approval.

**F. HANDCUFFS:**

Silver or black single hinge ratchet type with chain or hinged crosspiece.

**G. FACILITY KEY AND ACCESS CARD:**

Departmental issued key and access card for access to Department facilities.

**H. “RIPP” HOBBLE:**

A restraining device made of one-inch wide polypropylene webbed belting with a tested strength of 700 pounds, equipped with a one-inch wide steel, alligator-jawed, friction-locking clip and bronze swivel.

**I. FLEX-CUFFS:**

Disposable reinforced plastic restraining device used to temporarily restrain subjects in custody.

**J. KNIFE:**

Folding blade type not to exceed 3-3/4 inches blade length with an overall length of 9 inches in the open position. This item is optional.

**K. LEATHER GEAR:**

1. **Belt:** The holster duty belt may be either Velcro or leather black basket weave Sam or Sally Browne. The leather belt will have a gold buckle. The belts will have Velcro keepers or hidden snaps.
2. **Holster:** Black basket weave high-rise type for 40 caliber weapon.  
**Officers may purchase compatible holsters as an option after approval of the holster by the Firearms Training Coordinator.**
3. **Magazine Pouch:** Black basket weave double magazine with hidden snap or Velcro closures.
4. **Handcuff Case:** One or two black basket weave single or a double handcuff case, with hidden snap or Velcro closure.
5. **Knife Case:** Black basket weave with hidden snaps or Velcro closures (single magazine pouch).
6. **Chemical Agent Holder:** Black basket weave slide-in holder.
7. **Baton Ring:** Black basket weave leather tong with black baton ring.

8. **Hand Radio Holders:** This optional item will be of black basket weave or smooth leather with a top strap securing the unit in place.
9. **Key Holders:** This optional item will be of black basket weave leather and hold keys securely.
10. **Tape Recorder Holders:** This optional item will be of black basket weave leather.
11. **Flashlight Holder:** This optional item will be of black basket weave leather.

Any additional optional items will be subject to approval by the Chief of Police.

**L. NYLON SAM BROWNE SYSTEMS:**

1. All officers are authorized to wear black nylon web gear, as optional equipment, with all authorized uniforms. The Department will purchase the nylon web gear only for officers assigned to specialized units. All other officers may purchase the nylon web gear at their own expense. The Department has the authority to determine what is considered a specialized unit for purposes of purchasing the nylon web gear.
2. The nylon web gear authorized for duty use is the Bianchi AccuMold series. It may be purchased at police equipment vendors.
3. Nylon Sam Browne System description:
  - a. **Sam Browne:** Approximately 2-1/4" wide, black, soft, woven nylon. Approximately 2-1/4" heavy duty, black plastic quick release buckle.
  - b. **Inner Belt:** Black, soft nylon of a design approved by the officer's Division Commander.
  - c. **Holster:** Black, soft, woven nylon of a design approved by the Firearms Training Coordinator.
  - d. **Magazine pouch:** Black, soft, woven nylon capable of holding two magazines.
  - e. **Handcuff case:** Black, soft, woven nylon capable of holding standard linked handcuffs.
  - f. **Keeper:** Black, soft, woven nylon capable of attaching Sam Browne to Inner Belt.
  - g. **Chemical Agent Holder:** Black, soft, woven nylon capable of holding standard 3oz. canister of OC Spray.
  - h. **Baton Ring:** Black, soft, woven nylon capable of holding a mid-range baton.
  - i. **HT Holder:** Black, soft, woven nylon capable of holding standard police HT.
  - j. **Tape Recorder Holder:** This optional item will be of black, soft woven nylon.
  - k. **Flashlight Holder:** This optional item will be of black, soft woven nylon.

4. In order to be prepared for any planned or unplanned event requiring the use of leather gear, officers will be expected to maintain their Department issued leather gear in their workplace. In addition, officers are required to maintain their assigned leather gear in a professional and presentable manner.

**M. BALLISTIC VEST:**

The ballistic vest shall be of a type affording extended coverage at Threat Level IIA.

# Section I

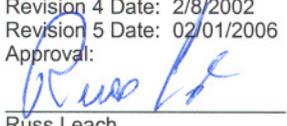
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**RPD Policy 4.23**  
**(Rev. 5, 2/1/06)**

**Domestic Violence Policy**



Effective Date: 10/84  
Revision 1 Date: 9/13/96  
Revision 2 Date: 9/21/2000  
Revision 3 Date: 5/9/2001  
Revision 4 Date: 2/8/2002  
Revision 5 Date: 02/01/2006  
Approval:

  
Russ Leach  
Chief of Police

#### 4.23 DOMESTIC VIOLENCE POLICY:

##### A. PURPOSE:

1. The purpose of this policy is to state the guidelines to be followed in response to a domestic violence incident.

##### B. POLICY:

1. It is the policy of this Department that domestic violence is criminal conduct and that a request for assistance in a situation involving domestic violence is the same as any other request for assistance where violence has occurred.
2. It is also the policy of this Department to reduce the incidence and severity of domestic violence, protect victims of domestic violence, and provide them with support through a combination of law enforcement and community services and promote officer safety by ensuring that officers are fully prepared to respond to and effectively deal with domestic violence calls for service.
3. When the elements of a crime exist, officers shall make an arrest instead of using dispute mediation or other police intervention techniques.

##### C. DEFINITIONS:

1. **DOMESTIC VIOLENCE:** Abuse committed against an adult or fully emancipated minor who is a spouse, former spouse, cohabitant, former cohabitant, person with whom the suspect has had a child or is having, or has had a dating or engagement relationship, or any other person related by consanguinity or affinity within the second degree (parents, children, grandparents, grandchildren, siblings by blood or marriage). Also included are boyfriend-girlfriend as well as gay and lesbian relationships. (PC §13700(b); FC §6211)
2. **ABUSE:** Intentionally or recklessly causing or attempting to cause bodily injury or placing another person in reasonable apprehension of imminent serious bodily injury to himself or herself, or another. Abuse also includes threats as well as criminal activity. (PC §13700(a); FC §6203)
3. **COHABITANT:** Two unrelated persons living together for a substantial period resulting in some permanency of relationship. Factors that may determine whether persons are cohabiting include, but are not limited to:
  - Sexual relations between the parties while sharing the same living quarters.
  - Sharing of income or expenses.
  - Joint use or ownership of property.
  - Whether the parties hold themselves out as husband and wife.

- The continuity of the relationship.
- The length of the relationship. (PC §13700(b); FC §§6209/6211)

**D. RELEVANT STATUTES:**

The following statutes are either directly or indirectly related to domestic violence issues:

1. PC §136.1 - Preventing or Dissuading Witness or Victim from Testifying or Doing Other Acts.
2. PC §148 - Resisting/Obstructing an Officer.
3. PC §166(4) - Willful Violation of a Court Order.
4. PC §187 - Murder.
5. PC §203 - Mayhem.
6. PC §207 - Kidnapping.
7. PC §220 - Assault with Intent to Commit Felony.
8. PC §222 - Administering Drugs to Assist in Commission of Felony.
9. PC §236 - False Imprisonment.
10. PC §240 - Assault.
11. PC §242 - Battery.
12. PC §243(e) - Battery Against a Spouse or Cohabitant.
13. PC §245 - Assault with a Deadly Weapon.
14. PC §246 - Shooting at an Inhabited Dwelling.
15. PC§ 262 - Spousal Rape.
16. PC §264.1 - Forcible Rape While Acting in Concert.
17. PC §273a - Willful Infliction of Unjustifiable Physical Pain on a Child.
18. PC §273d - Willful Infliction of Cruel or Inhuman Corporal Punishment Upon a Child.
19. PC §273.5 - Willful Infliction of Corporal Injury Resulting in a Traumatic Condition Upon a Spouse, Cohabitee or Parent of Child.
20. PC §273.6 - Willfully and Knowingly Violating a Domestic Violence Court Order, Including by Mail.
21. PC §286 - Sodomy.

22. PC §293 - Publication of Information Regarding Victim of Domestic Violence.
23. PC §417(a) - Brandishing a Weapon.
24. PC §418 - Forcible Entry into the Home of Another.
25. PC §422 - Terrorist Threats.
26. PC §422.6 - Hate Crimes Based on Gender.
27. PC §459 - Residential Burglary.
28. PC §591 - Malicious Destruction of a Telephone.
29. PC §594(b) - Vandalism.
30. PC §602(w) - Failure to Leave a Battered Women's Shelter.
31. PC §602.5 - Trespassing.
32. PC §603 - Forcible Entry with Damage to Property.
33. PC §647(f)1 - Public Drunkenness.
34. PC §646.9 - Stalking.
35. PC §653(m) - Obscene, Threatening or Annoying Telephone Calls (see Subsection (c) for calls in violation of court order).
36. PC §853.6 - Prohibits the Field Release of Suspects Taken into Custody on Charges of PC§ 273.6, Violating Terms of Domestic Violence Restraining Order.
37. PC §1102.7 - Prevents Disclosure of Victim's Address and Phone Number even in Cases where Defendant acts as his/her Own Attorney.
38. PC §1270 - Consideration by the Court of Threats and Intimidation when Setting Bail.
39. PC §12021(g) -Persons Who are Restrained Under a Protective Order and Who Attempt to Purchase or Receive a Firearm are Guilty of a Felony.
40. PC §12025 - Carrying a Concealed Weapon.
41. PC §12031 - Carrying a Loaded Weapon.
42. FC §6224 - Protective Orders are Effective when Issued and Are Enforceable Anywhere in the State of California.
43. FC §6225 - Petitioner is Not Required to State Place of Residence or Employment in Petition.

44. FC §6227 - Protective Orders and EPOs are Cumulative Remedies in Addition to Other Civil and Criminal Remedies.
45. FC §6254 - Departure From the Household to Avoid Abuse Does Not Affect Availability of EPO.
46. FC §6270 - Duties of Law Enforcement Officer Regarding an EPO.
47. FC §6273 - Officers Who Request an EPO Shall Carry a Copy of the Order with Him or Her While on Duty.
48. FC §6304 - Where Respondent Appears in Court on a Hearing for a Protective Order and an Order Issues, the Court Shall Inform Respondent of the Terms of the Order, Including the Fact that the Respondent is Prohibited from Purchasing, Receiving or Attempting to Purchase or Receive a Firearm.
49. FC §6345 - An Order Issued After a Hearing Which Does Not State an Expiration Date is Valid for Three Years After the Date of Issuance.
50. FC §6380 - The Court Shall Order Petitioner to Deliver a Copy of the Order to the Appropriate Law Enforcement Agencies.
51. FC §6388 - Willfully and Knowingly Violating a Protective Order.
52. FC §6385 - Requires the Agency that Receives the Protective Order to Transmit a Copy of the Order to the Department of Justice.
53. W& I§8102 - Possession of Weapon While a Danger to Self or Others.

**E. PROCEDURES:**

**1. Public Safety Dispatcher's Responsibilities:**

- a. The dispatcher who receives a domestic violence call can provide the responding officers with vital information that could save the victim's and the officer's life. The dispatcher will, whenever possible, dispatch at least two officers to every incident.
- b. All calls reporting threatened, imminent or ongoing domestic violence, **and** the violation of any protective order, including orders issued pursuant to PC §136.2, and restraining orders, shall be ranked among the highest priority calls.
- c. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance.
- d. Dispatchers should give high priority to all domestic violence calls for assistance regardless of the existence of an order.
- e. If the reporting party reports a violation of any protective order, stay-away order, or other restraining order, the dispatcher should dispatch an officer(s) prior to verifying the validity of the order and attempt verification while the responding officer(s) is en route to the scene.

- f. In addition to information normally gathered, an effort should be made to determine and relay the following to the responding officers:
  - (1) Whether the suspect is present and, if not, the suspect's description and possible whereabouts;
  - (2) Whether weapons are involved;
  - (3) Whether the offender is under the influence of drugs or alcohol;
  - (4) Whether there are children present;
  - (5) Whether the victim has a current protective or restraining order;
  - (6) Complaint history at that location.
  
- g. A dispatcher shall maintain control of the telephonic interview and shall not allow the following issues to become factors in their decision to dispatch a unit:
  - (1) Financial consequences if arrest is made;
  - (2) Speculation as to the likelihood of prosecution;
  - (3) Speculation as to complainant's future cooperation in prosecution;
  - (4) Assumptions as to tolerance of permissible levels of violence based on cultural, ethnic, racial, or occupational groups;
  - (5) Assumptions regarding the source of information of threats made against the complainant by the suspect;
  - (6) Speculation as to the likelihood of reconciliation;
  - (7) Speculation as to the likelihood of the complainant or anyone else providing bail for the suspect.
  
- h. A dispatcher shall not cancel police response to a domestic violence complaint based solely on a follow-up call from the residence requesting such cancellation. However, the dispatcher shall advise the officer(s) of the complainant's request.
  
- i. Domestic violence calls may only be canceled when the victim has left RPD jurisdiction. If the victim's new location is known, the appropriate agencies shall be notified and the incident closed with the appropriate disposition code. In instances where the call from the victim originates outside the RPD jurisdiction, an incident shall be created and closed with the appropriate disposition code and the appropriate agency notification.

**2. Responding Officer's Responsibilities:**

- a. **Arrival at the Scene:**
  - (1) Determine location and condition of the victim.
  - (2) Determine if suspect is still at scene.

- (3) Determine if any weapon is involved.
- (4) Determine what, if any, crime has occurred.
- (5) Take control of all weapons used or threatened to be used in the crime.
- (6) Assess the need for medical attention and call for medical assistance if indicated.
- (7) Restore order by gaining control of the situation.
- (8) Separate involved parties from hearing and eye contact when conducting interviews.
- (9) Remove children from the immediate area while conducting the interview.
- (10) In the event of a domestic violence related home invasion or a major injury, notify on-call detective supervisor.

**b. Preliminary Investigation:**

- (1) Interview victim(s), witness(es) and suspect(s) separately. Officers should maintain visual contact with each other for obvious safety reasons.
  - (a) When a victim is encountered not as a result of a radio call (on the street, walk-in to the station, etc.), officers shall ensure they obtain the location of the original crime and names and locations of witnesses.
  - (b) Determine suspect's and victim's conduct.
  - (c) Distinguish the aggressor from the victim, especially if both are injured.
- (2) Interview victim with patience and compassion in order to obtain the most accurate information. To aid investigators and prosecutors, it is recommended that all interviews be audio recorded.
- (3) Record all statements accurately in police reports.
  - (a) Maintain objectivity in reporting and personal opinions.
  - (b) Ensure all elements of each crime alleged are properly documented.
- (4) Determine if sexual assault occurred.
- (5) Identify and interview the person who called the police, if other than the victim.

- (6) Identify and interview all adults and children present during the incident, and identify all adults and children residing at the residence.
- (7) Determine if there is a current restraining order in effect and has been served or if the defendant was present at the hearing. If not, serve the restraining order.
- (8) Document detailed statements indicating previous incidents, including protective and restraining order violations and outcome, if known. If possible, obtain the identity and address of the restraining order server.
- (9) Document spontaneous statements by the suspect, victim, or witnesses.
  - (a) Document alibi statements.
  - (b) Prevent communication between suspect and victim.
- (10) Document the emotional and physical condition of the victim (abrasions, bruises, victim upset, crying, clothes torn, makeup smeared, sexual assault, etc.).
- (11) Document any signs that the alleged abuser is under the influence of alcohol or a controlled substance.
- (12) Determine if any law enforcement agency has previously responded to a domestic violence call at the same address involving the same alleged abuser or victim.
- (13) A **notation** of whether the officer or officers who responded to the domestic violence call found it necessary, for the protection of the peace officer or other persons present, to inquire of the victim, the alleged abuser, or both, whether a firearm or other deadly weapon was present at the locations, and, if there is an inquiry, whether that inquiry disclosed the presence of a firearm or other deadly weapon. Any firearm or other deadly weapon discovered by an officer at the scene of a domestic violence incident shall be subject to confiscation pursuant to Section 12028.5.

c. **Evidence Collection:**

- (1) Obtain photos of scene, victim, and suspect.
  - a. An officer has the legal right to obtain or otherwise seize evidence of a crime. Where a victim sustains visible injuries, an officer should take photographs of the injuries as part of his/her investigation if the taking of the photograph(s) would not constitute an unreasonable invasion of the victim's right to privacy whether or not the victim consents to the taking of the photographs. The officer should first, however, attempt to obtain the victim's consent before taking the photographs.

If the victim refuses consent, the officer may take photographs of physical injuries visible to public view after taking all practicable steps to protect the privacy and modesty of the person photographed. For example, an officer may take photographs of injuries to those bodily areas which are visible to public view such as a victim's face, neck, hands, arms, feet, or lower legs.

Photographs which would invade the victim's privacy and modesty shall not be taken except under all of the following conditions:

- i. Written consent (refer to Permission to Photograph form attached to this policy as Appendix C) or audio-recorded consent of the victim.
- ii. The person taking the photographs is of the same sex as the victim.
- iii. The photographs are taken at a location where the areas of the body to be photographed are only visible to the person taking the photographs or other necessary or indispensable persons such as medical personnel.
- iv. The photographs shall be maintained, distributed, and utilized in a manner so as to protect the privacy and modesty of the person photographed.

- (2) Document physical evidence of struggle, damage to furnishings, evidence of vandalism, etc.
  - (a) Document any noises heard upon arrival supporting these findings.
  - (b) Document independently provable crimes, such as child endangering, trespass, vandalism, etc.
  - (c) Collect physical evidence such as torn and bloodied clothing, or destroyed phones, and make available for trial.
  - (d) Attach copies of existing or previously issued emergency protective orders and restraining orders to the police report, if readily available.
  - (e) Obtain alternate telephone number for the victim other than the residence.

d. **Medical Treatment:**

- (1) Arrange for transportation of victim by medical personnel to hospital for obvious injuries requiring medical attention and whenever internal injuries are suspected. Do not rely on victim seeking own medical treatment.

- (2) Obtain a copy of the victim's written authorization to release medical and/or hospital information to the Riverside Police Department Domestic Violence Unit and/or the Riverside County District Attorney's Office by having the victim execute the authorization form attached to this policy as Appendix B. If the victim signs the authorization and the records are readily available, attach copies of the records documenting treatment to the police report.
- (3) Document complaints of injuries.
- (4) When marital rape or sexual assault has been alleged, obtain appropriate sexual assault medical treatment.
- (5) Document medical treatment.
  - (a) Obtain names and serial numbers of paramedics and other fire personnel.
  - (b) Obtain name/address of attending physician if additional medical treatment was required.

e. **Enforcement of Laws in Domestic Violence Incidents:**

- (1) Officers shall not allow any of the following factors to influence their course of action in domestic violence incidents:
  - (a) The marital status of the suspect and the victim; i.e., not married, separated, or pending divorce.
  - (b) Whether or not the suspect lives on the premises with the victim.
  - (c) The existence or lack of a restraining order or stay-away order.
  - (d) The potential financial consequences of arrest.
  - (e) The victim's history of prior domestic violence complaints.
  - (f) Verbal assurances that the violence will cease.
  - (g) The victim's emotional status.
  - (h) Whether or not injuries are visible.
  - (i) The location of the incident (i.e., public or private).
  - (j) Speculation that the victim may not follow through with the prosecution, or that the arrest may not lead to a conviction.
  - (k) The victim's initial reluctance regarding an officer-initiated arrest.

- (l) The fact that the victim and the suspect are of the same gender.
- (m) The victim and the suspect have acted inconsistent with the terms of a restraining order or stay-away order. (Note: According to PC §13710(b) the terms and conditions of protective orders remain enforceable, notwithstanding the acts of the parties, and may be modified only by court order.)
- (n) Occupation or community status consequences of arrest.
- (o) Assumptions that violence is more acceptable in certain cultures.
- (p) Language abilities or barriers and/or immigration status (lack of English language abilities on the part of the victim).

(2) **Felony Arrest:**

An arrest shall be made when there is reasonable cause to believe a felony has occurred. A suspect may be arrested for violation of PC§ 273.5 if he/she willfully inflicts corporal injury resulting in a traumatic condition such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force. People vs. Abrego (1993) 21 Cal.App.4th 133.

(3) **Misdemeanor Arrest:**

Whenever an officer has reasonable cause to believe a misdemeanor has occurred in his/her presence, the suspect shall be arrested.

(a) **Private Person Arrest:**

When a crime has been committed outside the officer's presence and does not meet felony requirements, the victim shall be informed of his/her right to make a private person's arrest (PC §836(b)). Whenever possible, the victim shall be advised outside the presence of the suspect. Officers shall not attempt to dissuade a complainant from making a legal private person's arrest. The elements of the crime and/or the victim's willingness to make the private person's arrest should be the only factors considered.

The victim shall be advised as follows:

**You are a victim of a domestic violence crime. You have a right to make a citizen's arrest within a reasonable time and as soon as circumstances permit. I have a duty to advise you of this right. You can elect to make a citizen's arrest, or if the person is not here at this time, please call the Police Department when the person returns and we will assist you in safely placing the person under**

**citizen's arrest. You need to understand, even if the person returns, that does not guarantee the person will be taken into custody if the arrest would be in violation of the law.**

**(b) Booking versus Citation and Release:**

Once a suspect is arrested, officers shall evaluate the reasonable likelihood that the offense would continue if the suspect is released on a misdemeanor citation rather than taken into custody. Any one of the following might support the likelihood of a continuing offense, making a field release inappropriate:

- i. Whether the suspect has a prior history of arrests or citations involving domestic violence;
- ii. When the suspect has previously violated valid domestic violence protective orders;
- iii. Whether the suspect has a prior history of other assaultive behavior;
- iv. Statements taken from the complainant that the suspect has a history of physical abuse toward the complainant;
- v. Statements taken from the victim expressing fear of retaliation or further violence should the suspect be released.
- vi. The suspect is violating a criminal court issued stay-away order.
- vii. Information about the suspect's alcohol or drug abuse, access to weapons, suicide threats or attempts, threats of kidnapping family members, or history of mental illness.

(c) **Warrantless Arrest Without Private Person Arrest for Violation of a Protective Order:**

- i. Penal Code §836(c)(1) provides that when a peace officer is responding to a call alleging a violation of a protective order issued under Division 10 commencing with Section 6200 of the Family Code or Section 136.2 of this code, and the peace officer has reasonable cause to believe that the person against whom the order is issued has notice of the order, the officer may arrest the person without a warrant and take that person into custody whether or not the violation occurred in the presence of the arresting officer. The officer shall, as soon as possible after the arrest, confirm with the appropriate authorities that a true copy of the protective order has been filed, unless the victim provides the officer with a copy of the protective order.
- ii. The person against whom a protective order has been issued shall be deemed to have notice of the order if the victim presents to the officer proof of service of the order, the officer confirms with the appropriate authorities that a true copy of the proof of service is on file, or the person against whom the protective order was issued was present at the protective order hearing or was informed by a peace officer of the contents of the protective order. PC §836(c)(2)
- iii. Whenever any peace officer has reasonable cause to believe that any person has committed a violation of a protective court order involving domestic violence, the person shall be arrested and not released without being booked absent exigent circumstances.
- iv. Where a suspect commits an assault or battery upon a current or former spouse, fiancé, fiancée, a current or former cohabitant, a person with whom the suspect currently is having or has previously had an engagement relationship, a person with whom the suspect has parented a child, or is presumed to have parented a child, a child of the suspect, a child whose parentage by the suspect is the subject of an action under the Uniform Parentage Act, a child of a person in one of the above categories, or any other person related to the suspect by consanguinity or affinity within the second degree, a peace officer may arrest the suspect without a warrant where both of the following circumstances apply:
  - 1) The peace officer has probable cause to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed; and

- 2) The peace officer makes the arrest as soon as probable cause arises to believe that the person to be arrested has committed the assault or battery, whether or not it has in fact been committed.

**(4) Dual Arrests and Situations Involving Mutual Protective Orders:**

Generally, officers are discouraged but not prohibited from making dual arrests. Even where mutual protective orders have been issued under Division 10 (commencing with §6200 of the Family Code), liability for arrest applies to only those persons who are reasonably believed to have been the primary aggressor. PC Section 836(c)(3). Regardless of whether there are mutual protective orders in existence, peace officers shall make reasonable efforts to identify the primary aggressor in any incident. PC Sections 836(c)(3)/13701(b). The primary aggressor is the person determined to be the most significant, rather than the first aggressor. In identifying the primary aggressor, an officer shall consider:

- (a) The intent of the law to protect victims of domestic violence from continuing abuse;
- (b) The threats creating fear of physical injury.
- (c) The history of domestic violence between the persons involved; and
- (d) Whether either person involved acted in self-defense.

Dual arrests should be made only in those situations where:

- (a) There is probable cause to believe that an offense has been committed by both parties against each other, and
- (b) The officer, despite reasonable efforts, is unable to identify the primary aggressor in the incident. In all cases, arrests shall be made in conformance with §§E, 2, e of this policy.

**(5) Warrantless Entry into Home:**

Where officers are summoned to the scene of a domestic disturbance, they may make a warrantless entry out of concern for the welfare of a possible victim and to prevent further abuse. California law recognizes the need for immediate police intervention even where there is no evidence the victim is hurt or in imminent danger. People vs. Higgins (1994) 26 Cal. App.4th 247.

**(6) Victim Assistance/Crime Prevention:**

- (a)** When a complainant requests an officer to remove a person from the premises and it can be shown that the complainant is in lawful possession of the premises (i.e., by showing a rental agreement, canceled rent check, lease, grant deed, rent receipts or other documents, or verification) and the person desired to be removed is not in lawful possession of the premises, the responding officer shall:

  - i. Request the person to leave the premises and stand by until the person removes their belongings.
  - ii. Should the person refuse to leave upon request, the suspect should be arrested for any applicable Section (i.e., PC §602.5), and thereupon cited and released, upon satisfying release criteria.
- (b)** When a party in a domestic violence incident request police assistance in removing a reasonable amount of personal property (i.e., a suitcase) to another location, officers shall stand by for a reasonable amount of time until the party has safely done so.
- (c)** If a complainant claims injuries, whether visible or not, which require medical attention, officers shall administer first aid as appropriate and offer to arrange for proper medical treatment.
- (d)** Assist in making arrangements to transport the victim to an alternate shelter if the victim expresses a concern for safety or the officer determines a need exists.
- (e)** The officer shall furnish the victim a written notice setting forth the information required pursuant to PC §13701(I)(1)(A) including:

  - i. A telephone number to call for shelter or other community services.
  - ii. Information on civil or criminal complaints and court orders for relief.
  - iii. For information about the California Victims' Compensation Program, you may contact 1-800-777-9229.
- (f)** In the case of an alleged violation of Penal Code Section 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, the officer shall provide the victim with a "Victims of Domestic Violence" card, attached as Appendix A, which shall include, but is not limited to, the following information:

- i. The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
- ii. A simple statement on the proper procedures for a victim to follow after a sexual assault.
- iii. A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
- iv. A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

These information cards are currently provided by the Riverside County Coalition for Alternatives to Domestic Violence, and are available through the Records Bureau.

- (g) The Riverside Police Department shall provide, without charging a fee, one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, to a victim of domestic violence, upon request.

**f. Writing of Reports:**

Officers shall investigate and write an incident report in response to all domestic violence-related calls for assistance, including any court order violation or threat, even if the suspect is not at the scene. Officers shall assist victims in pursuing criminal options, such as giving the victim the report number for follow-up or explaining how the report number can be obtained. Officers shall also direct the victim to the proper investigation unit.

- (1) All incident reports made involving domestic violence shall be marked with both the primary offense followed by a slash mark and the words "Domestic Violence" (i.e., 273.5 PC/Domestic Violence).
- (2) Pursuant to PC §293, officers shall inform the victim of a domestic violence offense that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record. A PC 293 Confidentiality Form, attached to this policy as Appendix D (English) and as Appendix E (Spanish), shall be completed for each victim and attached to all criminal reports related to the following California Penal Code Sections: 220, 261, 261.5, 262, 264, 264.1, 273a,

273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9. These crimes are also enumerated in Section 6245(f)(2) of the Government Code to:

- (a) Advise the victim, or guardian if the victim is a minor, of their right to confidentiality.
- (b) Provide the victim's identifying information.
- (c) Request the victim or guardian sign the confidentiality form. If they refuse to sign the form, the investigating officer will complete the form and mark "refused" on the signature line.
- (d) The Confidentiality Form shall be submitted with the police report as the cover sheet.

If the victim does not want his or her name to be a matter of public record, DO NOT place identifying information on the face sheet of the crime report or any supplemental crime report. In the body of the report, refer to the victim as "Victim 1", "Victim 2", etc. DO NOT use the name of the victim in the body of the report.

When submitting cases to the District Attorney's office for review or complaint, the PC 293 Confidentiality Form(s) shall be submitted with the District Attorney's copy only and separate from the crime report.

- (3) All incident reports shall be accompanied with the Domestic Violence Supplement form. This form shall be used to assist in gathering information required by statute and provide a summary of the incident. In situations where the supplement form covers all the necessary information in a specific area, it is not necessary to repeat this information in the narrative of the incident report. Critical areas such as injuries, torn clothing, emotional state, intoxication, and history of domestic violence are examples of areas that require greater detail in the narrative.
- (4) See Section E, 2b, (13).

**g. Confiscation of Weapons:**

- (1) PC §12028.5 authorizes peace officers at the scene of a domestic violence incident involving a threat to human life or a physical assault "... to take temporary custody of any firearm or other deadly weapon in plain sight or discovered pursuant to a consensual search as necessary for the protection of the peace officer or other persons present." Officers are reminded to exercise their authority to permit maximum protection of persons at the scene of a domestic violence incident.
- (2) The main procedural requirements of PC §12028.5 are summarized as follows:

- (a) A receipt shall be given to the owner when the weapon is taken into custody.
- (b) The weapon(s) shall be held at least 48 hours.
- (c) If not retained as evidence, the weapon shall be returned after 48 hours and not later than 72 hours after initial seizure.
- (d) Any firearm taken into custody and not recovered by the owner within 12 months shall be treated as a nuisance unless there is an extended hearing process.
- (e) When an officer has taken a firearm into custody, he/she shall inquire whether any victim and/or witness is willing to execute the declaration form in support of destroying the confiscated weapon(s), attached to this policy as Appendix F. If a victim and/or witness would like to sign the declaration, the officer shall complete the form and present the form for their signature. One copy of the declaration shall be left with the person signing the form. The original and additional copies shall be attached to the police report.

The officer shall inform the person signing the declaration that the matter will be referred to the Domestic Violence Unit and the City Attorney's office for review regarding confiscation and destruction to the weapons pursuant to PC §12028.5.

- (f) When a law enforcement agency has reasonable cause to believe the release of the weapon would be likely to result in endangering the victim, the agency shall advise the owner and within 30 days of seizure, initiate a petition in Superior Court to determine if the firearm or other deadly weapon should be returned.

- (3) In some domestic violence related matters, officers may encounter an individual who has a permit to carry a concealed firearm. The weapon and permit are both subject to the same impound procedures and appropriate seizure should take place. The law enforcement agency issuing the CCW permit should be notified of the impound and seizure.

### **3. Supervisor's Responsibilities:**

- a. Monitor response to the domestic violence incident and respond to the scene if necessary.
- b. Review and approve all incident reports involving domestic violence in order to ensure a complete and thorough investigation.
- c. Ensure timely compliance with the firearms confiscation procedures set forth in PC §12028.5.

- d. If a weapon has been seized pursuant to PC §12028.5, the patrol supervisor reviewing the incident report will notify the City Attorney's Office at 826-5739. A message with the file number, date, location, and number of weapons seized will be left at any time of the day.
- e. Arrange for transportation to a shelter for victim(s) and children, when necessary.
- f. Arrange for police standbys for removal of personal property by victim(s) and children, when necessary.
- g. Assist in safe passage out of the victim's residence.

**4. Civil Liability:**

- a. Government Code §845 - Neither a public entity nor a public employee is liable for failure to establish a police department or otherwise to provide police protection or, if police protection service is provided, for failure to provide sufficient police protection service.
- b. FC §6272(a) - Law enforcement officers shall use every reasonable means to enforce an emergency protective order.
- c. FC §6272(b) - A law enforcement officer who acts in good faith to enforce an emergency protective order is not civilly or criminally liable.
- d. FC §6385(- c) -There is no liability on the part of, and no cause of action arises against, an employee of a law enforcement agency if a person described in Subdivision (g) of PC§ 12021 unlawfully purchases or receives or attempts to purchase or receive a firearm and a person is injured by that firearm or a person otherwise entitled to receive a firearm is denied a firearm and either wrongful action is due to failure of a court to provide the notice that a person is subject to a restraining order and prohibited from purchasing or possessing a firearm.
- e. PC §847(b) - There shall be no civil liability on the party of and no cause of action shall arise against any peace officer acting within the scope of his/her authority, for false arrest or false imprisonment arising out of any arrest when any one of the following circumstances exists:
  - (1) The arrest was lawful or when the peace officer, at the time of the arrest, had reasonable cause to believe the arrest was lawful.
  - (2) When the arrest was made pursuant to a charge made, upon reasonable cause, of the commission of a felony by the person to be arrested.
  - (3) When the arrest was made pursuant to the requirements of §§142 (private person arrest), 838 or 839.

**F. DOMESTIC VIOLENCE RESTRAINING ORDERS:**

**1. Types and Definitions:**

The three basic types of domestic violence orders are defined as follows:

- a. **Protective Order** - An order which includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:
  - (1) An order enjoining specific acts of abuse;
  - (2) An order excluding a person from a dwelling; and
  - (3) An order enjoining other specific behavior. These orders are also known as **domestic violence protective orders or temporary restraining orders**. They are generally issued by civil courts during family law proceedings. They may have a duration up to three years.
- b. **Stay-Away Order** - An order issued in a criminal case involving domestic violence. It is issued where there is a likelihood that the suspect will intimidate the victim or members of the victim's family. It may remain in effect throughout the pending criminal case in which it is issued, including the sentence and probationary period.
- c. **Emergency Protective Order ("EPO")** - An order issued upon the assertion by a law enforcement officer to a judicial officer that a person is in immediate and present danger of domestic violence or that a child is in immediate and present danger of abuse by a family member. The court shall be available 24 hours each day, seven days a week and 365/366 days each year to issue EPOs upon proper showing by law enforcement officers. EPOs expire at the earlier of the following times: the fifth court day following the day of issuance or the seventh calendar day following the day of issuance.

Willful disobedience of any of these lawfully issued orders is a misdemeanor. PC §166(a)(4).

## 2. **Authority to Obtain and Issue:**

- a. **Protective orders or temporary restraining orders** are issued by Municipal or Superior Court judicial officers during family law proceedings pursuant to FC §§6320, 6321 and 6322. These orders may be issued independently or as part of another family law order or judgment. The application for the order is filed by the person to be protected.
- b. **Stay-Away Orders** are issued by either Municipal or Superior Court judicial officers during the pendency of criminal proceedings pursuant to PC§ 136.2. The District Attorney or Attorney General charged with the prosecution of the case applies for the order.
- c. **Emergency Protective Orders** may be issued by any Municipal or Superior Court judicial officer pursuant to FC §6250. These orders are issued to law enforcement officers for the benefit of the persons to be protected. The officer who requested the EPO shall reduce the order to writing on Judicial Court Form 1295.90 as revised 1/2000 and shall sign the application.
- d. All of these orders may be issued free of filing fees and the court may order law enforcement officers to serve them free of service or process charges.

- e. The EPO is always issued upon the ex parte application of an officer. The protective order or temporary restraining order may be issued upon notice and hearing or upon the ex parte application of the victim. The stay-away order is usually ordered without the need for formal notice. However, the defendant is usually in court when it is issued or will be ordered to appear in court to be informed of its terms by the issuing judicial officer.

**G. ASCERTAIN NEED FOR EMERGENCY PROTECTIVE ORDER:**

**1. Criteria:**

- a. When the Riverside County Superior Court is not in session and there is no other means of securing a restraining order. Note: EPOs are available when the court is in session but should be used rarely since other means of securing an order are available.
- b. When the officer has reasonable grounds to believe a person is in immediate and present danger of domestic violence by a family or household member, the officer may request an ex parte emergency protective order from the on-call judicial officer.
- c. Officers should make this determination based on the applicant's allegations of a recent incident of abuse or threats. Criteria may include:
  - (1) The suspect is being arrested for a charge related to a domestic violence incident.
  - (2) The suspect has a history of domestic violence.
  - (3) The victim expresses fear of retaliation or further violence.
  - (4) Threats of serious danger have been made to the victim or to the victim's family.
- d. The availability of an emergency protective order shall not be affected by the fact that the endangered person has vacated the household to avoid abuse.
- e. The requirement to establish tenancy or lawful possession of premises required under 546(a) CCP is not a requirement for emergency protective orders.

**H. REQUEST FOR EMERGENCY PROTECTIVE ORDER:**

- 1. The officer shall complete the application for emergency protective order form and secure signature (under penalty of perjury) of applicant.
  - a. Supervisor approval is required prior to contacting the on-call judicial officer.
- 2. The officer shall contact the on-call judicial officer by telephone and assert, from the application, the grounds for belief that an emergency protective order is appropriate.
  - a. An on-call judicial officer list is provided by the presiding judge of the Superior Court (same as on-call search warrant list).
    - (1) The on-call list is available in Dispatch.

- (2) If the telephone call is to be made from any location other than the Police Department, place the call through the dispatcher to the judge (this precaution is to avoid the telephone number of the judicial officer appearing on the telephone bill of one of the parties).
3. Upon oral issuance of the order by the on-call judge, the emergency protective order form shall be completed as per the judicial officer's instructions regarding restraint, and/or temporary custody. The officer shall sign the emergency protective order.
4. If the on-call judge denies issuance of an emergency protective order, the officer shall check the appropriate box on the application and give the pink NCR copy to the applicant.
5. The white original application shall be filed with the police report.

**I. ISSUED ORDERS:**

1. The officer who requested the emergency protective order shall:
  - a. Provide a copy of the order and application (pink NCR copies) to the protected party.
    - (1) Advise protected party that the emergency order shall expire not later than 5:00 p.m. on the close of judicial business on the fifth court day or the seventh calendar day following the day of its issuance, whichever is earlier.
2. Advise protected party how to secure a more permanent order.
  - a. Serve a copy of the order (canary NCR copies) on the restrained party, if the party can be reasonably located.
    - (1) Telephonic service to the restrained party is acceptable . Confirm the restrained party's identity, give notice of EPO conditions, and note telephonic service on the order and on any documentation reports. Telephonic service should be audio-recorded.
  - b. While on duty, carry a copy (golden rod NCR copy) of the order.
  - c. Deliver a copy of the emergency protective order and the white original to the Records Bureau.
    - (1) As soon as practicable after issuance, the original order shall be filed with the Superior Court of Riverside County at 4050 Main Street, Riverside, CA 92501 by the Investigations Bureau.
  - d. Upon expiration of the officer's shift, route the golden rod NCR copies (officer's copies) of the emergency protective order to the Records Bureau for filing with the original report.

**J. ENFORCEMENT PROCEDURES:**

1. Where a violation of any emergency protective order has occurred, the officer shall verify the restrained party has been served, then arrest in accordance with all other restraining order procedures.

**K. EMERGENCY PROTECTIVE ORDER LOG:**

1. An Emergency Protective Log shall be maintained in the Communications Center.
  - a. Officers shall promptly advise dispatch personnel whenever a protective order is issued.
  - b. Dispatch personnel shall log the date, file number, and list the protected and restrained parties.

**L. EMERGENCY PROTECTIVE ORDERS LIABILITY:**

1. A law enforcement officer, acting pursuant to Family Code Section 6272, shall not be held civilly or criminally liable if he or she acted in good faith in requesting and enforcing any emergency protective order.

## DOMESTIC VIOLENCE EMERGENCY PROTECTIVE ORDERS GENERAL INFORMATION CLARIFICATION

Officers should be aware of the following information in deciding whether or not an emergency order is appropriate:

1. Household Member - The law defines a household member as someone with whom the requester has lived within the past six months. If the party that the order is to restrain does not presently live with the requester, but has within the past six months, an order could be justified.
2. Abuse - The law defines abuse as either assault or the threat of assault (PC§ 13700(a); FC§ 6203). There must be more than a 415 PC (family) in order to obtain an order.
3. Orders - Three types of orders may be obtained:
  - (a) Conduct - Restrain on physical or other abuse.
  - (b) Kick Out/Stay Away Orders - Where the party is removed from the residence and is prohibited from contacting the party requesting the order.
  - (c) Custody Order - Child custody is granted (temporarily) to one of the parties.
4. Expiration - All of the emergency protective orders expire at the earlier of the following times: the close of judicial business on the fifth court day or the seventh calendar day following its issuance, whichever is earlier. **Always** advise the person requesting the order to go to Superior Court before the expiration of the EPO, to obtain a permanent protective order.
5. Orders and Arrest - Should you respond to a domestic violence situation and determine that a crime has occurred and an arrest is in order, make the arrest . . . then determine whether or not there is a strong likelihood of the violence continuing. If there is (such as having to release the person on a cite-release and knowing that he/she will return and continue the violence), obtain the order prior to releasing the person from custody. He/She can be served at that point and warned that he/she will be arrested and jailed should he/she return.
6. Establishing Tenancy or Legal Residence - Lawful possession does not necessarily mean that the person requesting the order owns or rents the premises. The court states that we need to determine who is lawfully in possession of the premises and that could mean that the person whose name is on the deed is not in lawful possession of the premises.
7. Calling of the Judge - Prior to calling the judge, the on-duty supervisor shall determine whether or not the order is called for, and shall approve the calling of a judge to issue the order. In all cases, the supervisor shall be consulted prior to calling. In all cases where the officer is at the residence of the parties involved, dispatch shall call the judge, give him/her the phone number where the officer is, and have him/her call back. This is to protect the judge from contacts later should the judge's phone number show up on the party's phone bill. When a call is to be made from the station, the on-call judge list (same as used for search warrants) shall be used. This list is available in both dispatch and the supervisor's office. If all parties requesting the order are at the station, only the reporting officer or the on-duty supervisor shall call the judge directly.
8. Retention of Order During Shift - The law requires that the officer obtaining the order is to carry the order with him/her during the remainder of his/her shift. The assumption is that he/she will be available to serve the restrained party should he/she return. The order should be forwarded to the Supervisor of succeeding shifts for assignment for service.
9. Service - If the party to be restrained is still at the residence, service would be accomplished by giving him/her a copy of the order (canary NCR copy). Should he/she be gone, and

telephone contact can be made, then verbal telephone contact can be accomplished. If verbal service is made, the officer shall note that fact on the order.

10. Reports - A report shall be made in all instances where an emergency protective order is obtained. The appropriate crime report should be authorized since it is domestic violence and since an assault or threat of assault should have occurred.
11. Stay-Away Distance - Stay away orders have a blank for inserting distance to stay away. One hundred (100) yards is the appropriate distance to enter in this blank, but may have to be altered as circumstances warrant.

Any problems, questions, or suggestions for improvements should be brought to the immediate attention of your supervisor.

DOMESTIC VIOLENCE EMERGENCY PROTECTIVE ORDERS  
MOST FREQUENTLY ASKED QUESTIONS

1. Who is eligible for the protection of an emergency protective order?

A person who alleges a recent incident of abuse or threat of abuse by a person who is within one of three categories:

- (a) a family member defined as a "spouse, former spouse, parent, child, or any other person related by consanguinity or affinity within the second degree" (parent-child, sibling-sibling, grandparent-grandchild);
- (b) a household member defined as "any other person who regularly resides in the household, or who within the last six months regularly resided in the household";
- (c) a person who is the parent of a minor child where the male parent is a presumed parent under Family Code Section 7600 et seq. and the abuse is by one parent against the other.

If the person is a family member, he or she may never have resided in the household; if the person left the household less than six months ago, the person is still included within the definition of a household member.

2. When is an emergency protective order available?

At all times when the Superior Court is or is not in session. It is available even when the endangered person has left the household to avoid abuse **BUT IT IS NOT AVAILABLE AND NOT NECESSARY IF A RESTRAINING ORDER ALREADY EXISTS BETWEEN THESE SAME PARTIES, SO LONG AS THE DEFENDANT HAS BEEN VALIDLY SERVED.**

The statute contains no limit on the number of protective orders that can be issued nor on their frequency.

3. What are the criteria for issuance of the emergency orders?

To obtain an emergency protective order, a person must be "in immediate and present danger of domestic violence by a family or household member, based upon that person's allegation of a recent incident of abuse or threat of abuse by that family or household member." The use of the term "recent" suggests that the abuse or threat of abuse is what precipitated the call for law enforcement help.

4. How long does the emergency protective order last?

It lasts until the close of judicial business on the fifth court day or the seventh calendar day following the date of its issuance, whichever is earlier.

5. What orders are available as emergency protective orders?

The statute permits emergency orders under the same provisions as regular ex parte domestic violence restraining orders (Family Code Sections 6252). These are respectively the basic "do not contact, molest, attack, strike, threaten, sexually assault, batter, or disturb the peace of . . ." order; the order excluding one party from the dwelling of the other; and any other order necessary to effectuate the first two. In addition, the statute specifically authorizes a temporary custody order.

The orders available might include orders to stay away from a specific place, such as a place of employment. While the present form of order does not contain much space for such an additional order, the officer can find space for it on the form when necessary.

Note that the basic restraining order prohibits the restrained person from telephoning or contacting the protected person. If these orders are not appropriate, the peace officer should cross them out and initial the line.

6. How is the relief granted under the emergency protective order different from a regular domestic violence restraining order, if at all?

Regular domestic violence ex parte restraining orders (an emergency protective order is an ex parte restraining order) issued under Family Code Sections 6320 et seq. are different from emergency protective orders in three significant ways.

- (a) A telephonic emergency protective order can include a temporary order determining the care and control of any minor child of the restrained and protected persons.
- (b) A telephonic emergency protective order can exclude a person from a residence or dwelling without any showing that the protected person has the right to possession of the premises.
- (c) Important ex parte orders relating to property and debts are available to married parties under the regular procedure.

7. When should a temporary custody order be made?

**Only** if the judicial officer finds both of the following: (a) that reasonable grounds have been asserted to believe that a child is in immediate and present danger of abuse and (b) an EPO is necessary to prevent the occurrence or recurrence of child abuse.

8. What if a custody order exists and it gives weekend visitation to a parent who has arrived drunk and rowdy to pick up a child?

It is not necessary to change the custody. An order can be issued that the drunk and rowdy parent stay a sufficient distance from the scene and the child so that the intoxicated parent is unable to exercise the visitation. By using temporary custody orders with great caution, the emergency protective order will not be available for child stealers or those parents who make unsavory attempts to change custody the last weekend of the summer vacation or Christmas vacation, alleging that abusive acts have just been brought to their attention.

9. What is the relationship between an emergency protective order and the arrest (or non-arrest) of the restrained person?

The fact of arrest may have no relevance to issuance of an emergency protective order. The protective order is not a substitute for an arrest. An arrest may not keep the arrestee in custody for long.

#### SPECIAL PROBLEMS AND ISSUES

10. Can a domestic violence shelter obtain a restraining order?

No. They may be obtained only by a person. A woman at a domestic violence shelter would be able to obtain one, but the shelter would not.

11. If there are two apartments in the same building, can the resident of one get an emergency order against the resident of the other?

Not unless they are related by blood or marriage, or unless they have shared a residence within the past six months so they are household members.

12. Can one get an order against an ex-spouse?

Yes, if they lived together within the past six months, the ex-spouse is a household member. Also, an ex-spouse is specifically included in the definition of family members.

13. If two people are living together as roommates, can you exclude one?

Yes, upon a proper showing. They are household members.

14. Can you exclude a rowdy threatening tenant at the request of the landlord?

No . . . be **VERY CAREFUL** of the landlord-tenant area! Landlords may go to great lengths to get tenants out so they can change the locks. Tenants may go to great lengths to avoid landlords who want to collect the rent. Ask extra questions whenever the relationship could possibly be landlord-tenant, even though the landlord and tenant may be related.

15. What if there's a dispute between two neighbors - such as violence over a parking space?

Domestic violence neighborhood disputes are not generally resolvable by telephone protective orders, however, if the neighbors are related, an order may be available. In such a situation, you might wish to order one neighbor to stay some designated distance from the other. The restrained person may not be compelled to vacate his/her house.

16. What if a mother and her daughter are being bothered by the daughter's ex-boyfriend?

Since the ex-boyfriend has had a dating relationship with the daughter, an emergency protective order is available upon a proper showing.

17. What if a party provides you with a court order from outside Riverside County - is it enforceable?

Yes, it is. An order issued by any court in the State of California is enforceable provided that proof of service is valid.

## TEMPORARY RESTRAINING ORDERS/INJUNCTIONS

Employees must be familiarized with restraining orders/injunctions and establish the necessary requirements for recording, maintaining, updating, and enforcing all restraining orders presented to their departments.

For agencies to discharge their responsibilities, both sworn and non-sworn personnel must know how to read a restraining order and what to do with one when it is received. Specific law enforcement actions relating to domestic violence are described in Penal Code Sections 13700 et seq., while restraining orders/injunctions relating to harassment are described in Sections 526 and 527.6 of the Code of Civil Procedure.

Under California law, courts can make orders to protect people from being harassed by others (CCP 527.6) and from the physical violence of family members or people they live with (Domestic Violence Prevention Act, Family Law Act, or Uniform Parentage Act). These orders are recorded by the court and enforced by law enforcement agencies.

### I. LEGISLATIVE INTENT

- A. The legislature intended by these acts to protect the individual right to pursue safety, happiness, and privacy as guaranteed by the California Constitution.
  - 1. When one person is subjected to harassment.
  - 2. By a knowing and willful course of conduct (series of acts over a period of time, however short, evidencing a continuity of purpose) which would cause a reasonable person to suffer substantial emotional distress,
  - 3. By acts directed to a specific person,
  - 4. And the harassment causes substantial emotional distress,
  - 5. And the harassment serves no legitimate purpose.
- B. The person harassed may seek a temporary restraining order and an injunction prohibiting harassment for a period of up to fifteen days by filing a petition.

### II. RESTRAINING ORDERS - GENERALLY

- A. Harassment
  - 1. Harassment forms are available from the County Clerk's Office or legal publishers and consist of the following:
    - (a) Petition for Injunction Prohibiting Harassment and Application for Temporary Restraining Order/ Petition. This three-page form tells the judge the facts of the plaintiff's case and what orders the plaintiff wants the court to make.
    - (b) Order to Show Cause (OSC) and Temporary Restraining Order (TRO). The OSC, when signed by the judge, tells the defendant to come to court for the hearing. It may include one or more temporary orders (TRO) which take effect immediately and stay in effect until the hearing.
    - (c) Response to Petition for Injunction Prohibiting Harassment (Response). The defendant may file this form to state objections to

the orders the plaintiff has asked the court to make and to give his/her side.

- (d) Order After Hearing on Petition for Injunction Prohibiting Harassment (Order). This is the form signed by the court following the hearing. The order will stay in effect for up to three years depending on what the judge rules.
  - (e) Proof of Personal Service (Harassment) and Proof of Service by Mail (Harassment). These forms are used to show that the other party has been served with the legal documents as required by law.
2. The plaintiff requires five copies of each harassment form . . . one for a work sheet, the original to file with the court, a copy to be personally delivered (served) to the defendant and two copies for the plaintiff. In addition, the plaintiff requires extra copies of the OSC, the Order, and the Proof of Service for each law enforcement agency required to enforce the orders.
  3. The plaintiff completes the Petition and OSC pursuant to instructions provided with the documents, and returns all forms and copies to the County Clerk's office in the Superior Court, with the appropriate filing fee.
  4. If the judge signs the OSC, the clerk will stamp all the papers with a case number. The copies will be stamped with an "Endorsed-Filed" stamp (showing the date of filing), the judge's signature, and the date of signing. The clerk will file the originals and give the plaintiff the copies.
  5. The plaintiff must then have the defendant personally served with copies of the Petition, OSC, and a blank copy of the response.
  6. If the judge issued any temporary orders, the plaintiff is required to deliver copies of the TRO to each law enforcement agency required to enforce the order.
  7. After the defendant has been personally served, the person who served the defendant (licensed process server, sheriff, etc.) must complete and sign the original Proof of Service form and return it to the Court Clerk. The clerk will file the original and stamp "Endorsed-Filed" on the copies. The plaintiff must then take one of the endorsed-filed copies to each of the law enforcement agencies where the initial TRO was filed.
  8. The plaintiff then attends the court hearing with any evidence (copies of police reports, etc.). The order should be filled in and given to the judge for signing.
  9. If the judge signs the order, the plaintiff files the original with the clerk, gets the copies stamped with an "Endorsed-Filed" stamp, and immediately delivers copies to law enforcement agencies.

## B. Domestic Violence

1. Domestic violence prevention forms are available from the County Clerk's office or legal publishers and consists of the following:
  - (a) Application and Declaration for Order (Application). This four-page form tells the judge the facts of the case and what orders the plaintiff wants the court to make.

- (b) Order to Show Cause and Temporary Restraining Order. The judge signs this order to tell the defendant to come to court for the court hearing. It usually will contain one or more court orders that take effect immediately and stay in effect until the hearing.
- (c) Responsive Declaration to Order to Show Cause. The defendant may file this form to say he/she objects to the orders the plaintiff has asked the court to make.
- (d) Restraining Order After Hearing. This is the form signed by the court following the hearing. It will expire in three (3) years unless the court terminates or extends it, or orders a shorter period. This form may be used in conjunction with the Findings and Order after Hearing form if the court makes additional orders.
- (e) Proof of Service. This form is used to show that a defendant has been served with legal papers as required by law.
- (f) Application and Order for Re-issuance of Order to Show Cause. If the plaintiff cannot have the defendant served before the hearing as ordered by the court, he/she completes and files this form to continue the temporary orders in effect and obtain a new hearing date. This form must be delivered to law enforcement agencies so that they know the temporary orders did not expire.
- (g) Other Forms. Plaintiff completed forms for child support, uniform custody of minors, etc.

2. The copies and steps required for issuance of the orders are the same as described in subsection A, numbers 2-9 of this section.

### **III. INJUNCTIONS**

A. Injunctions - Writ or order requiring a person to refrain from a particular act.

1. An injunction may be granted in the following cases:

- (a) When it appears by the complainant that the plaintiff is entitled to the relief demanded and such relief, or any part thereof, consists in restraining the commission or continuance of the act complained of, either for the limited period or perpetually.
- (b) When it appears by the complaint of affidavit that the commission or continuance of some act during the litigation would produce waste, or great or irreparable injury to a party to the action.
- (c) When it appears during the litigation that a party to the action is doing, or threatens or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party to the action respecting the subject of the action and tending to render the judgment ineffectual.

### **IV. FAMILY LAW - EX PARTE PROTECTIVE ORDERS**

A. Upon the application of either party in the manner provided by Section 527 CCP/6320 et seq. FC, the Municipal or Superior Court may issue ex parte orders (a judicial order is said to be ex parte when it is taken or granted at the instance and for

the benefit of one party only and without notice to, or contestation by, any person adversely interested):

1. Restraining any person from, transferring, encumbering, hypothecating (pledge as security), concealing, or in any way disposing of any property, real or personal, whether community, quasi-community or separate.
  2. Enjoining any party from contacting, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including annoying telephone calls as described in PC Section 653m, contacting repeatedly by mail with the intent to annoy or harass, destroying personal property, disturbing the peace of the other party, and in the discretion of the court, on a showing of good cause, of other named family or household members.
  3. Excluding one party from the family dwelling or from the dwelling of the other for the period of time, and upon the conditions as the court may determine, regardless of which party holds legal or equitable title, or is the lessee of the dwelling, upon a showing that the party to be excluded has assaulted or threatens to assault the other party, and that physical or emotional harm would otherwise result to the other party or any person under the case, custody or control of the other party;
  4. Determining the temporary custody of any minor children of the marriage and the right of a party to visit the minor children upon the conditions as the court may determine;
  5. Determining the temporary use, possession and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the pendency of the order, and;
  6. Enjoining a party from specified behavior which the court determines is necessary to effectuate orders under numbers 2 or 3 above.
- B. Any order issued pursuant to this section shall state on its face the date of expiration of the order.
- C. The court shall order the party who obtained the order or the attorney for such party to deliver, or the clerk to mail a copy of any order, extension, modification, or termination by the close of the business day on which the order, extension, modification, or termination was granted and any subsequent proof of service, thereof, to each local law enforcement agency designated by the party and such other locations where the court determines that acts of domestic violence against the party are likely to occur.
- D. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms, and current status of any order issued to any officer responding to the scene of reported domestic violence.

## **V. HARASSMENT - T.R.O./INJUNCTION**

- A. Harassment - A knowing and willful course of conduct (series of acts over a period of time, however short, evidencing a continuity of purpose) directed at a specific person that seriously alarms, annoys, or harasses such person and which serves no legitimate purpose.
  - 1. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff.
- B. Upon filing a petition for an injunction under Section 527.6 CCP, the plaintiff may obtain a temporary restraining order in accordance with the provisions of subdivision (a) of Section 527 CCP.
- C. A temporary restraining order may be granted with or without notice upon an affidavit, which to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that threat or irreparable harm would result to the plaintiff.
  - 1. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed fifteen days, unless otherwise modified or terminated by the court.
- D. Within fifteen days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies, or denies the alleged harassment.
  - 1. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry.
  - 2. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting such harassment.
  - 3. An injunction issued shall have a duration of not more than three years.
  - 4. At any time within three months before expiration of the injunction, the plaintiff may apply for a renewal of an injunction by filing a new petition for an injunction.
- E. Upon filing of a petition for an injunction, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.
- F. The clerk shall transmit a copy of each temporary restraining order or injunction, modification, or termination thereof, by the close of the business day on which such order was granted, to such law enforcement agencies within the court's discretion as are requested by the plaintiff.
  - 1. Each appropriate law enforcement agency may make available information as to the existence and current status of these orders to officers responding to the scene of reported harassment.

## **VI. ACCEPTANCE/RECEIPT OF RESTRAINING ORDER**

- A. It is the responsibility of department personnel to receive all temporary restraining orders/injunctions in conformance with the following process:

1. Only conformed or certified copies of orders will be accepted.
  - (a) A conformed copy is a copy of a document produced before being signed by a judge, commissioner, or referee. The "signature" items are filled in by the clerk in pen, or rubber stamp after the original is completed. A "conformed copy" will bear an original "Filed" stamp.
  - (b) A certified copy is a photographic or "Xerox" copy of a document or record, signed and certified as a true copy by the officer to whose custody the original is entrusted and is produced after the original has been completed by the judge, commissioner, or referee and filed by the clerk. A certified copy will bear an original "certified" stamp.
2. Such orders should include a complete "proof of service" or similar document indicating that a person against whom the order is directed has been notified of the order.
3. Persons making delivery of an order which lacks "proof of service" will be advised that enforcement action cannot occur until "proof of service" is established, however, the order will be accepted and appropriately filed.
4. "Proof of Service" is one of the hardest things to establish and usually is defective in some manner, mostly because the litigants are "pro per." Copies of all orders, revisions, or updates will be filed in the Records Bureau by case number. The Records Bureau shall enter the Restraining Order information into the local Automated Name Index (ANI) and the State Domestic Violence Restraining Order System (D.V.R.O.S.) / C.L.E.T.S.

## **VII. INVESTIGATION/VERIFICATION OF THE ORDER**

- A. When an incident being investigated involves the alleged violation of a restraining order/injunction, the following investigative steps should be taken:
  1. Determine that an order is on file and file is active, (note that orders from any other state, commonwealth, tribe or territory, military tribunal or insular possession subject to the jurisdiction of the United States are valid and must be enforced) or;
  2. If no order is on file, the complainant must provide a conformed (containing an original "FILED" court stamp) or certified active copy of the order.
  3. Verify the conditions specified in the order (also any revisions or updates), and that the person has willfully violated those conditions.
  4. Verify that the person against whom the order is directed has been served or notified. This may be accomplished by:
    - (a) Having a copy of the proof of service in the file with the T.R.O.
    - (b) Checking the T.R.O. to determine if the subject was present in court when the order was issued.
    - (c) Having a police report that indicates notification by law enforcement. State law requires a retrievable written record of T.R.O. service, a copy of which should be filed with the T.R.O. itself; or

- (d) Contacting or telephoning the Court Clerk (during normal business hours) to see if both parties were present in court when the T.R.O. was issued (court docket information).
  - (e) The responding officer requests that the Communications Bureau seek verification through the California Department of Justice Domestic Violence Restraining Order System.
5. If prior conditions are met, the investigating officer can cite, arrest, or request that a warrant be issued if the suspect is not present.
  6. A report will be completed on all violations, or alleged violations, of restraining orders.
    - (a) If no copy of the order and proof of service is on file with the department, make a copy of the order furnished by the complainant and attach to the report.
  7. Investigating officers need not cite, arrest, or request that a warrant be issued when the following circumstances are present:
    - (a) A violation has occurred, but the complainant indicates that prosecution is not desired.

**NOTE:** This is the problem of a "waiver" by the holder of the order. When this occurs, the suspect/defendant always claims it as a defense on a later occasion when the holder demands prosecution.

    - (b) Verification of service cannot be established.
    - (c) When the existence of the order cannot be verified.
    - (d) When there is reasonable cause to believe that the person against whom the order is directed did not willfully violate the order. However, the assigned officer will report the incident and include the reason or circumstances which justify the lack of an arrest.
    - (e) The above provisions do not preclude the lawful arrest of a person for any other violation(s).

## VIII. NOTICE OF SERVICE

Orders of which verification or proof of service cannot be established will be resolved as follows:

1. The investigating officer will advise the person to whom the order is directed of the order and its conditions. This may be done in person or telephonically. If done by telephone, the advisement should be audio-recorded.
2. After such advisement, if the person continues to willfully violate the provisions of the order, an arrest will be made.
3. The person to whom the order is directed may be given a copy, when possible.
4. Notice of advisement shall be included in the investigating officer's report.

5. The investigating officer shall promptly notify Records personnel of the notice of service.
  - (a) Records personnel shall promptly note the notice of service on the restraining order proof of service work sheet.

## APPENDIX A (1 of 2)

### INFORMATION TO VICTIMS OF DOMESTIC VIOLENCE

1. Despite official restraint of the person alleged to have committed domestic violence, the restrained person may be released at any time.
2. For information about a shelter you may contact Alternative to Domestic Violence by calling in the Riverside Area (951) 352-9262. They also provide counseling services and assistance in typing restraining orders.
3. Other services in the community that may be of assistance to you:
  - For legal assistance contact:

|                                |                |
|--------------------------------|----------------|
| Inland Counties Legal Services | (951) 683-7742 |
| Lawyer Referral Service        | (951) 682-7520 |
  - When child abuse has occurred contact:

|                           |                |
|---------------------------|----------------|
| Child Protective Services | (951) 358-3700 |
| Victim/Witness            | (951) 955-5450 |
4. The victim of a domestic violence can ask the District Attorney to file a criminal complaint.
5. It is the responsibility of the victim to request notification of an inmate's release.
6. The terms and conditions of the protective order remain enforceable, notwithstanding any acts of the parties, and may be changed only by order of the court.
7. Victims' of domestic violence have the right to go to the superior court and file a petition and/or an order to show cause requesting any of the following orders for relief:
  - a. An order restraining the attacker from abusing the victim and other family members.
  - b. An order directing the attacker to leave the household.
  - c. An order preventing the attacker from entering the residence, school, business, or place of employment of the victim.
  - d. An order awarding the victim or the other parent custody of or visitation with a minor child or children.
  - e. An order restraining the attacker from molesting or interfering with minor children in the custody of the victim.
  - f. An order directing the party not granted custody to pay support of minor children, if that party has a legal obligation to do so.
  - g. An order directing the defendant to make specified debit payments coming due while the order is in effect.
  - h. An order directing that either or both parties participate in counseling.
8. The victim of domestic violence has the right to file a civil suit for losses suffered as a result of the abuse, including medical expenses, loss of earnings, other expenses for injuries sustained, damage to property, and any other related expenses incurred by the victim or any agency that shelters the victim.

## APPENDIX A (2 of 2)

ADV  
Alternative to Domestic Violence

### 24 HOUR CRISIS LINES

(951) 683-0829  
Riverside Local Calling Area

1-(800) 339-SAFE  
Remainder of Riverside County

If you have been hurt by a spouse or intimate partner and need assistance in identifying your alternatives, call the CRISIS LINE. ADV provides information, counseling, referrals, and shelter services for domestic violence victims and their children.

FOR IMMEDIATE EMERGENCY RESPONSE DIAL 911

In the case of an alleged violation of Penal Code Section 243(e), 261, 261.5, 262, 273.5, 286, 288a, or 289, the officer shall provide the victim with a "Victims of Domestic Violence" card which shall include, but is not limited to, the following information:

- a. The names and phone numbers of or local county hotlines for, or both the phone numbers of and local county hotlines for, local shelters for battered women and rape victim counseling centers within the county, including those centers specified in Section 13837, and their 24-hour counseling service telephone numbers.
- b. A simple statement on the proper procedures for a victim to follow after a sexual assault.
- c. A statement that sexual assault by a person who is known to the victim, including sexual assault by a person who is the spouse of the victim, is a crime.
- d. A statement that domestic violence or assault by a person who is known to the victim, including domestic violence or assault by a person who is the spouse of the victim, is a crime.

**APPENDIX B**

**AUTHORIZATION FOR MEDICAL AND/OR HOSPITAL INFORMATION**

TO:

(Hospital or Doctor)

RE:

(Victim's name, etc.)

This is to authorize any physician, hospital, medical attendant, or others to furnish the Riverside Police Department Domestic Violence Unit, and/or the Riverside County District Attorney, or any representative thereof, any and all information or opinions which they may request regarding my physical condition and treatment rendered therefore and to allow them to see or copy any x-rays or records which you may have regarding my condition or treatment concerning injuries occurring on or about

\_\_\_\_\_  
(Date)

You are further requested to disclose no information to any other persons without written authority from me to do so (pursuant to privilege and confidential communications statutes). All prior authorization is hereby canceled. I hereby waive any privilege I have to such information in order that said information can be furnished to the Riverside Police Department Domestic Violence Unit and/or the Riverside County District Attorney's Office.

\_\_\_\_\_  
(Signature)

Date: \_\_\_\_\_

\_\_\_\_\_  
(Print Name)

**APPENDIX C**

**PERMISSION TO PHOTOGRAPH**

1, \_\_\_\_\_, voluntarily consent to my injuries and likeness being photographed by \_\_\_\_\_, of the Riverside Police Department. The photographs are necessary as evidence for case number \_\_\_\_\_. I understand that the officer may take photographs of physical injuries visible to public view after taking all practicable steps to protect my privacy and modesty. However, in those cases where my modesty is an issue, the officer has obtained:

- i) my written or audio recorded consent,
- ii) the person taking the photograph is of my same sex,
- iii) the photographs are taken at a location where the areas of my body to be photographed are only visible to the person taking the photographs, or other necessary and indispensable persons such as medical personnel,
- iv) the photographs shall be maintained, distributed, and utilized in a manner so as to protect my privacy and modesty being the person photographed.

I am giving this written permission freely and voluntarily so a permanent record of my visible physical injuries can be presented in court as evidence.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

**APPENDIX D (English)**

**CONFIDENTIAL REPORT**  
For Law Enforcement Personnel Only  
Riverside Police Department CA0331300

NOTICE TO: VICTIMS OF SEX CRIMES

Report No. \_\_\_\_\_

This form must be attached to all criminal reports related to the following California Penal Code sections: 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9. A separate form shall be completed for each victim.

California Penal Code 293 (a): "Any employee of a law enforcement agency who personally receives a report from any person, alleging that the person making the report has been the victim of a sex offense, shall inform the person that his or her name will become a matter of public record unless he or she requests that it not become a matter of public record, pursuant to Section 6254 of the Government Code."

"Pursuant to California Penal Code 293 (a) and California Government Code 6254, you are informed that your name will become a matter of public record unless you request that it not become a matter of public record."

I have read and understand the above paragraph. I have been informed of my right to have my name not become a matter of public record.

Victim Signature \_\_\_\_\_  
(If the victim is under age 18, a parent or guardian's signature should be obtained)

Date \_\_\_\_\_

Parent/guardian Signature \_\_\_\_\_

Date \_\_\_\_\_

Officer advised parent or guardian telephonically

Indicate your decision by marking one of the following choices:

- I do not want my name to become a matter of public record.
- I have no objection to my name becoming a matter of public record in this sex offense investigation and possible litigation. I understand that by selecting this option, my name will become a matter of public record.

Witnessed by (Police Department employee informing victim):

Signature \_\_\_\_\_ Employee No. \_\_\_\_\_

TO BE COMPLETED BY POLICE DEPARTMENT EMPLOYEE:

\*IN THE REPORT, this victim is referred to as Victim# \_\_\_\_\_  
Victim Name \_\_\_\_\_ DOB \_\_\_\_\_ CDL# \_\_\_\_\_

Race \_\_\_ Sex \_\_\_ Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_

Zip Code \_\_\_\_\_ Residence Phone ( ) \_\_\_\_\_ Business Phone ( ) \_\_\_\_\_

NOTICE TO EMPLOYEE: If the victim does not want his or her name to be a matter of public record. DO NOT place identifying information on the face sheet of the crime report or any supplemental crime report. In the body of the report, refer to the victim as "Victim 1", "Victim 2", etc. DO NOT use the name of the victim in the body of the report.

Rev. 1/20/05

**APPENDIX E (Spanish)**

**INFORME CONFIDENCIAL**  
 Solamente Para Empleados de Agencias Policiacas  
 Departamento de Policía de Riverside CA0331300

**AVISO A: VÍCTIMAS DE CRÍMENES SEXUALES**

Informe No. \_\_\_\_\_

Esta forma debe de acompañar todos las denuncias criminales relacionados con las siguientes secciones Penales del Código de California: 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, o 646.9. Un formulario separado será llenado para cada víctima.

Código Penal de California 293 (a): "Cualquier empleado de una agencia policiaca que personalmente recibe una denuncia criminal de cualquier persona, alegando que ha sido la víctima de una ofensa sexual, se le informará a la persona que su nombre se convertira en información pública a menos que él o ella solicite que no se convierta en información pública, conforme a la sección 6254 del Código del Gobierno."

"Conforme al Código Penal de California 293 (a) y al Código del Gobierno de California 6254, usted esta informado que su nombre se convertirá en información pública a menos que usted solicite que no se convierta en información pública."

He leído y entiendo el párrafo antedicho. Me han informado de mi derecho de hacer que mi nombre no se convierta en información pública.

Firma de Víctima: \_\_\_\_\_ Fecha: \_\_\_\_\_  
 (Si la víctima es menor de 18 anos de edad, la firma de madre o padre, o guardián legal debe ser obtenido.)

Firma de Madre o Padre/Guardián Legal: \_\_\_\_\_ Fecha: \_\_\_\_\_

El Oficial aconsejo por llamada telefónica a la madre o el padre o guardián legal.

Indique su decisión marcando una de las opciones siguientes:

No quisiera que mi nombre se convierta en información pública.

No tengo ninguna objeción que mi nombre se convierta en información pública en esta investigación de la ofensa sexual y posible litigación. Entiendo que seleccionando esta opción, mi nombre se convertira en información pública.

Atestiguado por (Empleado del Departamento de Policía informandole a la victima):

Firma \_\_\_\_\_ Numero Del Empleado: \_\_\_\_\_

**LO SIGUIENTE DEBE SER COMPLETADO POR EL EMPLEADO DEL DEPARTAMENTO DE POLICIA:**

\*EN EL INFORME, refieren a esta víctima como víctima # \_\_\_\_\_

Nombre de Víctima: \_\_\_\_\_ Fecha De Nacimiento: \_\_\_\_\_

CDL# \_\_\_\_\_ Raza: \_\_\_\_\_

Domicilio: \_\_\_\_\_ Ciudad: \_\_\_\_\_ Estado: \_\_\_\_\_ Código Postal: \_\_\_\_\_

Teléfono Residencial: ( ) \_\_\_\_\_ Teléfono De Negocio: ( ) \_\_\_\_\_

**AVISO AL EMPLEADO:** Si la víctima no desea que su nombre se convierta en información pública, NO PONGA información de identificación en la primera pagina del informe criminal o en ningún informe suplemental del crimen. En el cuerpo del informe, refiera a la víctima como la "víctima 1", la "víctima 2", etc. No utilice el nombre de la víctima en el cuerpo del informe.

Rev. 01/21/05

**APPENDIX F**

**FIREARM DESTRUCTION DECLARATION  
RIVERSIDE POLICE DEPARTMENT**

|                        |                   |             |       |      |
|------------------------|-------------------|-------------|-------|------|
| DATE & TIME            | LOCATION          | FILE NUMBER |       |      |
| CRIME                  | REPORTING OFFICER | ID NUMBER   |       |      |
| VICTIM I I WITNESS I I |                   | SEX:        | RACE: | DOB: |
| ADDRESS                |                   | TELEPHONE   |       |      |

**DECLARATION**

I, \_\_\_\_\_ declare and state as follows:

(PRINT DECLARANT'S Name)

I am the \_\_\_\_\_, \_\_\_\_\_ I was the (victim/witness) of domestic  
 (NATURE OF RELATIONSHIP TO SUSPEC1) (DATE)  
 violence perpetrated by \_\_\_\_\_

(PRINT NAME OF SUSPEC1)

On \_\_\_\_\_, the following weapon(s) were confiscated by the Riverside Police Department: (list make, model,  
 (DATE)  
 caliber and serial number)

- |           |           |
|-----------|-----------|
| (1) _____ | (2) _____ |
| (3) _____ | (4) _____ |
| (5) _____ | (6) _____ |
| (7) _____ | (8) _____ |

I believe that the return of the weapon(s) would result in endangering my safety. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at Riverside, California.

\_\_\_\_\_  
 PRINT NAME (DECLARANT)

\_\_\_\_\_  
 SIGNATURE

\_\_\_\_\_  
 PRINT NAME (WITNESS OFFICER)

\_\_\_\_\_  
 SIGNATURE





# Section J

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**RPD Policy 4.43  
(Rev. 7, 6/4/10)**

**Taser Control Device**



Effective Date: 11/95  
Revision 1 Date: 12/95  
Revision 2 Date: 11/5/97  
Revision 3 Date: 09/12/2002  
Revision 4 Date: 04/02/2004  
Revision 5 Date: 02/01/2006  
Revision 6 Date: 04/16/2009  
Revision 7 Date: 06/04/2010  
Approval:



John DeLaRosa  
Acting Chief of Police

**4.43 ELECTRONIC CONTROL DEVICE:**

**A. POLICY:**

The Taser may be used to control a violent or physically combative subject when Officers have cause to believe that use of a Taser would be objectively reasonable force consistent with the Department's Use of Force Policy 4.30 to protect the subject, other persons or themselves from great bodily harm. The Taser shall not be used against a passively resisting subject.

The Taser should be used to reduce or minimize the chance of injury to the subject, other persons and arresting officer(s). In deciding whether or not to use a Taser, Officers must consider the severity of the crime, if any, whether the subject poses an **immediate threat** to his or her own safety, the safety of officers or other persons, and whether the subject is actively resisting arrest or attempting to evade arrest by flight.

**B. DEFINITION:**

The Taser M26 and X26 are less lethal hand held electronic control devices that can propel a pair of probes into the skin or clothing of a subject. An electrical current passes through these probes into the body of the subject causing instantaneous muscle spasm and loss of balance. The Taser may also be used in a Drive Stun mode where the Taser comes in direct contact with the subject or a combination of both of these modes where the deployed probes and the drive stun are used in conjunction.

**C. PROCEDURES:**

**1. Operation:**

The Taser is a less-lethal control device. The effective maximum range of the Taser when using the probes is dependent on the cartridges used.

**2. Restrictions:**

No member of this Department is authorized to carry or use the Taser without proper certification.

The Taser shall not be used on individuals who are passively resisting arrest, to escort or prod subjects, or to awaken unconscious or intoxicated subjects.

Generally, the Taser should not be aimed at the head, neck, chest, or genital areas.

Officers should not use a Taser against the following subjects unless its use would be objectively reasonable to protect the subject, others or themselves from great bodily harm.

- a. People in control of vehicles.
- b. Women known to be pregnant.
- c. People known to have diseased or weak hearts.
- d. Obviously debilitated people or elderly people who are known to be at greater risk under all circumstances, especially from medical injuries.
- e. Children under age 12.
- f. People with obvious or known neuromuscular disorders, i.e., Multiple Sclerosis, Muscular Dystrophy, Epilepsy.
- g. People known to be wearing pacemakers or other biomedical devices.
- h. People known to be in danger of falling to their death or being caught in dangerous equipment or machinery.
- i. Persons who are known to be in close proximity to flammable liquids, gases, or any substance or object that could be ignited or exploded by a spark.

**3. Carrying the Taser:**

- a. The Taser may be carried in an approved holster or secured in the officer's vehicle so that it is readily accessible at all times.
- b. The Taser shall not be carried on the same side as the officer's duty weapon.

**4. Medical Treatment:**

Any person subjected to immobilization by the use of the Taser device **shall**, as soon as practicable and prior to booking, be transported to a Department approved hospital or, in an emergency, to the nearest hospital emergency room for examination and a medical release to book.

Only medical personnel will remove Taser probes which have or are believed to have penetrated the skin. Officers should disconnect the cartridge and wires from the Taser weapon and secure them in a manner that prevents the probes from being accidentally removed from the person. Officers shall advise medical staff of the number of five-second cycles utilized during the Taser deployment.

Photographs **shall** be taken of the suspect's Taser probe puncture wound(s) as soon as practicable. The photographs should show the location of the wound(s) clearly and should be taken after the wound(s) is cleaned by medical personnel and before any treatment, if applicable. The photographs shall be downloaded in the DIMS (Digital Image Management System).

The expended probes and cartridge shall be sealed in an envelope and placed into evidence.

**5. Training:**

The Training Bureau shall be responsible for ensuring that only qualified certified instructors provide training to and certification of Officers in the use and care of the

Taser. Taser operators must be recertified bi-yearly.

**6. Inspection:**

Commanding officers shall be responsible for bi-yearly inspections and audits of all Tasers and cartridges assigned to their respective commands.

**7. Reporting:**

All discharges of the Taser shall be documented in an Officer's Initial Police Report. Officers shall sufficiently describe the circumstances to explain their reasons for the use of the Taser in their initial police report which must include the following information:

- a. Suspect(s) action prior to deployment.
- b. Consideration(s) for lesser intrusive means than the Taser to control the suspect.
- c. The warning(s) given before deploying the Taser. If no warning was given, explain why not.
- d. Point of impact on the subject.
- e. The number of five-second cycles.
- f. Action taken after discharge.

Any injuries the suspect has incurred as a result of the use of the device.

**8. Supervisor Responsibilities:**

If a Taser device is utilized, a supervisor shall remove the Taser device from service and complete a data download. The supervisor shall return the Taser device to the assigned officer as soon as practical. Supervisors shall complete a Use of Force Investigation pursuant to 4.30 of this Manual and incorporate the download printout into the report.



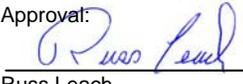
# Section K

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RPD Policy 4.49  
(Rev. 3, 2/1/08)

Less Lethal  
Weapons Systems  
and  
Deployment



|                                                                                     |
|-------------------------------------------------------------------------------------|
| Effective Date: 5/27/97                                                             |
| Revision Date: 11/29/2000                                                           |
| Revision 2 Date: 1/2/2002                                                           |
| Revision 3 Date: 2/1/2008                                                           |
| Approval:                                                                           |
|  |
| Russ Leach                                                                          |
| Chief of Police                                                                     |

**4.49 LESS LETHAL WEAPONS SYSTEMS AND DEPLOYMENT:**

**A. PURPOSE:**

The purpose of this policy is to ensure that each officer has access to, and training in the use of, less lethal weapons systems and to establish procedures for their use.

**B. POLICY:**

It is the policy of the Department to provide officers access to, and training in the use of less lethal weapons systems so that employees have options available to them in responding to situations in which force must be used. Less lethal weapons shall only be deployed by personnel certified in their use through a Departmentally approved training course. Less lethal munitions shall be deployed in a manner consistent with the Use Of Force Policy, as set forth in Section 4.30 of the Riverside Police Department Policy and Procedures Manual, at Level 5 - Impact Weapons or Level 6 - Lethal Force and meet one or more of the following criteria:

1. The subject has made threats, or exhibited the intent, to harm officers, others or themselves, and the subject appears to have the present ability to carry out the threat, or
2. The subject stated, or exhibited the intent, to violently resist being taken into custody, or
3. The subject's violent actions and/ or presence of weapons dictate the need for an immediate response and the use of a less lethal weapon is otherwise appropriate.

**C. AUTHORIZED WEAPONS AND PROJECTILES:**

**1. 12 Gauge Shotgun:**

- a. Remington model 870 12 gauge shotgun dedicated exclusively to less lethal projectiles. The stock and forearm of the dedicated weapon shall be orange in color.
- b. The authorized less lethal projectile for this weapon is the 12 gauge Defense Technology 23DS drag stabilized round.

**2. 40 mm Weapon:**

- a. Defense Technology model 1325, 40 mm single shot projectile launcher.
- b. Defense Technology model 1375, 40 mm multi-shot launcher.
- c. Penn Arms model PGL 65-40, 40 mm multi- shot launcher.
- d. The authorized less lethal projectiles for this weapon are:

1. Defense Technology model XM1006 40 mm projectile;
2. Combined Tactical Systems model 4557 "Foam Baton";
3. Defense Technology model 6096 .32 ca. "Stinger Rubber Ball" round;
4. Defense Technology model 6097 .60 ca. "Stinger Rubber Ball" round;
5. Defense Technology model 6098 "Wood Baton" round.

**3. 37 mm Weapon:**

- a. Penn Arms/Sage International model SL-6 37 mm multi-shot launcher.
- b. Defense Technology model 1315, 37 mm single shot launcher.
- c. Smith & Wesson model 276, 37 mm single shot launcher.
- d. The authorized less lethal projectiles for these weapons are:
  1. Sage International model K01LE "Rubber Baton";
  2. Defense Technology model 20F "Foam Baton";
  3. Defense Technology model 20W "Wood Baton";
  4. Defense Technology model 28B "Stinger Rubber Ball" round.

**D. PROCEDURE:**

The following procedures shall be followed:

1. Field Operations personnel shall check out Less Lethal Shotguns from the patrol equipment room after briefing. A printed record of issued and returned Less Lethal Shotguns for each shift shall be maintained in the patrol equipment room.
  - a. A sergeant of the watch or his/her designee shall issue Less Lethal Shotguns and ensure a sling is attached and all less lethal munitions (6) are in the side-saddle attached to the weapon.
  - b. The issuing person shall utilize the computerized barcode system according to the on-screen instructions, scanning both the receiving officer's barcode and the shotgun's barcode.
  - c. After checking out a shotgun, officers shall carry the shotgun directly to their patrol car.
  - d. At the end of the officer's shift, Less Lethal Shotguns shall be turned into the watch sergeant or his/her designee, using the computerized barcode system, and secured in the rack. The watch sergeant or his/her designee shall ensure a sling is attached and all less lethal munitions (6) are in the side-saddle attached to the weapon.
  - e. If a Less Lethal Shotgun is deployed, the shotgun shall be returned to the

patrol equipment room and a replacement issued. The issuing person shall complete a Weapon Repair Tag stating "DEPLOYED" in the comments section and affix the tag to the weapon. The weapon shall then be secured in the rack and the Rangemaster notified.

- f. The Watch Commander or his/her designee shall be responsible for replenishing less lethal munitions.
  - g. If a deficiency is noted by an officer during the daily inspection of an issued Less Lethal Shotgun, the shotgun shall be returned to the patrol equipment room and a replacement issued. The issuing person shall complete a Weapon Repair Tag and affix the tag to the weapon. The weapon shall then be secured in the rack and the Rangemaster notified.
  - h. The Rangemaster (or designee) shall inspect and clean Less Lethal Shotguns annually and maintain a record of the inspections.
  - i. No repairs or modifications shall be made to weapons other than by the Rangemaster (or designee). The Rangemaster shall be responsible for creating and implementing a maintenance schedule for Less Lethal Shotguns.
2. Less lethal weapons stored or transported in police units shall be kept **unloaded** in a protective case or designated gun rack until deployed.
  3. The weapon shall be loaded by the officer assigned to use the weapon. This will ensure only less lethal projectiles are loaded. When practicable, the status of the less lethal weapon should be verified by another officer prior to deployment.
  4. A minimum of one additional officer, with lethal force capability, shall be deployed to cover/protect each officer deploying a less lethal weapon.
  5. An announcement of the deployment of a less lethal weapon on scene and a second announcement, prior to actual use of the weapon, shall be made. The announcement should be made by the officer deploying the less lethal weapon in a manner to alert other officers present of its use.
  6. When discharged, the less lethal projectile should be directed toward the subject's extremities, where bone is closest to the skin. Where the distance is greater and such targeting is likely to be unsuccessful, the projectile should be directed toward the subject's center body mass. Generally, less lethal weapons will not be aimed at the head, throat, neck, spine, or groin areas except when lethal force is otherwise appropriate.
    - a. Less lethal weapons should **not** be used in the apprehension of the following individuals, except when lethal force is otherwise appropriate:
      1. Women **known** to be pregnant.
      2. People **known** to have diseased hearts.
      3. Obviously debilitated people or elderly people who are at greater risk
      4. Children under age 12.

5. People in danger of falling to their death or being caught in dangerous equipment or machinery.
7. Whenever a less lethal weapon is used and a subject is struck and taken into custody, the subject shall be evaluated by medical personnel prior to being transported to a facility and/or booked. The subject shall be taken to Riverside Regional Medical Center or, in an emergency, to the nearest hospital emergency room for a medical release.
8. Supervisors should assume a supervisory role while a trained officer deploys the less lethal weapon, however, if circumstances necessitate, a field supervisor may deploy and use the weapon. A supervisor deploying a less lethal weapon shall adhere to all sections of this policy.

**E. OFFICER RESPONSIBILITIES:**

The officer discharging the weapon shall:

1. Summon medical aid, if needed.
2. Promptly prepare a police report including:
  - a. The subject's actions and/or behavior prior to the deployment of the less lethal weapon.
  - b. Any use(s) of force attempted, and the results, prior to the deployment of the less lethal weapon.
  - c. The number of less lethal projectiles discharged by the officer and at what distances. Include the number of "strikes" (if known) and which areas of the subject's body were affected.
  - d. The names of medical personnel and location where treated.
  - e. Any person(s) and/or officer(s) injured prior to or during the deployment.
  - f. Any witness(es) to the incident and statement(s) obtained.
  - g. The supervisor authorizing and/or reviewing the use of less lethal force and the Watch Commander who was notified.
3. Photograph, or cause to be photographed, the scene and all injuries. Photographs should show the location of the injury clearly and should be taken after the injury is cleaned but before treatment, if possible. Due to privacy concerns, do not photograph injuries to the subject's private areas. Competent medical staff should conduct a visual check, inspect and treat injuries, and make appropriate notations on medical records.
4. Document and collect all projectiles and other evidence at the scene.

**F. SUPERVISOR RESPONSIBILITIES:**

1. It shall be the responsibility of the supervisor who authorized and/or reviewed the discharge of the less lethal weapon to ensure that the subject is given a medical evaluation and appropriate treatment, as determined by medical personnel, is provided.

2. The supervisor who authorized/reviewed the discharge of the less lethal weapon is responsible for completing a use of force investigation and memorandum pursuant to Section 4.30 of the Riverside Police Department Policy and Procedures Manual.
3. When a less lethal weapon is used and as a result of usage, the subject sustains a fatal or life threatening injury, the Watch Commander shall notify the on-call Investigations Sergeant. The on-call Investigations Sergeant shall notify the Investigations Lieutenant (or Captain in his/her absence). The Investigations Lieutenant will determine if a response by the Officer Involved Shooting Team (OIS) is necessary. If so, the Investigations Lieutenant will notify the Crimes Against Persons Sergeant who will respond the OIS Team and assume control of the investigation pursuant to Section 4.8 of the Riverside Police Department Policy and Procedures Manual.
4. In all cases involving the use of a less lethal weapon, the Watch Commander shall be notified.

**G. TRAINING:**

Training in the application and use of less lethal weapons systems by qualified instructors will be the responsibility of the Training and Development Bureau. Less lethal operators must be re-certified yearly.



# Section L

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**Policy Recommendation:**

**RPD Policy 4.23**



# COMMUNITY POLICE REVIEW COMMISSION POLICY RECOMMENDATION

## RPD POLICY AND PROCEDURES 4.23

### DOMESTIC VIOLENCE POLICY Public Safety Dispatcher's Responsibilities

#### **Rationale:**

The Community Police Review Commission recently reviewed an Officer-Involved Death (OID) case involving a resident of the Riverside community. The Commission found that the involved officer's "Use of Deadly Force" was reasonable, within Riverside Police Department's Policy and within the scope of both State and Federal Law.

Notwithstanding of the Commission's finding that deadly force was reasonable and within RPD policy in this case; the Commission is concerned about issues related to the tactical aspects, the initial response by officer(s) and the call information, related to the officers by the dispatch center personnel.

Recognizing that domestic violence incidents are amongst the most dangerous calls officers respond to, adherence to established domestic violence protocols, regarding dispatch information is of utmost importance. It is essential that responding police personnel be informed of detailed background information and revised / updated details as they are responding. This information has a critical impact on pre-arrival planning and the handling of the call.

A number of factors may have altered the manner in which this response was coordinated, if the handling unit was advised of the prior domestic violence calls at the location and information pertaining to the offender's extensive criminal history, and his propensity for violence toward Law Enforcement personnel. These factors include but are not limited to, requesting additional backup personnel, requesting the immediate response of a field supervisor and the deployment of additional tactical weaponry (e.g. bean bag shot gun). The responding officers armed with the aforementioned information may have recognized, before arriving on scene, that this offender posed a definite threat and that they would not be sufficiently equipped to safely defuse and apprehend the offender, without encountering a situation wherein, the use of deadly force was necessary.

In this case, there was no evidence presented to the Community Police Review Commission to substantiate that the dispatch personnel checked, confirmed or broadcasted relevant offender information, pertaining to location history or the criminal history of the offender.

**RPD Policy Section 4.23, Domestic Violence Policy, Subsections E.1.a and E.f.(2) and (6)**

**E. PROCEDURES**

**1. Public Safety Dispatcher's Responsibilities:**

- a. The dispatcher who receives a domestic violence call can provide the responding officers with vital information that could save the victim's and the officer's life. The dispatcher will, whenever possible, dispatch at least two officers to every incident.
- b. All calls reporting threatened, imminent or ongoing domestic violence, and the violation of any protective order, including orders issued pursuant to PC §136.2, and restraining orders, shall be ranked among the highest priority calls.
- c. Dispatchers are not required to verify the validity of the protective order before responding to the request for assistance.
- d. Dispatchers should give high priority to all domestic violence calls for assistance regardless of the existence of an order.
- e. If the reporting party reports a violation of any protective order, stay-away order, or other restraining order, the dispatcher should dispatch an officer(s) prior to verifying the validity of the order and attempt verification while the responding officer(s) is en route to the scene.
- f. In addition to information normally gathered, an effort should be made to determine and relay the following to the responding officers:
  - (1) Whether the suspect is present and, if not, the suspect's description and possible whereabouts;
  - (2) Whether weapons are involved;
  - (3) Whether the offender is under the influence of drugs or alcohol;
  - (4) Whether there are children present;
  - (5) Whether the victim has a current protective or restraining order;
  - (6) Complaint history at that location.

**Recommendation:**

The Commission recommends that RPD Policy 4.23 be revised to include appropriate modifications which might read as follows:

**E. PROCEDURES**

**1. Public Safety Dispatcher's Responsibilities:**

- a. The dispatcher who receives a domestic violence call **shall** provide the responding officers with vital information that could save the victim's and the officer's life. The dispatcher **will** dispatch at least two officers **and one field supervisor** to every incident.

**E. PROCEDURES**

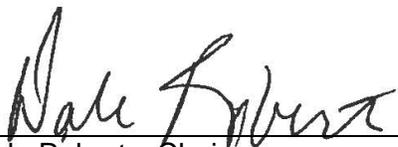
**1. Public Safety Dispatcher's Responsibilities:**

- f. In addition to information normally gathered, an effort **shall** be made to determine and relay the following information to the responding officers.”

(2) Whether weapons are involved, **if the suspect is currently or has recently physically assaulted the victim, if the victim is injured, and / or in need of medical attention;**

(6) Complaint history at the location, **including a brief description of the offender's criminal history.**

The Commission believes that reviewing, monitoring, and correcting simple policy directives may result in a safer and more efficient manner of handling domestic violence incidents. The review and modification of these policy directives may also have a positive effect in the reduction of civil liability cases filed against the City.

  
\_\_\_\_\_  
Dale Roberts, Chair  
Community Police Review Commission

November 13, 2013  
\_\_\_\_\_  
Date



# Section M

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Policy Recommendation:

RPD Policy 3.9

RPD Policy 3.23

RPD Policy 4.30



**COMMUNITY POLICE REVIEW COMMISSION  
POLICY RECOMMENDATION  
WITHDRAWN 11/13/13**

RPD POLICY AND PROCEDURES  
3.9 REQUIRED EQUIPMENT TO BE CARRIED ON DUTY  
3.23 SWORN PERSONNEL - EQUIPMENT  
4.30 USE OF FORCE POLICY

LESS LETHAL WEAPONS

**Rationale:**

The Community Police Review Commission recently reviewed an Officer-Involved Death (OID) case involving a resident of the Riverside community. The Commission found that the involved officer's "Use of Deadly Force" was reasonable, within Riverside Police Department's Policy and within the scope of both State and Federal Law. The officers all felt that they were in danger of being injured or killed. The department appropriately allows officers to make the decision as to what method should be used to stop a threat. However, emphasis should be given to trying to use and exhaust the least lethal method available if at all possible. This could be done by strengthening some of the use of force policies.

**3.9 REQUIRED EQUIPMENT TO BE CARRIED ON DUTY:**

Officers on duty in the field shall carry the following required equipment:

**A. UNIFORM DUTY:**

1. Firearm - Fully loaded with extra rounds
2. Handcuffs and case
3. Flashlight
4. Notebook
5. Pen and pencil
6. Baton
7. Issued identification card
8. California Driver's License
9. Handcuff and shotgun key
10. All required report forms
11. Helmet

12. Leather gear as described in Section II

13. "RIPP" Restraining Hobble shall be readily available for use.

14. Ballistic vest shall be worn by all first responders assigned to field duties and working in a uniformed capacity.

### 3.23 SWORN PERSONNEL - EQUIPMENT:

#### A. POLICY:

The following issued or optional equipment is authorized for use by sworn personnel. Any additional optional items will be subject to approval by the Chief of Police. Unless otherwise specified by this Policy, optional equipment will not be issued or paid for by the Department but may be acquired at the officers' own expense.

#### B. HELMET:

1. **General Duty:** Black Kevlar Ballistic, with attached face shield.

2. **Motorcycle:** Black high crown with white backing.

#### C. IMPACT WEAPONS:

The Mid-Range Baton shall be part of the regular equipment of an officer and shall be furnished by the Department. The Expandable Baton and Ten Inch Baton are authorized optional items and may be carried in lieu of the Department issue baton; however, uniformed officers must have a Mid-Range Baton readily available when in the field. The following impact weapons are authorized for sworn personnel after appropriate certification by an authorized Department defensive tactics instructor.

1. **Mid-Range Baton:**

This item shall be solid hard wood, composite hard wood known as Diamond Wood or anodized aluminum. This baton is 26 or 29 inches in length, black in color with smooth surface.

2. **Expandable Baton:**

This optional item must be the 21 inch, 29 inch or 31 inch baton. Either black or silver anodized aluminum with a black foam or rubber grip.

3. **Ten Inch Baton:**

This optional item must be constructed of either hard wood or hard plastic, 10 inches in length, black with a smooth finish.

4. **Long Baton:**

This baton shall be 42 inches in length and constructed with hard wood only. This

baton must be black or blond in color with a smooth surface. This baton shall be for Mobile Field Force only, and used only during Mobile Field Force deployment.

**D. CHEMICAL AGENT:**

Departmental issued aerosol Oleoresin Capsicum (OC) agent.

**E. FIREARM:**

Glock, .40 caliber Models 22, or 23, and for Special Operations Division personnel only the Springfield .45 caliber, semi-automatic handgun, with magazines, or personally owned handgun subject to Department approval.

**F. HANDCUFFS:**

Silver or black single hinge ratchet type with chain or hinged crosspiece.

**G. FACILITY KEY AND ACCESS CARD:**

Departmental issued key and access card for access to Department facilities.

**H. "RIPP" HOBBLE:**

A restraining device made of one-inch wide polypropylene webbed belting with a tested strength of 700 pounds, equipped with a one-inch wide steel, alligator-jawed, friction-locking clip and bronze swivel.

**I. FLEX-CUFFS:**

Disposable reinforced plastic restraining device used to temporarily restrain subjects in custody.

**J. KNIFE:**

Folding blade type not to exceed 3-3/4 inches blade length with an overall length of 9 inches in the open position. This item is optional.

**4.30 USE OF FORCE POLICY:**

**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.

**Recommendation:**

The Commission recommends that RPD Policies 3.9, 3.23 and 4.30 be revised to include appropriate modifications which might read as follows:

**3.9 REQUIRED EQUIPMENT TO BE CARRIED ON DUTY:**

Officers on duty in the field shall carry the following required equipment:

**A. UNIFORM DUTY:**

1. Firearm - Fully loaded with extra rounds
2. Handcuffs and case
3. Flashlight
4. Notebook
5. Pen and pencil
6. Baton
7. Less lethal weapon systems
7. Issued identification card
8. California Driver's License
9. Handcuff and shotgun key
10. All required report forms
11. Helmet
12. Leather gear as described in Section II
13. "RIPP" Restraining Hobble shall be readily available for use.
14. Ballistic vest shall be worn by all first responders assigned to field duties and working in a uniformed capacity.

**3.23 SWORN PERSONNEL - EQUIPMENT:**

**A. POLICY:**

The following issued or optional equipment is authorized for use by sworn personnel. Any additional optional items will be subject to approval by the Chief of Police. Unless otherwise specified by this Policy, optional equipment will not be issued or paid for by the Department but may be acquired at the officers' own expense.

## **B. HELMET:**

1. **General Duty:** Black Kevlar Ballistic, with attached face shield.
2. **Motorcycle:** Black high crown with white backing.

## **C. IMPACT WEAPONS:**

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This item shall be solid hard wood, composite hard wood known as Diamond Wood or anodized aluminum. This baton is 26 or 29 inches in length, black in color with smooth surface.

### **2. Expandable Baton:**

This optional item must be the 21 inch, 29 inch or 31 inch baton. Either black or silver anodized aluminum with a black foam or rubber grip.

### **3. Ten Inch Baton:**

This optional item must be constructed of either hard wood or hard plastic, 10 inches in length, black with a smooth finish.

### **4. Long Baton:**

This baton shall be 42 inches in length and constructed with hard wood only. This baton must be black or blond in color with a smooth surface. This baton shall be for Mobile Field Force only, and used only during Mobile Field Force deployment.

## **D. CHEMICAL AGENT:**

Departmental issued aerosol Oleoresin Capsicum (OC) agent.

## **E. LESS LETHAL WEAPON SYSTEMS**

### **E. FIREARM:**

Glock, .40 caliber Models 22, or 23, and for Special Operations Division personnel only the Springfield .45 caliber, semi-automatic handgun, with magazines, or personally owned handgun subject to Department approval.

**F. HANDCUFFS:**

Silver or black single hinge ratchet type with chain or hinged crosspiece.

**G. FACILITY KEY AND ACCESS CARD:**

Departmental issued key and access card for access to Department facilities.

**H. "RIPP" HOBBLE:**

A restraining device made of one-inch wide polypropylene webbed belting with a tested strength of 700 pounds, equipped with a one-inch wide steel, alligator-jawed, friction-locking clip and bronze swivel.

**I. FLEX-CUFFS:**

Disposable reinforced plastic restraining device used to temporarily restrain subjects in custody.

**J. KNIFE:**

Folding blade type not to exceed 3-3/4 inches blade length with an overall length of 9 inches in the open position. This item is optional.

**4.30 USE OF FORCE POLICY:**

**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 **as a first option** 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.

The Commission believes that placing emphasis on less lethal weapon systems as a first option for officers may result in fewer deaths in altercations with suspects who refuse to obey the commands of officers.

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Dale Roberts, Chair  
Community Police Review Commission

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Date

