



**PUBLIC REPORT
ON THE
OFFICER-INVOLVED DEATH
OF
FERNANDO LUIS SANCHEZ**

CPRC CASE No. 08-042

RPD CASE No. P08-131263

Approved
CPRC Meeting
of
May 11, 2011

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Date of Incident: September 11, 2008

Location: 7631 Wells, Riverside (private residence)

Decedent: Fernando Luis Sanchez

Involved Officers: Evan Wright, Police Officer

I. Preamble:

The finding of the Community Police Review Commission (“Commission”) as stated in this report is based solely on the information presented to the Commission by the Riverside Police Department (“RPD”) criminal investigation case files.

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. Any additional finding made by the Commission that is based on the administrative investigation would also be confidential, and therefore could not be made public.

II. Finding:

On March 9, 2011, by a vote of five and one absent, the Commission found that the officer’s 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. Three Commissioners voted to “Abstain” as this meeting was their very first after appointment. They felt that since they were not involved in review and discussions, they had insufficient information to form an opinion.

Rotker	Slawsby	Jackson	Brandriff	Morales	Johnson	Roberts	Santore	Adams
Yes	Absent	Abstain	Yes	Yes	Abstain	Yes	Yes	Abstain

III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof known as “Preponderance of Evidence.” Preponderance generally means “more likely than not,” or may be considered as just the amount necessary to tip a scale. The “Preponderance of Evidence” standard is the same standard applied in most civil court proceedings and in administrative cases. Thus, the Commission need not have certainty in their findings, nor must they reach a standard of proof used in the criminal courts system known as “Beyond a Reasonable Doubt.”

IV. Incident Summary:

On September 11, 2008, at approximately 8:37 P.M., Officer Evan Wright was on routine patrol in the area of Van Buren and Wells Street, when he noticed a Ford Taurus parked at the Union 76 gas station located at 4890 Van Buren. He saw a male adult subject with a shaved head,

wearing baggy checkered shorts, pumping gas into the vehicle. Officer Wright thought he recognized the subject as a possible local gang member that he had contact with on a previous occasion.

In light of this, Officer Wright was aware of a recent gang related homicide that had occurred just around the corner a week earlier. In addition, there had been on-going gang tensions in the area. Considering the above set of circumstances, Officer Wright elected to stop and speak with the subject.

Officer Wright drove into the 76 Station and parked his marked police unit on the opposite side of the pumps of where the Ford Taurus was parked. Officer Wright did not use the overhead emergency lights, siren, or spotlight to detain anyone. He exited his patrol unit and made contact with the subject pumping gas into the Taurus. This subject was later identified as Manuel Rodriguez. Officer Wright was dressed in full police uniform at the time of this contact.

Officer Wright began speaking with Manuel Rodriguez while he (Rodriguez) was pumping gasoline. Wright asked him if he was on probation or parole and he replied that he was not. During this conversation with Rodriguez, Officer Wright noticed there were two females sitting in the back seat of the vehicle. He could not see if there was a front seat passenger. Wright then saw a male Hispanic subject, later identified as Luis Sanchez, exiting the mini market at the 76 Station and walk up to Rodriguez' vehicle and enter the rear seat on the driver's side. Wright noticed that Sanchez had numerous tattoos, including his head. The tattoos appeared to be gang and prison type.

Officer Wright asked Rodriguez if he knew if Sanchez was on probation or parole. Rodriguez at first replied, "No," but changed his response to "Maybe," then changed again to "Yes, he just got out." This refers to just getting out of prison. During this conversation, Wright was standing a couple of feet away from the right rear area of Rodriguez' vehicle. Wright began to walk to the driver side of the vehicle when he saw Sanchez exit. Wright estimated that Sanchez entered and exited the vehicle within a few seconds.

Wright then approached Sanchez from behind, asked him his name, and if he was on parole. Officer Wright recalled Sanchez giving his name. While asking these questions, Wright took hold of Sanchez' right arm in an attempt to pat him down for weapons. Sanchez immediately pulled away from Wright's grasp and took off running west on Wells Avenue. Officer Wright gave chase. Sanchez ran across the street and was nearly struck by a couple of passing vehicles.

While giving foot chase after Sanchez, Officer Wright saw him trying to reach into his right front pants pocket and look back toward him. Wright estimated the distance between them at approximately 15', but he began to close in on him within a short distance. Officer Wright shouted at Sanchez several times to stop, but he refused. Wright believed he was close enough to Sanchez for him to hear him order him to stop. Officer Wright said he also shouted to Sanchez that he knew he had a gun, and for him to stop or he would shoot him. Sanchez, at one point during this foot chase, responded by telling Wright that he had dropped the gun. Wright did not see Sanchez drop anything and he didn't hear anything hit the pavement.

Officer Wright saw Sanchez slow down and begin to reach into his right front pant pocket. At this point, Wright caught up to him and tackled him in the driveway of a private residence at 7631 Wells Avenue. As they fell to the ground, Officer Wright was able to get on top of Sanchez and straddle him while trying to control him. During the struggle, Sanchez told Wright that he

had a gun. Sanchez kept trying to reach for something in his right front pant pocket. Wright was trying to prevent him from getting to his pocket. Wright removed his handgun and pointed it at Sanchez and told him that if he put his hands down into his pocket he (Wright) would shoot him.

Sanchez continued to struggle and was trying to twist his body around while Wright was still on top of him. Wright holstered his handgun and tried again to control Sanchez' hands and prevent him from reaching into his pocket for a gun. Wright had Sanchez on his stomach so he could handcuff him, but Sanchez continued to try and spin his body around. While in this position, Wright had his legs wrapped around Sanchez and could feel a hard object in Sanchez' pocket with his inner leg.

Officer Wright was always on top of Sanchez. But with the constant twisting and turning movements, Sanchez was able to spin onto his back where, at one point, he was facing Wright. Sanchez continued to try and reach into his pocket. Officer Wright feared that Sanchez was going to get a gun out of his pocket and shoot him. Wright removed his handgun again and told Sanchez that he would shoot him if he (Sanchez) reached for the gun. Officer Wright recalled having his gun pressed up against Sanchez' upper back area when he initially took his handgun out. Wright repeatedly told Sanchez he would shoot him if he didn't stop trying to reach into his pocket.

Sanchez did not comply with Officer Wright's requests. Officer Wright was told by Sanchez that he had a gun. In addition, Officer Wright could feel a hard object in Sanchez's right front pant pocket. This is the pocket that Sanchez kept trying to reach and dig into. With this in mind, and the fact that Wright was unable to get Sanchez to stop reaching into his right front pant pocket, Wright feared for his life and shot Sanchez several times until he stopped moving. Wright was unsure if Sanchez was on his back or stomach when he began to fire his weapon. Wright estimated he was a few feet away from Sanchez when he fired his weapon, but couldn't be sure.

After the shooting occurred, additional officers arrived and assisted Wright in handcuffing Sanchez. Once Sanchez was secured, Officer Wright removed a handgun from Sanchez' right front pant pocket and placed it on top of a trash can next to where Sanchez was laying. Wright did not check to see if the gun was loaded. He never touched it again after having placed it on top of the trashcan. It was later taken and booked as evidence by RPD investigators.

Officer Wright activated his digital recorder when he went into foot pursuit of Sanchez. The recorder captured most of the foot chase and part of the physical altercation. The recorder shut off prior to the gunshots being fired. The digital recorder was in Wright's uniform shirt pocket. It stopped working during the physical struggle. It is unknown as to what caused it to shut off.

Responding officers and detectives canvassed the area around the 76 Union Station as well as Wells Avenue. They were unable to identify anyone who saw the shooting. There were only two independent witnesses who saw a part of the foot chase and physical altercation between Wright and Sanchez. One is a minor female who resides in an apartment complex at 7451 Wells Avenue. The other is a male adult named Jose Palacios. He resides on Corwin Street in Riverside and had just moved to the City from Santa Ana.

The minor female was standing in the front yard of her apartment complex with her younger brother. The minor said that she heard footsteps and looked up to see a male subject she described as a "gangster" being chased across the street, on foot, by a police officer. They both ran past her on the sidewalk. She was standing on one side of a wrought iron fence that

separates the sidewalk from the front yard of her complex. When they ran by, she said they came within approximately 4' of her. The officer was talking on a "walkie-talkie" while running. She heard something drop to the ground and then noticed it was one of the shoes that flew off of the subject running from the officer.

The minor did not remember seeing or hearing anything else. The minor was afraid and stepped further back into the apartment complex with her brother. She did not hear the gunshots, and was unable to provide any additional pertinent information.

Jose Palacios said he was walking to the 7-11 store located at Wells and Van Buren from his home on Corwin Street when he saw two people running toward him on the sidewalk of Wells Avenue. As they approached, he noticed that it was male subject, whom he described as a "gangster" type, being chased, on foot, by a police officer in uniform. The male subject, identified as Luis Sanchez, was wearing only one shoe. Palacios had to step aside for them to pass by him.

Just as Sanchez passed him, he (Sanchez) ran up into a driveway right where Palacios was standing. Palacios said Sanchez stopped and was trying to pull something out of his right front pant pocket with his hand. At the same time, Sanchez yelled to the pursuing officer that he had a gun and that he was going to shoot him. Before Sanchez was able to retrieve the object from his pocket, the officer, identified as Wright, tackled Sanchez in the driveway. The two hit the ground hard. Palacios noticed that Sanchez landed on top of Officer Wright but during a physical struggle, Wright flipped over on top of Sanchez. Palacios described the distance between him and where Wright and Sanchez were wrestling on the ground to be approximately 10' to 15'.

Palacios referred to Sanchez several times as the "gangster" or "gangster guy." Palacios said he heard Wright telling Sanchez to stop before he (Wright) caught up to him. When Palacios saw Sanchez trying to pull something out of his pocket and heard him telling the officer he was going to shoot him, Palacios got scared and ducked down. Palacios described the struggle between Wright and Sanchez as very intense and that it looked like Wright was fighting for his life. Palacios then heard approximately four gunshots, but did not see who shot who because he ducked down. When the shots stopped, Palacios looked up and saw the officer standing up and that Sanchez was handcuffed and lying on the ground.

Palacios said he was close enough to the situation to see and hear Sanchez telling Wright that he had a gun and was going to shoot him. Palacios heard Sanchez say this more than once. Palacios described how Sanchez was trying to pull something out of his pants pocket by demonstrating it to the detectives who were interviewing him.

The four other occupants of the Ford Taurus were later located, identified, and interviewed. The four occupants were Manuel Rodriguez, Jovianna Cavazos, Valerie Almanza, and Katherine "Monica" Kuch. The front seat passenger was Jovianna Cavazos, who is Manuel Rodriguez's girlfriend. Valerie Almanza is a friend of Jovianna Cavazos, and Monica Kuch was the girlfriend of Fernando Sanchez. Almanza was seated in the right rear passenger seat, Monica Kuch in the middle rear seat position, and Fernando Sanchez was in the left rear passenger seat.

After the shooting, Manuel Rodriguez met up with a couple of friends and went to the scene of the shooting. Rodriguez spoke to an officer who was putting up crime scene tape. The officer grew suspicious of Rodriguez because he was perspiring heavily, was nervous, and wanted permission to get into the crime scene. The officer obtained a description of the outstanding

subject from the Taurus and when given the information, felt Rodriguez matched the description and detained him. Rodriguez was in possession of four live shotgun shells. Two other subjects who were with Rodriguez were also detained. One of them also had shotgun shells in his pocket. A loaded sawed off shotgun was located where these three subjects were first seen. All three were arrested for possession of the shotgun.

After his arrest, Rodriguez initially told detectives that he didn't know Fernando Sanchez and that he wasn't involved with the incident at the 76 Station. Rodriguez later changed his statement and admitted he was the driver of the Taurus. Rodriguez admitted that he was a gang member from a gang in Victorville known as Victoria. He told detectives that Sanchez was his uncle. Manuel Rodriguez told detectives that he didn't know that Sanchez was armed and had no idea why he ran from the officer. Rodriguez could not provide any additional pertinent information.

Valerie Almanza told detectives that she didn't really know Sanchez and Kuch. She is a cousin to Cavazos. Almanza said that she doesn't usually hang out with gang types. When the incident at the 76 Station started to unfold, she got scared. She was in the right rear passenger seat of the Taurus when they arrived at the gas station. During the drive to the 76 Station, Almanza said she heard Sanchez say several times, "I hope we don't get pulled over." When the vehicle stopped at the 76 Station, Rodriguez and Sanchez both exited the vehicle. She thought that Rodriguez went to pay for gas.

Fernando Sanchez got back into the left rear seat of the vehicle and made the comment, "There's a cop." Almanza then heard Kuch ask Sanchez if he still had the "piece" on him. Sanchez said he did and Kuch replied, "Babe, you said you weren't going to carry that." Almanza took this to mean a gun, but she never saw one in the car and did not see anyone possessing one.

Valerie Almanza saw a police officer approach the rear window of the Taurus and told Sanchez that he needed to come out of the vehicle. Sanchez complied, but as soon as he exited, he took off running from the officer. She saw the officer chase Sanchez on foot. Almanza did not see the officer with his gun out nor did she ever hear any gunshots. Rodriguez got back into the car and drove around for a few minutes trying to locate Sanchez and the officer.

Katherine "Monica" Kuch identified herself as Fernando Sanchez's girlfriend and that she had been dating him for a month and a half before this incident occurred. Kuch said she was seated in the rear seat of the Taurus, between Sanchez and Almanza. After they arrived at the gas station, Rodriguez and Sanchez both got out. Sanchez went into the station office to pay for gas and Rodriguez remained by the pumps.

Monica Kuch said as Sanchez was returning, she heard him say to someone, "We're just taking my girlfriend home." Kuch looked around to see who Sanchez was talking to and noticed it was a police officer. Sanchez got back into the car and said, "Oh shit!" Kuch told detectives that when he said this, she asked Sanchez if he had "the thing" on him, referring to a gun. Sanchez replied that he did. This gave her the impression he had a gun on him. Sanchez then got out of the car and started talking to the officer near the rear end of the Taurus. Kuch heard Sanchez say, "Oh shit!" and run from the officer. The officer gave chase on foot.

At some point, Rodriguez made a comment about "them" shooting at his uncle. This was referring to the officer. They left the gas station and drove around looking for Sanchez. They did this until they were also detained by police.

Jovianna Cavazos said she does not really know the others in the car other than her cousin Almanza and Rodriguez, who she only knew as, "Junior." She was dating Rodriguez at the time period when this incident occurred. She met him at her church.

Jovianna Cavazos said she and her cousin Almanza were shopping at the Tyler mall on the date of this incident and at some point decided to see if they could find Rodriguez at Bryant Park where she knew he hung out. When they got there, she found that Rodriguez was at the park attending a candle light memorial service for a friend who was shot and killed a few days prior.

Rodriguez, Sanchez, and Kuch were together at the memorial ceremony. Rodriguez told Jovianna that they were going to take Kuch home and asked if she and Almanza wanted to come along. They agreed, so Jovianna left her car parked at Bryant Park. Rodriguez was driving, Cavazos was seated in the front passenger seat, Almanza in the right rear, Kuch in the rear center, and Sanchez left rear passenger. Rodriguez drove to the 76 Station and exited the vehicle to pump gas. Sanchez also got out and went inside the service station office to pay for gas.

Jovianna Cavazos said she was sitting in the car and putting on her make-up. The radio was left on and playing. While putting her make-up on, Jovianna was also carrying on a conversation with Almanza. The left rear door of the Taurus was slightly ajar. Jovianna then heard Sanchez talking to someone. She looked back ,but couldn't see who it was. She did see a police vehicle parked behind them, but she could not see where the officer was. Jovianna just continued to put her make-up on when Rodriguez got into the car and drove off quickly. Jovianna noticed that Sanchez was not in the vehicle and she commented that they were missing one. No one said anything. Jovianna thought this odd and asked where Sanchez went. No one said anything; however, she noticed that Kuch had a very startled look on her face.

Jovianna Cavazos said that she figured that something was wrong and told Rodriguez to take her back to her car. Jovianna said she does not hang out with bad people and since she didn't know what was going on, she wanted to get out of the car. She did not want any trouble. Rodriguez drove a short distance and got out of the car. He told Monica to take Cavazos back to her car at the park. They went back to Bryant Park where Jovianna said they were detained by police.

Jovianna Cavazos did not know Sanchez's name. She never heard any talk about a gun or other weapons in the vehicle. She saw no one in possession of a weapon. Jovianna never saw Sanchez run from the officer, but it appeared to her, by the reactions of the others, that something had happened. Cavazos could not provide any additional pertinent information.

V. CPRC Follow-Up:

The Commission requested a case review by an independent investigator, contracted by the CPRC. The independent investigator contracted for this case is Ron Martinelli, Ph.D., BCFT, CFA, CLS of Martinelli and Associates, Justice and Forensic Consultants, Inc., Temecula, California. Dr. Martinelli pointed out the difficulty of an independent investigator reviewing a case that is two years old, where witness memory and forensic analysis provide a challenge to accurate analysis and reporting. See Dr. Martinelli's report, attached.

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of testimony, including that of 11 civilian witnesses and the involved police officer. Other evidence included police reports, photographs, involved weapons, and forensic examination results.

VII. Applicable RPD Policies:

All policies are from the RPD Policy & Procedures Manual.

- Investigations of Officer Involved Shootings, Section 4.8
- Use of Force Policy, Section 4.30.
- Search Warrant – Probation – Parole Searches, Section 4.35
- Property and Evidence Control Policy, Section 5.3

The United States Supreme Court has ruled on two (2) cases that have particular relevance to the use of force in this incident. All decisions by the United States Supreme Court are law throughout the United States. Both cases are incorporated into the Use of Force Policy of the RPD.

Tennessee v. Garner, 47 U.S. 1 (1985), specifically addressed the situation of the lethal use of force by police on a fleeing felon. However, the points of law in this case concerning use of lethal force are applicable in all use of force considerations.

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

VIII. Rationale for Finding:

This incident began when Officer Wright conducted an occupied vehicle check next to a set of gas pumps at the Circle-K – Union 76 gas station, 4890 Van Buren Boulevard (south-west corner of Wells and Van Buren). Mr. Sanchez was a rear seat passenger in the vehicle Officer Wright contacted. Officer Wright was dressed in a Riverside Police Department uniform, including a badge over the left-hand side pocket. Officer Wright was driving a marked, black and white police patrol car.

Officer Wright had reasonable suspicion to detain Mr. Sanchez to determine if he was in compliance of his parole terms. Sanchez did not comply with Officer Wright and fled on foot. Wright ordered Sanchez to stop, but he (Sanchez) failed to stop and continued to flee on foot. Sanchez was seen reaching into his right pant pocket and told Wright he had a gun. This possibility was in Officer Wright's mind. Once Wright caught up to Sanchez, they wrestled on the ground. When Officer Wright made physical contact with Sanchez, he (Wright) again asked Sanchez to comply, but he wouldn't. Sanchez was lying on his stomach with Wright straddling his back. While straddling Sanchez, Officer Wright could feel a gun in Sanchez' right pocket with his inner thigh. Wright told Sanchez that he (Wright) would shoot him. Sanchez still did not comply and continued to wrestle with Wright, trying to twist himself around.

At that point in time, Officer Wright felt threatened and discharged one round from his weapon into Sanchez' back, or what Wright thought was his back. Sanchez continued his attempts to

reach into his right pocket after the first discharge. Wright tried to handcuff Sanchez, who tried to twist his body around. Wright continued to feel threatened and discharged his weapon into Sanchez several more times.

A witness to the event said he heard Officer Wright give Sanchez a verbal command to not resist. Sanchez did not comply with these requests by Officer Wright. Officer Wright tried to deescalate the situation and would have done so, but couldn't handcuff Sanchez during the struggle.

The Commission cited §834(a) of the California Penal Code while discussing the actions of Sanchez resisting Officer Wright. §834(a) states that if a person has knowledge, or by the exercise of reasonable care, should have knowledge that they are being arrested by a peace officer, it is the duty of such person to refrain from using force or any weapon to resist such arrest. Mr. Sanchez violated this penal code section by resisting arrest.

The Commission also cited the Riverside Police Department's Use of Force Policy, 4.30, that states, in part, "...whenever force is used; the officer's defensive reactions must be in response to the suspect's actions." Officer Wright used the RPD Use of Force continuum process by verbalizing and de-escalation. This includes verbal commands Officer Wright made for Sanchez to stop and comply, and his attempt to handcuff Sanchez. When Officer Wright tried to handcuff Sanchez, he (Sanchez) continued his struggle and tried to roll over. Officer Wright made these efforts before he resorted to a greater degree of force.

Officer Wright had reasonable cause to believe that Sanchez posed a significant threat of death or serious injury to him, and therefore it was reasonable and within Department Policy for Officer Wright to escalate to Level 7 in the Use of Force continuum, the Use of Deadly Force.

The lethal force used by Officer Wright was necessary; therefore Officer Wright acted accordingly and within the Policy and Procedure of the Riverside Police Department.

IX. Recommendations:

There were none.

X. Closing:

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

APPENDIX

RPD Press Release / Press-Enterprise Articles	Section A
Fact Sheet	Section B
Questions & Answers	Section C
Martinelli Investigation Report	Section D
RPD Policy 4.8 (Rev 5/9/05): Investigations of Officer Involved Shootings and Incidents Where Death or Serious Likelihood of Death Results	Section E
RPD Policy 4.30 (Rev. 7): Use of Force Policy	Section F
RPD Policy 4.35 (Rev. 6/19/95): Search Warrant – Probation – Parole Searches	Section G
RPD Policy 5.3 (Rev. 2, 8/19/03): Property and Evidence Control	Section H