



**CARLOS QUINONEZ
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

CPRC Case No. 08-037
RPD Case No. P08-126023

September 22, 2010

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Date of Incident: September 1, 2008

Location: 5807 Yarborough Drive

Decedent: Carlos Quinonez

Involved Officers: Juan Munoz, Police Officer
James Heiting, 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, and follow-up information from a Commission staff member.

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 May 19, 2010, by a vote of 7 to 0 (2 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.

Rotker	Slawsby	Hubbard	Brandriff	Morales	Pearcy	Roberts	Santore	Beeman
Yes	Absent	Yes	Absent	Yes	Yes	Yes	Yes	Yes

III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof of “Preponderance of Evidence.” Preponderance generally means “more likely than not,” or may be considered as just the amount necessary to tip a scale. This means also that the Commission need not have certainty in their findings, or that the Commission need not reach a 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:

On September 1, 2008, Clyde and Margaret (“Margaret”)¹ Barringer hosted a family party at their home at 5807 Yarborough Drive, Riverside. The party began around 3:00 PM

Margaret’s adult son, Carlos Quinonez (“Carlos”), also was living at the Yarborough home. Carlos was unemployed, and had recently been sentenced to 3-5 years in federal prison for involvement in the trafficking of illegal aliens. Carlos was present at the party.

Carlos’ adult children attended the party, including son Carlos Quinonez, Jr. (“Junior”) and his girlfriend, Shannon Manier (“Shannon”), daughter Carlene (“Carlene”), and son Eddie Quinonez (“Eddie”). Some family members stated that Carlos had a history of strained relations with son Eddie.

Other guests at the party included Carlos’ aunt, Maria Quinonez (“Maria”), her adult son Jorge Serna (“Jorge”), Jennifer Barringer (“Jennifer”), and her boyfriend Nicholas Ron (“Nicholas”).

All guests stated that the party began well. Carlos was in the backyard barbequing, and began to have drinks, including beer. Jennifer said all was going well when she and Nicholas left the party sometime around 6:00 PM. Sometime between 7:00 and 8:00, Maria saw that Carlos was drinking shots of tequila. Shannon also saw Carlos drinking the tequila.

Shortly before 8:00 PM, an apparent fight started in the backyard between Carlos and Eddie. Eddie came into the kitchen and said Carlos had hit him. Carlos then followed Eddie into the kitchen, and several family members intervened to try and stop Carlos.

Carlos was visibly very angry, yelling and cursing. Carlos apparently struck Carlene in the stomach, knocking her to the floor. As Maria attempted to calm Carlos, he pushed her, knocking her eyeglasses from her head. Several family members described the scene as chaotic.

At 7:56 PM, Riverside Police Dispatch received a call from a neighbor advising of yelling and screaming coming from the Barringer home. At 7:59, Shannon called 9-1-1 from the Barringer home and an ambulance was requested for Carlene. Family members were able to keep Carlos and Eddie separated inside the home.

Several neighbors came over to the Barringer residence in response to the disturbance, including Thomas (“Thomas”) and Lupe Castro (“Lupe”), and their adult sons, Thomas Jr. (“Thomas Jr.”) and Christopher (“Christopher”). The Castros are long-time acquaintances, and Lupe was able to coax Carlos to walk out of the house and into the attached garage.

Eddie and Carlene left the party, but the family and guests were not able to completely calm Carlos. Jennifer and Nicholas returned to the Barringer home in response to a call advising of the disturbance. Nicholas and Jennifer entered the garage, where she saw everyone gathered. Without apparent provocation, Carlos punched Nicholas in the face. Jennifer and Nicholas then again left.

Many people were involved in this incident. To facilitate reading, names have been abbreviated as shown parenthetically in quotation marks after a person is first introduced in the narrative. First names were chosen for civilian witnesses because several share the same last name.

Officer James Heiting ("Heiting") and Juan Munoz ("Munoz") were working together in a 2-officer car. Heiting and Munoz were at the Magnolia Station when Dispatch broadcast the disturbance call. No officers were available on the west end of the City, so Heiting took the call at 8:08 PM, and the officers arrived on-scene at 8:14 PM

The officers parked their police car four houses south of the Barringer residence and walked toward the home in darkness. (Sunset on 09/01/2008 was 7:19 PM By California Vehicle Code, darkness was defined to be 7:49 PM). The officers said they heard yelling come from the home as they approached.

Persons gathered in the garage included Carlos, Maria, Jorge Serna, Junior, Shannon, and Thomas, Lupe, Thomas Jr., Christopher, and one anonymous guest (Carlos and nine others).

Carlos was encouraged to leave by Lupe, Thomas, and others. Carlos agreed to leave, but before doing so he began to search for something in the garage. After a few moments of searching, seven of the nine persons saw Carlos retrieve a long, nylon bag from inside the garage. Thomas Jr. believed the bag might contain a gun.

Of the witness statements, seven were generally consistent. Junior and Shannon both said they did not see the events recounted by the witnesses and the officers.

The large vehicle door to the garage was open and Carlos walked with the nylon bag down the driveway with Shannon.

The driveway was illuminated both from light from the interior of the garage and by a street light directly across the street from the garage.

Seven witnesses saw two uniformed officers approaching the driveway as Carlos neared the sidewalk. Despite darkness, the witnesses could tell the two men were police officers. Witnesses said Carlos looked directly at the officers.

The officers were approximately 20 feet from Carlos when the officers began to tell Carlos to stop and put down the bag he was holding. Seven witnesses saw Carlos pull a long gun from the nylon bag. Five witnesses saw Carlos rack the weapon and begin to raise it in the direction of the officers. (Lupe looked away intentionally after she saw Carlos pull the gun and Maria apparently saw nothing after Carlos pulled the weapon.)

Two witnesses believed Carlos fired the weapon at the officers. However, forensic examination of the weapon confirmed it was not fired, although the weapon did contain a live round and could have been fired at the time Carlos raised it.

Munoz fired his pistol two (2) or three (3) times at Carlos because he believed Carlos presented a lethal threat to himself or others. Heiting did not fire, but dove behind a car parked on the curb line in front of the Barringer home, adjacent to the driveway. Munoz put out an "11-99" broadcast, or "shots fired suspect down" at 8:17 PM

Munoz and Heiting saw that Carlos went down on the driveway briefly, but then began to get up to his side or knees. Carlos again began to raise the shotgun and started to point it towards Munoz. Heiting then fired one shot at Carlos and Munoz fired two (2) or three (3) more times. Carlos then went down a second time and dropped the shotgun.

Most of the witnesses reported moving toward the house through the attached door after the shots started. However, some did not make it to the door and instead went to the ground inside the garage for safety.

Heiting and Munoz said that immediately after the shooting, Junior was standing and walking around in the garage. He initially refused to go to the ground as ordered by officers. Junior then went down, but started doing pushups.

Heiting and Munoz were concerned about the other persons in the garage and home. The officers believed the persons might be a threat and at 8:19 broadcast that they were "pinned down." The officers remained crouched behind the cover of the parked car, while other officers began to arrive to assist.

At 8:21, Sergeant Blomdahl ("Blomdahl") arrived on scene with a tactical ballistics shield. Blomdahl formulated a plan to have a team of officers rescue Carlos from the driveway and to recover the shotgun and remove it from the scene.

At 8:27, the rescue and recovery team broadcast that they were moving toward Carlos. Carlos was removed from the driveway and taken down the street to where medical aid was staged in a safe area. Carlos was treated at the scene, then at 8:45 was transported to RCH. Carlos was pronounced dead at 9:18 PM. Subsequent examination of Carlos showed that he was struck by four (4) bullets.

V. Follow-Up Witness Contact:

The Commission requested an interview with witness Lupe Castro. The purpose of the interview was to determine Ms. Castro's observations of other witnesses after the shooting.

Ms. Castro confirmed that immediately after the shooting, she remained in the garage and started to move toward the door to the adjoining residence. Ms. Castro said several guests ran into the home and a few other persons remained in the garage.

When asked specifically if she saw what Carlos Quinones, Jr., did after the shooting, Ms. Castro replied that "Junior" started yelling angrily at police and was walking around in the garage and driveway. Ms. Castro said the "we" started yelling at Junior, telling him to stop and lay down as ordered by the police, who were yelling commands to Junior. Ms. Castro said that both she and Maria Quinones were yelling to Junior to stop.

Ms. Castro wanted Junior to stop because he was "making it harder" for the police. Ms. Castro feared that police might think other members of the party could be armed, or that someone else might shoot at them (police). Ms. Castro said she yelled several times for Junior to "stop" and to "do what they tell you."

Ms. Castro said that after a few minutes, Junior finally went to the ground in the garage near the driveway. However, instead of lying flat, Junior did several pushups. Finally, Junior stopped and lied on the ground as instructed by police.

The Commission also requested contact with neighbor and witness Ms. Waudier Rucker-Hughes, who had expressed her concern over the time lapse from the shooting until she was interviewed. The shooting involving Carlos Quinones, Sr., occurred at about 8:16 PM. Ms.

Rucker-Hughes said that after the shooting, she expected contact by police, as she lives at 5776 Yarborough, in close proximity to the shooting location.

Ms. Rucker-Hughes said she was in her home when she heard shots being fired. She went to her second-story window to look across the street at the location of the incident. Ms. Rucker-Hughes observed Mr. Quinonez down in the driveway and saw police in positions of cover.

Ms. Rucker-Hughes saw additional police officers arrive and after several minutes, the officers approached the driveway, grabbed Mr. Quinonez by his feet (the closest part of his body to the street), and dragged him down the street toward ambulance and fire trucks. Ms. Rucker-Hughes was concerned that Quinonez' head appeared to strike to roadway as he was being dragged or carried.

Ms. Rucker-Hughes said she anticipated that police would knock at her door at some point to ask if she had any information. At around 11:00 PM, Ms. Rucker-Hughes exited her home to initiate contact so that she could go to bed after giving her account.

Ms. Rucker-Hughes confirmed that when she went outside, the area still appeared to an active scene, with the investigation still in process. She saw crime scene yellow tape, several police cars, and several police personnel.

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of testimony, including that of nine civilian witnesses and the two involved police officers. Other evidence included police reports and 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.

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:

The police officers were responding to a call that they knew was a disturbance, a fight going on, and they knew that someone was potentially injured. That information provided a framework that the officers were necessarily cautious, and were sensitive to the fact that they knew there could be somebody causing harm to others. They approached in the light, were dressed as uniformed officers, and Quinonez could have had no doubt that the persons who approached were police officers.

Mr. Quinonez was armed; he had a sawed-off shotgun. Quinonez was agitated in his demeanor, was combative with the police officers, and was not responding to the commands issued by the police officers. The officers ordered Mr. Quinonez to put the weapon down, but he refused to put the weapon down. The officers asked Quinonez at least three separate times to stop and drop to his knees, which Quinonez ignored.

Mr. Quinonez then engaged in an act that he was going to shoot the police officers, which placed the police officers in a circumstance that required their response with lethal force. Quinonez racked a round into the shotgun, which was heard by the officers, which indicated to them that Quinonez intended to take further physical action against them. The officers were faced with a person confronting them with a deadly weapon. Quinonez aimed the weapon in the direction of the officers.

The officers then responded to that threat. Confronted by a citizen with a shotgun with a round in the chamber, and the weapon pointed in their direction, the officers took action to suppress the threat immediately. The officers, in fear of their own lives, responded with the use of deadly force, resulting in the death of Mr. Quinonez.

The federal Constitutional standard permits law enforcement to use deadly force to apprehend criminal suspects when there is probable cause to believe the suspect poses a threat of serious physical harm to the officer or to others, if deadly force is necessary to affect the apprehension. With respect to danger, the Court has said if the suspect threatens the officer with a weapon, or if there is probable cause to believe that the suspect will commit a crime involving the infliction or threatened infliction of serious physical harm, deadly force can be used to apprehend the suspect.

Since the police officers were in reasonable fear for their own lives, and were defending themselves, this shooting was consistent with Riverside Police Department Policy for the Use of Force Policy.

IX. Recommendations:

Recommendation that continuous effort to review and improve witness interview techniques; arising from concern with detective interview techniques, including:

- A possible attempt to direct the statement of a witness, as recounted in the RPD criminal investigation at Tab 47, line 219.
- A possible instance of witness statement coaching, as recounted at Tab 50, line 693.

Recommendation that audio recorders be recovered from involved officers at soonest possible opportunity; arising from concern that Officer Munoz, despite being an officer involved in the

shooting, was allowed to retain his audio recorder for an extended time after the incident (Tab 42, lines 1012-1017).

Recommendation that whenever possible, if involved officers must take part in the recovery of possible suspect weapons, that the weapons be turned over to uninvolved personnel for unloading, inspection, and storage; arising from concern that Officer Heiting, despite being an officer involved in the shooting, recovered the decedent's shotgun from the driveway while acting as part of the rescue and recovery team, and that Ofcr. Heiting did not immediately turn the weapon over to another officer, but proceeded to unload and store the weapon in a supervisor's trunk.

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.

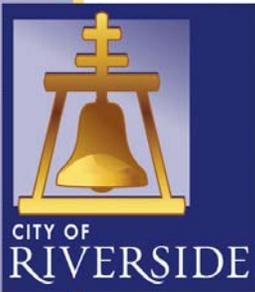
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Section A

RPD Press Release

Press-Enterprise Articles



PRESS RELEASE

Riverside Police Department • 4102 Orange Street • Riverside, CA 92501
Phone (951) 826-5147 • Fax (951) 826-2593

FOR IMMEDIATE RELEASE

Date: Tuesday, September 2, 2008

Contact: Sergeant Mark Rossi,

Robbery / Homicide Unit

Phone: (951) 353-7106

Officer Involved Shooting

Riverside, CA -- On Monday, September 1, 2008, at 7:55 p.m., officers from the Riverside Police Department responded to the 5800 block of Yarborough Drive, after receiving reports of a family disturbance and assault at the location.

Upon arriving on-scene to the area, officers approached the residence and observed an adult male subject holding a shotgun in the driveway of the residence. Officers gave commands to the subject with the gun, however the subject refused to comply and raised the shotgun towards the officers. Officers fired upon the subject striking him.

The subject was transported by American Medical Response ambulance to Riverside Community Hospital where he succumbed to his injuries. The investigation is on-going. The names of those involved are not being released at this time.

Anyone with information helpful to this investigation is asked to call Detective Steve Shumway at (951) 353-7138 or Detective Greg Rowe at (951) 353-7136.

-- P08-126023 --

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Details few in police shooting of man in Riverside who they say refused to lower his weapon

10:00 PM PDT on Monday, September 1, 2008

By AARON BURGIN
The Press-Enterprise

Officers shot and wounded a man at a home in La Sierra Hills on Monday night after he failed to comply with their orders to put down a gun, Riverside police officials said.

Police released scant details in the hours following the shooting. Riverside police spokesman Steven Frasher said police responded to a home in the 5800 block of Yarborough Drive at 8:15 p.m. after receiving a call of an assault and a female in need of medical aid.

A man met arriving officers in the front yard of the home armed with a gun. He was shot after he did not comply with the officers' demands to disarm, Frasher said.

"He was hit and then transported to a hospital," Frasher said.

The man's condition was unknown late Monday.

Frasher would not say whether multiple shots were fired, whether the suspect fired at officers or which officers were involved with the shooting. He would not confirm the name of the wounded man.

Several neighbors, speaking under the condition of anonymity because they said they feared retaliation, reported hearing six gunshots. Three were fired in rapid succession, then two and then a final one. Other neighbors said they saw police drag a motionless body from the lawn to the middle of the street.

Police continued to investigate the incident overnight. A police helicopter used a spotlight on the hillside west of the neighborhood in the hours following the shooting. A hoard of detectives could be seen conferencing on the corner of Dole Court shortly after the shooting.

Dozens of black-and-white police vehicles, emergency vehicles and firetrucks crowded the residential street, as officers cordoned off the crime scene with yellow tape.

Yarborough Drive, set against the base of the La Sierra Hills, is generally a serene street, neighbors said.

"It's really quiet," said Tiffany Brewster, who has lived in the neighborhood for a few years. "This is very unusual to have this many police on the street."

Reach Aaron Burgin at 951-375-3733 or aburgin@PE.com



Man shot by Riverside police has died

7:55 AM Tue, Sep 02, 2008 | [Permalink](#) | [Comments](#) (0)

Posted by: PE News

A 48-year-old man shot Monday afternoon by Riverside police died about 9:15 p.m. at Riverside Community Hospital, authorities said.

Riverside police were called to a home in the 5800 block of Yarborough Drive about 8:15 p.m. after an assault was reported, police spokesman Steven Frasher said Monday.

When officers arrived, Frasher said, they were met in the front yard by a man armed with a gun. Police shot the man when he failed to drop the gun, Frasher said.

—*Sarah Burge*
sburge@PE.com



Man shot by Riverside officers dies

10:00 PM PDT on Tuesday, September 2, 2008

By **SONJA BJELLAND**
The Press-Enterprise

A man shot by Riverside police Monday evening in La Sierra Hills later died at the hospital.

Police released few new details Tuesday about the incident, saying in a news release that the man was standing in the driveway of a home in the 5800 block of Yarborough Drive in Riverside armed with a shotgun, which he raised toward officers who commanded him to drop it before they shot him.

An ambulance took him the 48-year-old man to Riverside Community Hospital where he died at 9:18 p.m., stated a Riverside County coroner's office news release.

Neither the coroner's office nor police released the man's name. Police did not release the name of the officers involved in the shooting.

Police responded to the house at 7:55 p.m. Monday after receiving reports of a family disturbance and assault, according to a police news release.

The Police Department is investigating.

In accordance with the City Charter, the Community Police Review Commission has also begun an independent investigation into the shooting, Manager Kevin Rogan said.

Riverside police had not fatally shot someone since October 2006 with the death of Joseph Darnell Hill. The commission is reviewing that shooting.

Anyone with information may contact Detectives Steve Shumway at 951-353-7138 or Greg Rowe at 951-353-7136.

Reach Sonja Bjelland at 951-368-9642 or sbjelland@PE.com

Section B

Fact Sheet

Quinonez OID Fact Sheet
CPRC Meeting Date May 19, 2010
Version 1.5

1. On September 1, 2008, Carlos David Quinonez ("Carlos")^{*} was a resident guest at 5807 Yarborough Drive, Riverside.¹
2. Carlos is the adult son of Margaret Barringer ("Margaret"), who also lives at the same address.²
3. Margaret was hosting a barbeque that began at about 2:00 or 3:00 p.m.³
4. Officer James Heiting was working uniformed patrol, assigned to a 2-officer car with partner Officer Juan Munoz.⁴
5. Jennifer Barringer ("Jennifer"), who attended the barbeque and is an aunt of Carlos, said Carlos was facing 3 to 5 years of federal prison for an immigration smuggling offense, and was to turn himself in October.⁵
6. Jennifer said that Carlos lost his job because of the arrest.⁶
7. Maria Quinonez ("Maria") is an aunt of Carlos.⁷
8. At some point around 7:00-8:00 p.m., Maria was at the barbeque and she saw Carlos drinking shots of tequila, and beer.⁸
9. Shannon Manier was also present at the barbeque and saw Carlos drink a couple of shots of tequila.⁹
10. Carlos has a son named Eddie.¹⁰
11. At some point later in the evening, Maria saw Eddie come into the kitchen and state that he had been hit by Carlos.¹¹
12. Maria then saw Carlos come into the kitchen and again try to hit Eddie.¹²
13. Maria tried to get Carlos away from Eddie, and Carlos pushed Maria, knocking her eyeglasses to the floor, breaking them.¹³
14. Maria's son, Jorge Serna ("Jorge"), was also at the barbeque, and Jorge heard women screaming and then Maria saying, "my glasses, my glasses," and "no, no, Carlos, no, no."¹⁴
15. The RPD Dispatch information ("CAD") indicated that a neighbor called to report sounds of a male and female screaming at 1956 (7:56 p.m.) hours.¹⁵
16. A second call was received at 1959 reporting that a female was screaming that she needed an ambulance.¹⁶
17. A third call reported that a female victim was down inside the house, and that sounds of a disturbance ("415") could be heard inside.¹⁷
18. AMR reported being on scene and staging.¹⁸
19. Ofcr. Heiting heard a radio call of a family disturbance on the west end, and because he was closer than the assigned units, he advised Dispatch that he and Ofcr. Munoz would respond.¹⁹

^{*} First names have been used because several referenced persons are family members with the same last name.

20. CAD information showed that Ofcrs. Heiting and Munoz were placed on the call at 2008 hours.
21. Maria said Carlos cursed at her repeatedly, and that he was angry.²⁰
22. Maria believed Carlos to be drunk on tequila because he previously had acted similarly violently when drunk on tequila.²¹
23. Maria said a neighbor came over to the house and talked Carlos into leaving.²²
24. Thomas Castro ("Thomas Sr.") identified himself as a neighbor and long-time acquaintance with Margaret.²³
25. Thomas Sr. heard a disturbance at Margaret's house around 8:00 p.m.²⁴
26. Jennifer left the barbeque around 5:30, but returned after she received a phone call requesting her to return because Carlos was fighting with other family members.²⁵
27. Jennifer returned sometime after 8:00 with Nicholas Ron ("Nicholas").²⁶
28. Nicholas said that as soon as he arrived and walked up to talk with Carlos, Carlos "sucker punched" Nicholas in the head for no reason.²⁷
29. Nicholas and Jennifer then left the barbeque.²⁸
30. Thomas Sr. and his wife Lupe then went to Margaret's home to see if they could help.²⁹
31. Lupe Castro ("Lupe"), a neighbor and close acquaintance of Margaret, heard the disturbance and ran over to help, believing it was due to an on-going dispute between Margaret's daughters.³⁰
32. Thomas Castro Jr. ("Thomas Jr.") also heard the disturbance and went to Margaret's home to help.³¹
33. Anonymous witness ("Anon"), a neighbor, heard a disturbance at Margaret's home.³²
34. Anon went to Margaret's and saw that Carlos was arguing and appeared to have been drinking.³³
35. Christopher Castro ("Christopher") went with several members of his family to the Barringer residence.³⁴
36. Lupe went into the house, and saw Carlos' daughter Carlene on the kitchen floor screaming for help because of pain to her stomach.³⁵
37. At Margaret's, Thomas Sr. saw that Carlos was arguing loudly with others.³⁶
38. Thomas Sr. put his arm around Carlos to calm him, and Thomas Sr. could smell alcohol from Carlos.³⁷
39. Christopher saw that Carlos was angry and wanted to go fight someone in the house.³⁸
40. CAD showed Ofcrs. Heiting and Munoz advised of their arrival at 2014 hours.³⁹
41. Ofcr. Heiting and Ofcr. Munoz parked their car on Yarborough about 5 houses south of 5807, and walked toward the residence.⁴⁰

42. Ofcr. Munoz said he saw Fire Department vehicles staging nearby, awaiting a signal from officers to drive in.
43. Ofcr Heiting said as they approached the residence of the call, he heard yelling and loud talking.⁴¹
44. Ofcr. Munoz said he could hear a commotion as he was approaching the house.⁴²
45. Ofcr. Heiting pulled out his taser with flashlight as less-lethal cover, and he believed Ofcr. Munoz had the responsibility of lethal cover.⁴³
46. Thomas Sr. was able to talk Carlos into leaving.⁴⁴
47. Lupe said she and her family were able to calm Carlos and persuade him to leave.⁴⁵
48. As Carlos was leaving the garage, Thomas Sr. saw him grab what appeared to be a tent bag about 3 feet long.⁴⁶
49. Maria saw Carlos grab a bag he was leaving.⁴⁷
50. Maria said the bag looked like a gym bag, and was 2-3 feet long.⁴⁸
51. Anon saw Carlos take a blue bag from rafters above the garage door.⁴⁹
52. In the garage, Thomas Jr. saw Carlos grab a bag from a space above the garage door that appeared to be for a fold-up chair.⁵⁰
53. Lupe saw Carlos climb a ladder in the garage, then climb down and retrieve a blue bag that appeared to contain an umbrella.⁵¹
54. Christopher saw Carlos retrieve from the garage a sleeve that an umbrella would be in.⁵²
55. Thomas Jr. became concerned because he believed the bag contained a shotgun.⁵³
56. Maria said as Carlos was walking to a car, she saw two uniformed police officers coming toward the house.⁵⁴
57. Thomas Jr. saw that as Carlos was walking out to a car, two uniformed police officers were walking up.⁵⁵
58. Lupe saw that as Carlos was walking out of the garage, two police officers were walking up.⁵⁶
59. Ofcr. Heiting said as he approached the home, the garage door started to open, and people began to walk out of the garage.⁵⁷
60. Ofcr. Munoz said after the garage door opened, several people came out, and they were all yelling.⁵⁸
61. Thomas Sr. saw that as Carlos was walking out toward the street, two uniformed police officers walked up and identified themselves as police.⁵⁹
62. Jorge was standing directly across the street at a neighbor's house.⁶⁰
63. Jorge saw two uniformed police officers approaching Carlos.⁶¹
64. Anon saw that as Carlos was walking down the driveway, two police officers approached.⁶²

65. Christopher saw that as Carlos walked down the driveway and almost reached the street, two uniformed police officers were approaching.⁶³
66. Ofcr. Heiting said a Hispanic male and female were walking down the driveway, arguing with someone inside the garage.⁶⁴
67. Ofcr. Munoz said one man and one woman walked away from the group of people at the garage door, and continue down the driveway to the gutter.⁶⁵
68. Ofcr. Munoz also saw that a heavy set male, bald with tattoos, remained near the group of people around the garage door, and that the male was confronting Munoz, and shouting at him.⁶⁶
69. Ofcr. Munoz said the male asked who they were, and he replied that they were the police.⁶⁷
70. Ofcr. Heiting said he approached the two and said, "Can you come over here to the curb," and "let me see your hands."⁶⁸
71. Ofcr. Munoz turned his attention to Ofcr. Heiting, who he heard giving commands to the male and female near the gutter, and Munoz heard the male being confrontational with Heiting.⁶⁹
72. Jorge heard an officer say, "well stop right there," and/or "whoa, whoa, whoa, hold on there."⁷⁰
73. At 2015 hours, CAD showed that a caller advised he heard a male voice saying, "get on your knees."⁷¹
74. Thomas Jr. heard the police tell Carlos to put down the article he was carrying, and to put his hands up.⁷²
75. Thomas Sr. heard the officers say, "police, freeze."⁷³
76. Thomas Jr. heard the police say twice, "put the gun down."⁷⁴
77. Anon heard the police tell Carlos to freeze and put down what he was carrying.⁷⁵
78. Lupe heard the officers giving commands, but she could not recall exactly what was said.⁷⁶
79. Maria could see that Carlos was facing the officers, and that he could see them.⁷⁷
80. Maria said that Carlos was 10-15 feet away from the officers.⁷⁸
81. Thomas Jr. said the police were 15-20 feet from Carlos.⁷⁹
82. Christopher said Carlos was around 25-30 feet from the officers.⁸⁰
83. Ofcr. Heiting said when he first gave commands he was 30 feet from the male subject.⁸¹
84. Lupe said the officers were not far from Carlos.⁸²
85. Ofcr. Heiting saw that the male was carrying what appeared to be an umbrella cover.⁸³
86. Ofcr. Munoz said the male was carrying what appeared to be a nylon beach umbrella carrying case.⁸⁴
87. Jorge saw Carlos pull out a gun.⁸⁵
88. Thomas Sr. saw Carlos pull a shotgun out of the bag he was carrying.⁸⁶

89. Maria also saw Carlos take a rifle out of the bag.⁸⁷
90. Thomas Jr. saw Carlos pull a shotgun out of the bag.⁸⁸
91. Anon saw Carlos pull a gun from the bag.⁸⁹
92. Ofcr. Heiting saw the male reach with his left hand and pull downward, and at the same time Heiting heard the sound of vinyl.⁹⁰
93. Ofcr. Munoz heard the sound of nylon rubbing, and saw that the male was pulling out an item.⁹¹
94. Ofcr. Heiting saw the male was holding a black shotgun.⁹²
95. Ofcr. Munoz saw the male was holding a rifle with a pistol grip.⁹³
96. Ofcr. Munoz told the male to drop the gun, and Munoz saw and heard the male chamber a round into it, and Munoz realized the weapon was a shotgun.⁹⁴
97. Lupe saw Carlos raise the umbrella bag and begin pulling something out, but she then turned away.⁹⁵
98. Thomas Sr. saw Carlos aim the shotgun at the officers.⁹⁶
99. Thomas Jr. saw Carlos point the shotgun after pulling it out.⁹⁷
100. Ofcr. Munoz said the male started to bring the shotgun up towards Munoz.⁹⁸
101. Christopher saw Carlos pull the shotgun out of the sleeve, then cocked or racked it, and pointed it at the officers.⁹⁹
102. Christopher saw the officers back up.¹⁰⁰
103. Ofcr. Heiting said he began to back up to a car to his left.¹⁰¹
104. Jorge saw Carlos cock or rack the weapon, and then fire it.¹⁰²
105. Ofcr. Munoz said he fired 2 to 3 rounds at the male.¹⁰³
106. Ofcr. Munoz said he fired because his life and the life of the officer next to him were in danger from the male pointing a shotgun.¹⁰⁴
- 107. Anon said he thought Carlos was in the process of putting down the weapon, but then Carlos just cocked the gun and shot at police.¹⁰⁵**
108. Christopher saw Carlos shoot the shotgun, and saw a blast from the end of the muzzle.¹⁰⁶
109. No spent shotgun rounds were located, or any other evidence to suggest that Carlos fired the shotgun.
110. Ofcr. Heiting heard the racking of a shotgun as he saw the male pull the gun around and point it.¹⁰⁷
111. Ofcr. Heiting dove behind a nearby car and drew his service weapon.¹⁰⁸
112. Ofcr. Munoz also moved to a position behind the same nearby car that Ofcr. Heiting was behind.¹⁰⁹

113. Ofcr. Munoz saw that Ofcr. Heiting was down, and Munoz believed that Heiting had been shot. Munoz put out an "11-99" call on the radio.¹¹⁰
114. CAD does not list an "11-99" broadcast, but at 2017 showed "shots fired suspect down."¹¹¹
115. CAD showed "officers code 4" also at 2017.¹¹²
116. Ofcr. Munoz saw that the heavy-set male who had been confrontational started running towards the downed male, and was yelling at the officers, saying he was going to get the shotgun.¹¹³
117. Ofcr. Munoz said he told the heavy-set male that if he picked up the gun, Munoz would shoot him.¹¹⁴
118. Ofcr. Munoz saw that Ofcr. Heiting was not shot, and was next to him behind the parked vehicle.¹¹⁵
119. Christopher saw Carlos shoot at the police and a blast came from the end of the shotgun.¹¹⁶
120. Thomas Sr. did not hear the shotgun being fired.¹¹⁷
121. Jorge heard about two other shots after Carlos fired.¹¹⁸
122. Lupe heard 6 or 7 gunshots immediately after Carlos begin pulling the item out of the case.¹¹⁹
123. Maria heard several shots.¹²⁰
124. After about 5 seconds, Thomas Sr. heard 3 or more gunshots.¹²¹
125. Ofcr. Heiting looked out from behind the car and saw the male subject lying on the ground on his left side, using both hands to raise the shotgun toward Ofcr. Munoz.¹²²
126. Ofcr. Munoz saw that the downed male started to try and get up, getting to his butt or his knees, and that he picked up the shotgun.¹²³
127. Ofcr. Munoz told the male several times to drop the gun, but the male pointed the gun toward Munoz.¹²⁴
128. Ofcr. Munoz fired another 2 or 3 rounds at the male, and the male again went down, dropping the shotgun.¹²⁵
129. Ofcr. Heiting fired one round from his service weapon toward the male's torso, and the male dropped the shotgun.¹²⁶
130. At 2018, either Ofcr. Heiting or Munoz broadcast "suspect down to the front of the residence."¹²⁷
131. Anon heard 3 or 4 shots a few seconds after Carlos fired one shot.¹²⁸
132. Christopher heard 2 or more gunshots after Carlos had fired.¹²⁹
133. After the shooting, Ofcr. Heiting saw several persons move back into the garage, then into the house.¹³⁰
134. After the shooting, Ofcr. Munoz said the situation was very fluid, with everyone shouting and running into the house, except the heavy-set male who remained outside, challenging the officers.¹³¹
135. At 2018, CAD shows a report of "Multiple suspects retreating inside residence; 1 suspect down with a shotgun."¹³²

136. Ofcr. Heiting saw 1 male was not cooperating with commands to “get down,” and who kept reaching into his pockets.¹³³
137. Ofcr. Heiting believed the other persons in the house and garage presented a threat to the officers.¹³⁴
138. At 2019 CAD reported, “pinned down behind a car to the front; suspects inside not complying.”¹³⁵
139. The male subject started doing pushups in the garage, and Ofcr. Heiting believed he was attempting to pump himself up.¹³⁶
140. At 2020 hours CAD reported, “All not cooperating; trying to get to the suspect to the front with the shotgun.”¹³⁷
141. Maria then saw Carlos on the ground, and she saw blood.¹³⁸
142. Maria saw Clyde Barringer calling 9-1-1 for an ambulance.¹³⁹
143. Sergeant Blomdahl drove from Magnolia Station to the residence “code 3,” and upon his arrival he saw Carlos lying in the street near the driveway.¹⁴⁰
144. CAD reported Sgt. Blomdahl on scene with a shield at 2021 hours.¹⁴¹
145. Sgt. Blomdahl had monitored police radio information that officers believed uncooperative family members were in the garage.¹⁴²
146. At 2025 CAD reported, “1 proned out to the front of the residence.”¹⁴³
147. At 2027 CAD reported, “2 more proned in garage; 2 standing in garage,” and “3rd subject around the corner of garage, keeps moving around.”¹⁴⁴
148. Sgt. Blomdahl coordinated a plan with Sgt. Hoxmeier to approach the downed suspect Carlos and move him about 40 feet away so he could be attended by on-scene medical personnel.¹⁴⁵
149. After assisting officers arrived, Ofcr. Munoz became part of the team that removed the downed male from the driveway to a safe location for medical aid.¹⁴⁶
150. CAD reported, “moving on the down subject” at 2027 hours.
151. Sgt. Blomdahl estimated that it took 4-5 minutes from the time of his arrival until Carlos was moved and treatment began.¹⁴⁷
152. Ofcr. Heiting believed it was about 5 minutes until enough assisting units arrived to approach the downed male and remove him and the shotgun to a safe location, and about 8 minutes before aid was administered.¹⁴⁸
153. At 2029, CAD reported, “RFD clear to enter on the Campbell side.”
154. At 20:32, CAD reported, “AMR advised to enter the scene from the Campbell side.”
155. Ofcr. Heiting picked up the shotgun from the ground, and subsequently removed one round from the chamber, then placed both the shotgun and the round in a sergeant’s car.¹⁴⁹
156. Multiple officers then assisted with having the remaining guests exit the home and garage, and securing the home and garage.

157. Ofcr. Mike Andrews followed the ambulance at 2045 hours to Riverside community Hospital.¹⁵⁰
158. At 2118 hours, Carlos was pronounced deceased by Dr. Tito.¹⁵¹
159. By 2132, CAD recorded that all persons were removed from the residence, and the residence had been searched and secured.¹⁵²
160. Evidence Technician Ellis photographed and recovered from the scene 6 spent 40 caliber bullet casings.¹⁵³
161. Det. Brandt assisted in the charting of the officers' weapons, and confirmed that Ofcr. Munoz fired 5 rounds from his primary duty weapon.¹⁵⁴
162. Det. Brandt's charting confirmed that Ofcr. Heiting fired 1 round from his primary duty weapon.¹⁵⁵
163. Technician Ellis confirmed that the shotgun's magazine contained 3 live .12 gauge rounds of ammunition, in addition to the one live round recovered with the shotgun.¹⁵⁶
164. Det. Mike Medici examined the Barringer's residence and found signs of a struggle and small amounts of blood both inside the residence and in the rear yard, plastic lawn furniture and table were broken on the rear patio, and a screen door to the kitchen sliding door was pulled off its track, damaged, and on the floor of the patio.¹⁵⁷
165. Four (4) projectiles were recovered from the decedent's body during autopsy: 1 from the left buttocks, 1 from the left armpit, 1 from the left shoulder, and 1 from the left mid-buttocks.¹⁵⁸
166. A fifth projectile was recovered from the decedent's underwear during autopsy.¹⁵⁹

¹ Witness Clyde Barringer interview by Det. R. Wheeler, transcript page 7, lines 295-96.

² Ibid, pg. 6, ln. 256.

³ Ibid, pg. 6, ln. 241-42.

⁴ Subject Officer J. Heiting interview by Det. G. Rowe, transcript pg. 3, ln. 105-07; pg. 6, ln. 248-70; pg. 23, ln. 1010-26. Also, Subject Officer J. Munoz interview by Det. G. Rowe, transcript pg. 3, ln. 101.

⁵ Witness Jennifer Barringer interview by Det. R. Wheeler, transcript pg. 2, ln. 51-69.

⁶ Ibid, pg. 2, ln. 83 to pg. 3, ln. 90.

⁷ Witness Maria Quinones interview by Det. D. Smith, transcript pg. 2, ln.. 57-59.

⁸ Ibid, pg. 4, ln. 180; pg. 5 ln. 184, 220-21; pg. 6, ln. 266; pg. 7, ln. 274 to pg. 8, ln. 330.

⁹ Witness Shannon Manier interview by Det. W. Rodriguez, transcript pg. 29, line 1269.

¹⁰ Maria, pg. 9, ln. 366-70.

¹¹ Ibid, pg.8 ln. 351-52; pg. 10, ln. 414-50.

¹² Ibid, pg. 11, ln. 452-65.

¹³ Ibid, pg. 11, ln. 469-70.

¹⁴ Witness Jorge Serna interview by Det. J. Miera, transcript pg. 7, ln. 298-307.

¹⁵ CAD Printout, pg.1.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ CAD pg. 1.

¹⁹ Heiting, pg. 3, ln. 107-09; pg. 7, ln. 280-308; Munoz, pg. 3, ln. 106-24.

²⁰ Maria, pg. 11, ln. 487 to pg. 12, ln. 505.

²¹ Ibid, pg. 13., ln. 548-70.

²² Ibid, pg. 17, ln. 752 to pg. 18., ln. 770.

²³ Witness Thomas Castro Sr. interview by Det. R. Cobb, transcript pg. 3, ln. 90.

²⁴ Ibid, pg. 2, ln. 75-81; pg. 3, ln. 95; pg. 9, ln. 373-75.

²⁵ Thomas Castro Sr., pg. 3, ln. 115-21.

²⁶ Witness Nicholas Ron interview with Det. R. Wheeler, transcript pg. 8, ln. 315-27.

²⁷ Ibid, pg. 8, ln. 315 to pg. 9, ln. 364.

²⁸ Ibid, pg. 9, ln. 372-78.

²⁹ Thomas Sr., pg. 3, ln. 95-96.

³⁰ Witness Lupe Castro interview by Det. J. Brandt, transcript pg. 3, ln. 91-99.

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- ³¹ Witness Thomas Castro Jr. interview by Det. R. Cobb, transcript pg. 2, ln. 45 to pg. 4 ln. 141.
- ³² Witness Anonymous interview by Det. J. Brandt, transcript pg. 2, ln. 73-74; pg. 4, ln. 155-57 & 165-73.
- ³³ Ibid, pg. 2, ln. 75-87; pg. 8, ln. 319-23.
- ³⁴ Witness Christopher Castro interview by Det. R. Cobb, transcript pg. 2, ln. 89-90; pg. 4, ln. 138; pg. 5, ln. 208-14.
- ³⁵ Lupe, pg. 3, ln. 103-23; pg. 20, ln. 698-99.
- ³⁶ Thomas Sr., pg. 3, ln. 105-08; pg. 9, ln. 385-402.
- ³⁷ Ibid, pg. 3, ln. 119-20.
- ³⁸ Christopher, pg. 5, ln. 222 to pg. 7, ln. 288; pg. 13, ln. 568-82.
- ³⁹ CAD pg. 1.
- ⁴⁰ Heiting, pg. 3, ln. 26; pg. 9, ln. 365-89; pg. 24, ln. 1027-39.
- ⁴¹ Heiting, pg. 3, ln. 124-30, pg. 4, ln. 136-38; pg. 9, ln. 397 to pg. 10, ln. 424; pg. 25, ln. 1090-1102; Munoz, pg. 4, ln. 160-62.
- ⁴² Munoz, pg. 4, ln. 161.
- ⁴³ Ibid, pg. 4, ln. 158-63; pg. 11, ln. 491 to pg. 12, ln. 515.
- ⁴⁴ Thomas Sr., pg. 4, ln. 135-49.
- ⁴⁵ Lupe, pg. 5, ln. 214 to pg. 6, ln. 250.
- ⁴⁶ Thomas Sr., pg. 4, ln. 149-54; pg. 11, ln. 451-70.
- ⁴⁷ Maria, pg. 18, ln. 770-74.
- ⁴⁸ Ibid, pg. 18, ln. 776-94.
- ⁴⁹ Anon, pg. 3, ln. 91-93; pg. 11, ln. 451 to pg. 12, ln. 501.
- ⁵⁰ Thomas Jr. pg. 4, ln. 160.
- ⁵¹ Lupe, pg. 6, ln. 254 to pg. 7, ln. 289.
- ⁵² Christopher, pg. 7, ln. 298 to pg. 8, ln. 320.
- ⁵³ Thomas Jr., pg 4, ln. 164-66.
- ⁵⁴ Maria, pg. 19, ln. 810 to pg. 20, ln. 883.
- ⁵⁵ Thomas Jr. pg 4, ln. 173-79; pg 9, ln 370-78.
- ⁵⁶ Lupe, pg. 7, ln. 289-90; pg. 9, ln. 402 to pg. 10, ln. 415.
- ⁵⁷ Heiting, pg. 3, ln. 131-33; pg. 4, ln. 138-41; pg. 10, ln. 426-48.
- ⁵⁸ Munoz, pg. 4, ln. 166-68; pg. 5, ln. 185-95.
- ⁵⁹ Thomas Sr., pg. 4, ln. 157-60; pg. 4, ln. 172 to pg. 5, ln. 196; pg. 11, ln. 476 to pg. 12, ln. 526; pg. 15, ln. 635.
- ⁶⁰ Jorge, pg. 10, ln. 411-17.
- ⁶¹ Ibid, pg 12, ln. 522-23.
- ⁶² Anon, pg. 12, ln. 506-530; pg. 13, ln. 549-55.
- ⁶³ Christopher, pg. 8, ln. 331-49; pg. 13, ln. 546-66.
- ⁶⁴ Heiting, pg. 4, ln. 139-42; pg. 10, ln. 434 to pg. 11, ln. 479.
- ⁶⁵ Munoz, pg. 5, ln. 203-10; pg. 5, ln. 245-48.
- ⁶⁶ Ibid, pg. 6, ln. 254 to pg. 7, ln. 292.
- ⁶⁷ Ibid, pg. 8, ln. 321-330.
- ⁶⁸ Heiting, pg. 4, ln. 142-45; pg. 24, ln. 1058-59; pg. 25, ln. 1088
- ⁶⁹ Munoz, pg. 8, ln. 354 to pg. 9, ln. 398.
- ⁷⁰ Jorge, pg. 12, ln. 523 and pg. 16, ln. 708.
- ⁷¹ CAD pg. 2
- ⁷² Thomas Jr. pg. 5, ln. 187-204.
- ⁷³ Thomas Sr., pg. 4, ln. 159-61; pg. 5, ln. 189-96; pg. 7, ln. 280; pg. 8, ln. 323; pg. 12, ln. 528.
- ⁷⁴ Thomas Jr. pg. 6, ln. 226-35 & ln. 262-64.
- ⁷⁵ Anon, pg. 12, ln. 521 & 530-31; pg. 13, ln. 554-55.
- ⁷⁶ Lupe, pg. 7, ln. 294-96; pg. 9, ln. 365-72; pg. 11, ln. 455-58
- ⁷⁷ Maria, pg. 32, ln. 1429 to pg. 33, ln. 1447.
- ⁷⁸ Ibid, pg. 31, ln. 1383 to pg
- ⁷⁹ Thomas Jr. pg. 7, ln 283-99.
- ⁸⁰ Christopher, pg. 11, ln. 460-79.
- ⁸¹ Heiting, pg. 4, ln. 144-45; pg. 11, ln. 487-89.
- ⁸² Lupe, pg. 13, ln. 558-74
- ⁸³ Heiting, pg. 4, ln. 151-53; pg. 12, ln. 517-31; pg. 13, ln. 556-65.
- ⁸⁴ Munoz, pg. 6, ln. 229-30.
- ⁸⁵ Jorge, pg. 12, ln. 513-23;
- ⁸⁶ Thomas Sr., pg. 4, ln. 161-62; pg. 5, ln. 198-210; pg. 6, ln. 226; pg. 12, ln. 532-34; pg. 15, ln. 663-71.
- ⁸⁷ Maria, pg. 20, ln. 895-99; pg. 32, ln. 1425-27.
- ⁸⁸ Thomas Jr. pg 5, ln. 204-10; pg. 7, ln. 312 to pg. 8, ln. 321.
- ⁸⁹ Anon, pg. 12, ln. 531; pg. 15, ln. 661 to pg. 16, ln. 674.
- ⁹⁰ Heiting, pg. 4, ln. 167-69; pg. 12, ln. 521-31; pg. 13, ln. 549-52; pg 26, ln. 1149.

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- ⁹¹ Munoz, pg. 9, ln. 400-05.
⁹² Heiting, pg. 4, ln. 170; pg. 13, ln. 574-79.
⁹³ Munoz, pg. 10, ln. 406-49.
⁹⁴ Munoz, pg. 11, ln. 468-78; pg. 12, ln. 523-25.
⁹⁵ Lupe, pg. 7, ln. 293-94; pg. 11, ln. 460 to pg. 12, ln. 522; pg. 24, ln. 1039-48.
⁹⁶ Thomas Sr., pg. 6, ln. 227; pg. 13, ln. 569-71.
⁹⁷ Thomas Jr. pg. 5, ln. 214-19; pg. 6, ln. 235 & 266; pg. 7, ln. 270-81.
⁹⁸ Munoz, pg. 11, ln. 482-83.
⁹⁹ Christopher, pg. 8, ln. 353 to pg. 9, ln. 370; pg. 11, ln. 454-58 & 484-86; pg. 12, ln. 502-09.
¹⁰⁰ Christopher, pg. 9, ln. 383-95.
¹⁰¹ Heiting, pg. 4, ln. 170-72; pg. 13, ln. 542-44.
¹⁰² Jorge, pg. 16, ln. 709-17.
¹⁰³ Munoz, pg. 11, ln. 487-88; pg. 13, ln. 543-45.
¹⁰⁴ Ibid, pg. 13, ln. 547-51.
¹⁰⁵ Anon, pg. 12, ln. 537-38; pg. 13, ln. 540-47; pg. 14, ln. 590; pg. 16, ln. 673 & 679.
¹⁰⁶ Christopher, pg. 9, ln. 398-402.
¹⁰⁷ Heiting, pg. 4, ln. 172-75; pg. 16, ln. 676-85; pg. 28, ln. 1206-07.
¹⁰⁸ Ibid, pg. 4, ln. 175 to pg. 5, ln 181; pg. 14, ln. 597-603.
¹⁰⁹ Munoz, pg. 12, ln. 496-507.
¹¹⁰ Munoz, pg. 13, ln. 564-83.
¹¹¹ CAD printout pg. 2.
¹¹² Ibid.
¹¹³ Munoz, pg. 14, ln. 615-19.
¹¹⁴ Ibid, pg. 14, ln. 623-26.
¹¹⁵ Ibid, pg. 15, ln. 643.
¹¹⁶ Christopher, pg. 9, ln. 398-402.
¹¹⁷ Thomas Sr., pg 8, ln. 318-21.
¹¹⁸ Jorge, pg. 17, ln. 754-60.
¹¹⁹ Lupe, pg. 12, ln. 539 to pg. 13, ln. 556; pg 25, ln. 1102-20.
¹²⁰ Maria, pg. 20, ln. 899 to pg. 21, ln. 903.
¹²¹ Thomas Sr., pg. 6, ln. 250 to pg. 7, ln. 307; pg. 13, ln. 581 to pg. 14, ln. 597
¹²² Heiting, pg. 5, ln. 181-84; pg. 14, ln. 628 to pg. 15, ln. 641.
¹²³ Munoz, pg. 15, ln. 667-71.
¹²⁴ Ibid, pg. 15, ln. 672-75.
¹²⁵ Ibid, pg. 16, ln. 679-706.
¹²⁶ Heiting, pg. 5, ln. 184-85; pg. 15, ln. 643-72; pg. 16, ln. 687-95.
¹²⁷ CAD printout pg. 2.
¹²⁸ Anon, pg. 13, ln. 562 to pg. 14, ln. 584; pg. 16, ln. 679-80 & 697-98.
¹²⁹ Christopher, pg. 10, ln. 412-16; pg. 12, ln. 511-22.
¹³⁰ Heiting, pg. 5, ln. 184-88 & 201-06.
¹³¹ Munoz, pg. 16, ln. 706-09.
¹³² CAD pg. 2.
¹³³ Ibid, pg. 5, ln. 188-90 & 207-09.
¹³⁴ Heiting, pg. 17, ln. 719-41; pg. 18, ln. 766-79; pg. 19, ln. 815-33.
¹³⁵ CAD pg. 3.
¹³⁶ Ibid, pg. 216-19.
¹³⁷ CAD pg. 3.
¹³⁸ Maria, pg. 21, ln. 912.
¹³⁹ Ibid, pg. 35, ln. 1545-50.
¹⁴⁰ Sgt. Blohmdahl Supplemental Report, pg. 1.
¹⁴¹ CAD pg 3.
¹⁴² Blohmdahl pg. 1.
¹⁴³ CAD pg. 4.
¹⁴⁴ Ibid.
¹⁴⁵ Blomdahl, pg. 2.
¹⁴⁶ Munoz, pg, 18, ln. 772-75.
¹⁴⁷ Blomdahl, pg. 2.
¹⁴⁸ Heiting, pg. 6, ln. 226; pg. 22, ln. 964-65.
¹⁴⁹ Ibid, pg. 6, ln. 228-36; pg. 20, ln. 868 to pg. 21 ln. 908.
¹⁵⁰ Ofcr. Andrews Supplemental Report, pg. 1.
¹⁵¹ Ibid.

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- ¹⁵² CAD pg. 7.
¹⁵³ Tech. Ellis Supplemental Report evidence log and property report.
¹⁵⁴ Det. J. Brandt Supplemental Report, pg. 2.
¹⁵⁵ Ibid, pg. 3.
¹⁵⁶ Ibid.
¹⁵⁷ Det. Medici Supplemental Report, pg 2.
¹⁵⁸ Ofcr. S. Robinson Supplemental Report, property report.
¹⁵⁹ Ofcr. Rowe Supplemental Report, pg. 3.

Section C

Persons Index

Quinonez OID – Person Index

Witnesses to the shooting

1. Anonymous garage or driveway
2. Castro, Christopher " "
3. Castro, Lupe " "
4. Castro, Thomas Jr. " "
5. Castro, Thomas Sr. " "
6. Quinonez, Maria " "
7. Serna, Jorge across the street

Persons who were at the party, but did not see the shooting

8. Barringer, Clyde in chair in garage, but did not see (elderly)
9. Barringer, Margaret in garage, but did not see shooting, just heard shots
10. Manier, Shannon front yard, but said she saw nothing due to intoxication
11. Quinonez, Carlos Jr. said he did not see the shooting, just heard shots (disputed location)

Persons who left the party before the shooting

12. Barringer, Jennifer left after N. Ron punched by Carlos
13. Quinonez, Carlene driven to hospital immediately before shooting (not interviewed)
14. [Quinonez], Cindy left with her adult children Carlene and Eddie (not interviewed)
15. Quinonez, Eddie left before the shooting, after fighting with Carlos (not interviewed)
16. Ron, Nicholas left after N. Ron punched by Carlos

Quinonez OID – Person Index

- 1. Anonymous** – neighbor who heard a disturbance, so he went with others to the Barringer’s home; saw that Carlos was arguing with others and appeared to have been drinking; saw Carlos take a blue bag from the rafters above the garage door; saw Carlos leave with Carlos Jr. and female; saw officers approach and tell Carlos to freeze and put down what he was carrying; saw Carlos pull black shotgun from the bag, point it at officers, cock the weapon, then fire one round; was standing 15-20 feet from Carlos, then ducked for cover and tried to get into the garage; heard 3-4 shots after.
- 2. Castro, Christopher** – neighbor who went with several family members to Barringer’s after hearing a disturbance; saw Carlos in the garage, angry and wanting to fight someone in the house; saw Carlos grab an apparent umbrella sleeve from the side in the garage, then walk out of garage and down driveway; saw 2 uniformed officers approaching who told Carlos to stop; saw Carlos pull out the shotgun, pump it, and point it at the officers, and shoot from a distance of about 11/2 -2 car lengths; heard 2 or more shots, then ran into the house.
- 3. Castro, Lupe** - neighbor who went with several family members to Barringer’s after hearing a disturbance; went into the house and saw Carlene Quinonez on the kitchen floor screaming for help, and Carlos acting “wild;” she walked Carlos into the garage to calm him down; saw Carlos climb a ladder and search around the rafters for something, then come down and grab an apparent blue umbrella from on the (in)side of the garage; saw Carlos walk out with [Shannon]; saw 2 officers approach who yelled something to Carlos as they stood about a car length away from Carlos; saw Carlos start to pull something out of the umbrella bag which she thought was a gun; she then turned and heard about 6-7 shots.

Quinonez OID – Person Index

4. **Castro, Thomas Jr.** - neighbor who went with several family members to Barringer's after hearing a disturbance; saw Carlos go into the garage and search for something, including going up a step ladder, then coming down and grab a bag for a fold-up chair; believed the bag held a shotgun; saw Carlos walk down driveway with his son and son's girlfriend; saw 2 officers approach from Carlos' left; heard officers tell Carlos to lay the object down; saw Carlos pull a shotgun from the bag, hold it with both hands and point at officers; heard police twice say "put the gun down;" saw Carlos point the shotgun at officers when he was 15-20 feet from them; heard and saw officers fire 4 times; lied on ground.
5. **Castro, Thomas Sr.** - neighbor who went with several family members to Barringer's after hearing a disturbance; saw Carlos in the garage, angry and wanting to fight someone in the house; could smell alcohol on Carlos; saw Carlos searching for something in the garage, including going up a step stool, and when he came down he grabbed a green tent bag; saw Carlos walk out toward the street; saw officers walking towards the house who told Carlos to freeze; saw Carlos pull a gun from the bag, and aim it in the direction of the officers; saw one officer crouched behind a parked car at the end of the driveway; heard 3 shots.
6. **Quinonez, Maria** – was in the kitchen and saw Carlos & Eddie start to struggle, and had her glasses knocked from her face during the struggle; saw Carlos hitting several people, apparently because he was drunk; went into the garage with Carlos, and saw him pick up a canvass bag 2-3 feet long; saw Carlos exit garage and walk down driveway with Carlos Jr and Shannon; saw 2 officers approach to within 10-15 feet of Carlos; saw Carlos pull a rifle from the bag; heard several shots and she went to the ground in the garage.

Quinonez OID – Person Index

7. **Serna, Jorge** – was at the party; believed Carlos had been drinking; first heard, then saw, Carlos arguing and fighting with others; went directly across the street to avoid the fight; could see Carlos and others in the garage through the open vehicle door; saw someone climb a ladder and reach into the rafters; saw Carlos exit the garage and walk down the driveway holding what looked like a wrapped up gun; saw two officers approach and tell Carlos to stop; saw Carlos pull out a gun, cock it, put to his shoulder and aim at officers, then fired one shot; turned and ran into neighbor's house; heard 2 shots after

Section D

CAD Timeline

Dispatch CAD entries from Quinonez OID
(v. 1.0 for 4/28/10)

- 19:56 Sounds of male and female yelling and screaming
- 19:59 Female screaming that they need ambulance
- 20:02 Female victim down inside
- 20:03 Still sounds of 415 or chaos inside
- 20:03 AMR staging
- 20:08 Munoz and Heiting assigned as primary unit
- 20:14 Munoz & Heiting on scene
- 20:15 Heard male voice saying get on your knees
- 20:17 Shots fired suspect down
- 20:17 Code 4
- 20:18 Multiple suspects retreating inside residence; 1 suspect down with a shotgun
- 20:19 Pinned down behind a car to the front; suspects inside not complying
- 20:20 All not cooperating: trying to get to the suspect to the front with the shotgun
- 20:21 Sgt. Blomdahl (S70) on scene with a shield
- 20:25 1 proned out to the front of the residence
- 20:27 2 more proned in garage; 2 standing in garage
- 20:27 3rd subject around the corner of garage, keeps moving around
- 20:27 Moving on the down subject
- 20:29 RFD clear to enter on the Campbell side
- 20:32 AMR advised to enter the scene from the Campbell side

Section E

Questions & Answers

Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

May 13, 2010

CPRC Members,

At the last meeting, Chani Beeman asked for information concerning 3 areas related to the Quinonez OID. We discussed some of her requests recently, and the information might be useful in your consideration of this case.

Q: What training do lateral officers receive?

This question arose because one of the officers who fired upon Quinonez was a lateral transfer (which means a police officer who was employed at another agency, and who subsequently applies at and is hired by Riverside). Officer Heiting was employed as a police officer by LAPD before being hired a RPD. Because Heiting completed the police academy training for LAPD, he was not required to re-attend RPD's police academy (this is standard throughout California). However, Heiting was required to complete RPD's "Phase Training" program, the same program that trainee officers (academy graduates) must complete before being certified for solo field work as a police officer.

The Phase program takes about 5 months for a trainee officer to complete. Phase Training requires that a certified "Field Training Officer" (FTO) ride in the car on a daily basis with the trainee. The FTO is responsible to complete daily evaluations of the trainee, and the FTO signs off the trainee's workbook each time a Learning Domain is completed (learning domains are specific topics of training).

Lateral officers are required to complete all of the same material as trainees. However, depending upon the prior experience of a lateral, the entire Phase Training program could be completed in even half the time required for a trainee. Lateral officers usually have at least one full year with a police department prior to applying to a new department, because an officer receives a "Basic POST Certification" after one full year. The Basic POST is generally required for lateral hire.

Also, Officer Heiting apparently commented during interview that he was not sure, or not exactly sure, where he was in the phase training program, or if he was still considered a trainee. This would be a plausible response, especially for a lateral. The Phase Training program is broken down into several (5-6) distinct phases of progressively advancing difficulty. A new hire usually progresses in a very methodical manner. A lateral, however, might begin completing even advance learning domains (e.g., a Phase 5 task) from the outset if the officer was experienced enough to demonstrate the performance. So, for example, Heiting may have completed virtually all of his phase training within 3-4 months, and could have been awaiting final approval from his Chain of Command before being certified as a solo officer. Heiting's FTO (apparently, Munoz) may have advised that Heiting was finished with all training tasks, but the FTO would not have actual authority to allow Heiting to ride solo.

Q: Is there a policy requirement that witnesses to a homicide be kept apart from each other prior to training?

No, there is no policy requirement, even though it is certainly a preferred practice to separate witnesses from each other prior to their questioning by detectives.

Patrol officers are trained that one of their duties in being a "first responder" to a homicide or other major event is to identify and retain witnesses for later questioning by detectives.

Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

Generally, witnesses are voluntarily detained. That is, they are not under arrest, as there is no requirement under law that a witness provide a statement to police.

Usually, officers are tasked with transporting witnesses to the police station for later questioning by detectives. Preferably, witnesses should be kept apart from each other prior to questioning to avoid "contamination" of witness statements. However, the ability to separate witnesses is a matter of logistics. The police building has limited areas where witnesses may be placed. For example, witnesses would not be placed at an employee's work area because of concerns over access to confidential information. Also, usually an officer stays in the station with the witnesses to both watch them, and to attend to basic needs (bathroom, water, etc.). The number of available officers - particularly after an officer-involved shooting - is limited (the 2 involved officers are not available; officers are on scene protecting evidence; some officers are sent to the hospital; some officer must remain in the field handling the rest of City service, etc.). So, when a homicide is witnessed by multiple persons, such as in the Quinonez case, it is probably not possible with existing resources to keep each witness separate from every other witness.

Also, it is generally not possible for officers with witnesses to prohibit them from talking. The witnesses are not under arrest. It is a goal of the investigation to maintain witnesses in a cooperative state, in order to obtain the most complete statement. Witnesses may not be interviewed for several hours after the event. Detectives usually are not on duty at night, so they must be called-out from home. Detectives first go to the crime scene to get an understanding of visually how events may have unfolded. Then, detectives may go to the station and begin questioning witnesses. If an officer is too harsh or restrictive with a group of voluntarily detained witnesses, one or all may become uncooperative or refuse to be interviewed. The officer must try to allow a reasonable amount of conduct, including conversation, for some minimal level of witness comfort. The officer should advise witnesses not to discuss the incident, but considering that a homicide is serious emotional event, most persons find it difficult to avoid saying anything at all about the event they just witnessed.

So, ideally witnesses should be kept apart, but the ideal is subject to logistical ability under given circumstances.

Information will be forthcoming concerning officer blood draws after an OID.

Please contact me if you have any questions or concerns.

Kevin

Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

May 14, 2010

CPRC Members,

There are two more items of information that I wished to provide to you from Chani Beeman's questions concerning policy regarding the Quinonez OID.

Q. Is there policy that applies to who collects evidence at a crime scene?

There is no policy that specifically covers who will or will not retrieve or collect items at a crime scene.

This question arose from the fact that the shotgun used by decedent Carlos Quinonez was retrieved from the driveway by Officer Heiting, and Heiting had been one of the 2 officers involved in the shooting. Under controlled circumstances at a homicide scene, a crime scene is established as a protected and delineated area, usually demarked by yellow tape. Forensic technicians who are specially trained in evaluating, testing, and handling evidence preferably are responsible for collecting and storing evidence.

However, in dynamic situations such as the immediate aftermath of the Quinonez shooting, safety considerations take priority over evidence collection techniques. Quinonez's shotgun was laying in the driveway in the immediate vicinity of where he was down. The police reports indicate that officers on scene had concern over the members of the party who were (understandably) in various stages of excitement. For the safety of all persons at the scene, recovering the shotgun became a priority task.

Because Heiting was involved in the shooting, he would not have been the best choice under ideal circumstances to retrieve the weapon. However, there were limited officers available immediately after the shooting, and the on-scene supervisor would have had the choice of whether to wait for another officer to arrive, or to retrieve the weapon as promptly as possible. The supervisor apparently chose to move promptly and allow Heiting to recover the weapon.

The police apparently created an impromptu "rescue and recovery" team that left their position of cover behind parked vehicles to approach the driveway, and both rescue the downed Quinonez and recover the unsecured weapon. The supervisor assigning roles had 3 apparent choices of how to use Heiting:

- 1) to be one of the officers charged with grabbing and removing Quinonez (with a concern that if injury occurred to Quinonez during the rescue, the involved officers could be held responsible, and persons might question whether Heiting should have been placed in physical contact with the person he just shot);

- 2) to be part of the cover team, which would require officers to have weapons drawn and at the ready to fire upon the house if the recovery team were threatened or fired upon (with a concern that if Heiting did so and shot and killed a second person, his use in that role would be questioned); or

- 3) to recover the shotgun, even though a question could arise as to whether he compromised any forensic evidence.

In fluid situations, the choices are sometimes not reflective of the "preferred" method.

Item 8:

April 28 Questions answered by Kevin Rogan, CPRC Manager

Q. Is there policy that covers the drawing of blood from officers after an OID, and what occurs if an officer does not voluntarily submit a blood sample?

This question arose because upon request for a blood sample after the shooting, Officer Heiting voluntarily provided a sample and Officer Munoz elected not to voluntarily provide a sample.

Training Lieutenant Hardin advised that Section 4.8 of the RPD policy manual governs blood draws from employees:

g. The involved employee(s) will be requested by the Investigation Team to voluntarily provide up to two (2) samples of his/her blood or urine when such sample request is permitted under department policy or law. If the request is refused, and no probable cause exists to seize the samples for criminal evidence, and when sample collection is permissible under department policy or law, the involved employee(s) will be administratively ordered to provide a sample by the representative from the Office of Internal Affairs. If so ordered, the employee shall provide a sample in conformance with the Alcohol and Drug Testing Policy and Procedures. The sample may then only be utilized in an administrative action. An employee who refuses to provide a sample when lawfully ordered or otherwise refuses to comply with the Alcohol and Drug Testing Policy and Procedures may be disciplined for misconduct or unsatisfactory job performance, up to and including termination.

Therefore, under the policy, Officer Munoz was able to properly exercise his choice to not provide a sample in response to a request by the Investigation Team. Whether Munoz was later ordered to provide a sample would be information contained in the confidential in internal investigation that the Commission will review after its completion of the public OID evaluation process.

Item 8: April 28 Questions answered by Kevin Rogan, CPRC Manager

May 18, 2010

CPRC Members,

Here is additional information in response to questions raised at the last meeting concerning facts from the Quinonez OID.

Q: Is there a conflict between Officer Heiting's RPD interview at lines 754-55, and information listed on the CPRC Fact Sheet at line 125?

Ms. Beeman raised this question by pointing out that on lines 754-755 of Officer Heiting's interview by RPD, Heiting stated that "he [Carlos Quinonez] wasn't moving towards his weapon uh, but I don't know if - if he was just layin' back fakin' it." Ms. Beeman compared this statement to Fact Sheet item 125, which states, "Ofcr. Heiting looked out from behind the car and saw the male subject lying on the ground on his left side, using both hands to raise the shotgun toward Ofcr. Munoz." Ms. Beeman asked if the two statements are in conflict.

The full context of both statements indicates that the statement from 754 refers to events *after* Officer Heiting fired his weapon. Fact Sheet item 125 refers to events *before* Officer Heiting fired. Because the statements refer to two separate moments in time, they are not in conflict.

In his RPD, Officer Heiting first gave a running narrative of events. He then was asked to recount the incident again, but was subject to question and answer. Officer Heiting's account of Carlos Quinonez walking from the garage begins on page 10 of tab 41 of the Criminal Investigation Book, at about line 425. Heiting continued to describe events up to the point that Heiting fired, at line 652. Lines 652-693 describe the immediate acts surrounding Heiting firing his weapon. Beginning at line 693, Heiting began to describe events *after* Heiting fired. Heiting's statement at line 754-755 describes Quinonez being down, near the shotgun. In fact, at line 756, Officer Heiting noted that, "my assumption is my one shot stopped him," confirming the immediate context of Heiting's statement.

In contrast, Fact Sheet item 125 describes Heiting's observations *before* Heiting fired. Officer Munoz had fired his weapon by this point (items 105 & 106), but Heiting had not. Heiting dove for cover instead (111) and pulled his pistol (111). Line 129 is the point at Heiting is described as firing his pistol at Quinonez after Quinonez picked up the shotgun (126) and raised it toward Officer Munoz (127)

Kevin Rogan
Manager

Section F

Supplemental Information

Interview of Ms. Lupe Castro

The Commission requested interview with witness Lupe Castro. The purpose of the interview was to determine Ms. Castro's observations of other witnesses after the shooting. I interviewed Ms. Castro in her home at 5808 Yarborough Drive.

I asked Ms. Castro to describe what she saw, if anything, immediately after the shooting. Ms. Castro confirmed that she remained in the garage, and started to move toward the door to the adjoining residence. Ms. Castro said several guests ran into the home, and a few other persons remained in the garage.

I asked Ms. Castro specifically if she saw what Carlos Quinonez, Jr., did after the shooting. Ms. Castro replied that "Junior" started yelling angrily at police, and was walking around in the garage and driveway. Ms. Castro said that "we" started yelling at Junior, telling him to stop and lay down as ordered by the police, who were yelling commands to Junior. Ms. Castro said the both she and Maria Quinonez were yelling to Junior to stop.

Ms. Castro wanted Junior to stop because he was "making it harder" for the police. Ms. Castro feared that police might think other members of the party could be armed, or that someone else might shoot at them (police). Ms. Castro said she yelled several times for Junior to "stop" and to "do what they tell you."

Ms. Castro said that after a few minutes, Junior finally went to the ground in the garage near the driveway. However, instead of lying flat, Junior did several pushups. Finally, Junior stopped and lied on the ground as instructed by police.

Interview of Ms. Waudier Rucker-Hughes

Ms. Rucker-Hughes had expressed her concern over the time lapse from the shooting until she was interviewed. The shooting, involving Carlos Quinonez, Sr., occurred at about 8:16 PM. Ms. Rucker-Hughes said that after the shooting, she expected contact by police, as she lives at 5776 Yarborough, in close proximity to the shooting location.

I interviewed Ms. Rucker-Hughes by telephone. Ms. Rucker-Hughes said she was in her home when she heard shots being fired. She went to her second-story window to look across the street at the location of the incident. Ms. Rucker-Hughes observed Mr. Quinonez down in the driveway, and saw police in positions of cover.

Ms. Rucker-Hughes saw additional police officers arrive, and after several minutes, the officers approached the driveway, grabbed Mr. Quinonez by his feet (the closest part of his body to the street), and dragged him down the street toward ambulance and fire trucks. Ms. Rucker-Hughes was concerned that

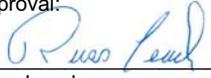
Quinonez' head appeared to strike to roadway was he was being dragged or carried.

Ms. Rucker-Hughes said she anticipated that police would knock at her door at some point to ask if she had any information. At around 11:00 PM, Ms. Rucker-Hughes exited her home to initiate contact so that she could go to bed after giving her account.

Ms. Rucker-Hughes confirmed that when she went outside, the area still appeared to an active scene, with the investigation still in process. She saw crime scene yellow tape, several police cars, and several police personnel.

Section G

RPD Policy 4.8

Effective Date: 10/84
Revision 1 Date: 10/6/97
Revision 2 Date: 1/30/2002
Revision 3 Date: 4/5/2002
Revision 4 Date: 5/9/2005
Revision 5 Date: 10/20/2008
Approval:

Russ Leach
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 General Investigations Sergeant. The on-call General Investigations Sergeant shall notify the General Investigations Lieutenant (or Captain in his/her absence). The General Investigations Lieutenant will determine if a response by the Officer Involved Shooting Team (OIS Team) is necessary. If so, the General Investigations Lieutenant will notify the Crimes Against Persons 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 General

Investigations Sergeant and other personnel as designated in this policy. The on-call General 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 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 General 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 General 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 and its Representative(s) permitted access to the involved officers at the scene and at the General 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 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. Provide a blood or urine sample as appropriate pursuant to this 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. 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.
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 General Investigations on-call Sergeant.
2. Notify the employee's Division Commander.
3. Notify the Deputy Chief of Police.

4. Notify on-call Peer Support personnel and RPOA representative, and coordinate the response of the Psychological Services provider with the General 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. **General investigations Lieutenant Shall:**

1. Notify and assign Crimes Against Persons 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 review or 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, unless the OIS Team supervisor determines that ordering the employee to answer questions or write/dictate a report is necessary to complete the investigation. Otherwise, the investigation will continue without the employee's statements.
 - 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 member of the Officer Involved Shooting Team shall order, or in any way compel an involved employee to make a statement, unless approved by the OIS Team supervisor.

- g.** The involved employee(s) will be requested by the Investigation Team to voluntarily provide up to two (2) samples of his/her blood or urine when such sample request is permitted under department policy or law. If the request is refused, and no probable cause exists to seize the samples for criminal evidence, and when sample collection is permissible under department policy or law, the involved employee(s) will be administratively ordered to provide a sample by the representative from the Office of Internal Affairs. If so ordered, the employee shall provide a sample in conformance with the Alcohol and Drug Testing Policy and Procedures. The sample may then only be utilized in an administrative action. An employee who refuses to provide a sample when lawfully ordered or otherwise refuses to comply with the Alcohol and Drug Testing Policy and Procedures may be disciplined for misconduct or unsatisfactory job performance, up to and including termination.
- 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 General Investigations Lieutenant for review.
- o.** Attend the District Attorney's Office staffing of the investigation with the OIS Sergeant and General Investigations Lieutenant. Staffing to be arranged by the Lieutenant.

p. The 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 General 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 General Investigations Lieutenant.

2. The OIS Sergeant and team members, including their supervisors, shall never 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

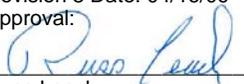
duty by the Watch or Division Commander. The involved employee(s) may be placed on paid Administrative Leave status for a minimum of one day, during which time he/she shall be provided full salary and benefits.

- 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.

Section H

RPD Policy 4.30

Effective Date: 8/93
Revision 1 Date: 07/26/96
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4.30 USE OF FORCE POLICY:

A. PURPOSE:

The Police Department's primary function is to protect the rights of all persons within its jurisdiction to be free from criminal attack, secure in their possessions, and to live in a peaceful atmosphere. In order for the Department to carry out this function, police officers may be required to use physical force. **It is in the public interest that this Department's officers be guided by a Use of Force Policy which is fair, appropriate, and creates public confidence in the law enforcement profession.** The application of physical force, and the type of force employed, depends on the situation as perceived by the officer. The purpose of this policy is to provide guidance as to when physical force may be employed and the type of physical force that the law will permit. However, policy cannot cover every possible situation presented to officers. Therefore, officers must be reasonable in their actions.

B. PHILOSOPHY:

The use of force by law enforcement personnel is a matter of critical concern both to the public and the law enforcement community. Officers are involved on a daily basis in numerous and varied human encounters, and when warranted to do so, may use force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, the limitations on their authority, particularly with respect to overcoming resistance from those with whom they come in official contact.

This Department recognizes and respects the sanctity of human life and dignity. Vesting officers with authority to use force to protect the public welfare requires a very careful balancing of the rights of all human beings and the interests involved in a particular situation.

C. POLICY:

The Department's Use of Force Policy is as follows:

In a complex urban society, officers are confronted daily with situations where control must be exercised to effect arrests and to protect the public safety. Control may be achieved through verbalization techniques such as advice, warnings, and persuasion, or by the use of physical force. Officers are permitted to use whatever force that is reasonable to protect others or themselves from bodily harm. The Department's Use of Force Policy must comply with applicable California and federal law. California Penal Code Section 835a states that an officer who has reasonable cause to believe that a person to be arrested has committed a public offense may use reasonable force to effect the arrest, prevent escape, or overcome resistance. **A peace officer who makes or attempts to make an arrest need not retreat or desist from his or her efforts by reason of resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his**

or her right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

Each situation explicitly requires the use of force to be reasonable and only that force which reasonably appears to be necessary may be used to gain control or resist attack. Mere verbal threats of violence, verbal abuse, or hesitancy by the suspect in following commands do not, in and of themselves, justify the use of physical force **without** additional facts or circumstances which, taken together, pose a threat of harm to the officer or others. Officers must be prudent when applying any of the use of force techniques. **Unreasonable** application of physical force is a violation of California and federal law which may result in criminal prosecution and/or civil liability for the officer. A violation of the Department's use of force policy may also subject the officer to Departmental discipline. Officers should clearly understand that the standard for determining whether or not the force applied was reasonable is that conduct which a reasonable peace officer would exercise based upon the information the officer had when the conduct occurred. Officers must pay careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he/she is actively resisting arrest or attempting to evade arrest by flight.

Furthermore, the Department expects officer(s) to use the most appropriate force option given the circumstances. The decision should take into account the situation facing the officer as well as his/her training and experience.

D. ESCALATION/DE-ESCALATION OF FORCE:

The primary objective of the application of force is to ensure the control of a suspect with such force as is objectively reasonable under the circumstances. Ideally, officers should attempt to control a suspect through advice, warning, or persuasion, but be prepared for the use of physical force. The types of force an officer may utilize will vary, depending on the aggressive behavior or degree of resistance used by a suspect and the tactical practicability of a particular use of force technique. In situations when physical force is applied, an officer must escalate or de-escalate to the amount of force which reasonably appears to be necessary to overcome the suspect's resistance and to gain control.

The concept of escalation and de-escalation of physical force must be put into a proper perspective so that officers can effectively handle all types of resistant suspects. There are three key points regarding the concept of escalation and de-escalation of physical force.

1. Physical force is used to control a suspect;
2. Whenever force is used, the officer's defensive reactions must be in response to the suspect's actions;

NOTE: This does not mean that an officer has to wait until a suspect attacks. Based on the circumstances, an officer may be justified in using reasonable force to prevent an attack.

3. An officer may use only the amount of force which reasonably appears to be necessary to control the suspect. **The Fourth Amendment of the United States Constitution requires that police officers use only such force as is objectively reasonable under the circumstances. Officers need not avail themselves of the least intrusive means of responding to an exigent situation; they need only act within that range of conduct identified as reasonable.**

E. USE OF FORCE TECHNIQUES:

The ability to successfully execute the proper control technique when attempting to control a suspect is essential for officer safety. The following use of force techniques are described in general indicating the six (6) approved levels of force to control suspects under increasing resistant actions. Each technique is fully described in a separate training bulletin.

Level 1: Presence:

California Penal Code Section 834a 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. In addition, Section 148 makes it a crime to willfully resist, delay, or obstruct a peace officer in the performance of their duties.

Consequently, the mere presence of a uniformed or other appropriately identified officer, coupled with good verbal communication, will generally gain the willful submission necessary to avoid a further escalation of force.

Level 2: Verbalization:

Verbalization, "talking a suspect to jail," is the most commonly used technique to effect the arrest of a suspect. Verbalization may be advising, warning, or persuading. Actual field experience demonstrates that certain techniques of verbalization, coupled with an advantageous position, and a mature, professional attitude can prevent further escalation of a situation. These techniques include:

- explaining any actions about to be taken;
- allowing a suspect to save face in front of his/her peers;
- recognizing a suspect's remarks are not a personal attack against the officer; and
- allowing a suspect to retain dignity whenever possible.

Officers should attempt to de-escalate confrontations by utilizing verbalization techniques prior to, during, and after any use of physical force.

Level 3: Empty Hand Control:

Empty hand control is generally used to counter a weaponless suspect's passive or active resistance to an officer's verbal commands. Firm grip and control techniques were designed to safely initiate physical contact and gain control of an uncooperative suspect. When verbalization proves ineffective, a firm grip may be all that is necessary to overcome resistance. If the use of a firm grip is unsuccessful, an officer may decide to utilize a control technique as a restraint or come-a-long hold.

When the suspect's physical actions become actively resistant to a point which prevents the officer from gaining control or effecting an arrest, more aggressive countermeasures may become necessary. At this level of force, these techniques consist of:

- avoidance,
- blocks,
- empty hand control holds such as: wrist lock, twist lock, finger flex, arm bar and escort position,
- pressure points,

- controlled take downs such as: leg sweep, hip throw, front leg wrap, front and rear take downs, figure four and wrist turn-out,
- and ground tactics (using the officer's body weight and/or any combination of empty hand control holds to control the subject),

and are designed to create a temporary dysfunction of the suspect and allow the officer the opportunity to gain the advantage.

Level 4: Chemical Irritant/Electronic Control Devices/Team Take Down/ Carotid Restraint:

Officers should remain mindful that the use of force options described in Level 4, below, are described in order of preference where time and circumstances allow the officer to consider various options. This is based on the affected officer(s) having the time and ability to weigh the circumstances and avoid direct physical engagement (team take downs and carotid restraints.) Whenever possible and where practical, officers are encouraged to employ those techniques that do not require them to directly physically engage the subject so as to minimize risk to both the officer and the subject.

Chemical irritant may be used to overcome and control a suspect's aggressive actions when verbalization is unsuccessful. Verbal threats of violence by a suspect do not alone justify the use of chemical irritants. Chemical irritant may be used if the officer reasonably believes that it would be unsafe to approach and control the suspect. When it is tactically unwise to entangle with the suspect, and it is desirable to maintain a distance, chemical irritant may prove to be useful.

Currently, the only Electronic Control Device which is departmentally approved is the Taser. The Taser is a less-lethal control device, which may be used to control a violent or physically combative subject. The Taser may also be used to control a noncompliant subject; however, it shall not be used against a passively resisting subject. The Taser may be used when an officer reasonably believes the following conditions exist:

- Deadly force does not appear to be justifiable and/or necessary, and
- There is a reasonable expectation that it will be unsafe for officers to approach and place themselves within range of the suspect.

The team takedown is another intermediate force tool utilized to reduce risk of injury to officers and arrestees while achieving maximum control. Two or three man takedown teams under the direction of one leader move as a unit and make contact with the arrestee simultaneously. Contact should not be made until all other lesser levels of control have been exhausted and sufficient officers are present to minimize risk of injury to the officers and arrestee.

The Carotid Restraint Control Hold offers peace officers a method for controlling violently resisting suspects when higher levels of force may not be justified.

The Carotid Restraint Control Hold should not be confused with the bar-arm choke hold or any other form of choke hold where pressure is applied to restrict the flow of air into the body by compression of the airway at the front of the throat.

Choke holds are considered ineffective and create the potential for a suspect to panic and react with greater resistance when pressure is applied in this manner by a peace officer. Also, there is greater risk of serious injury to the suspect. Choke holds shall not be used by any member of this department.

The carotid restraint may be utilized to control a violently resisting suspect, and allows for control against varying degrees of resistance. Once the technique is applied, the officer has the capability of restraining the subject by using only that degree of force **which is reasonable** to control the suspect. Caution should be exercised to prevent a disadvantageous position which might expose the officer's baton and/or firearm to the suspect. Any time a carotid restraint is applied, whether or not the suspect is rendered unconscious, an O.K. to Book shall be obtained as soon as practical and prior to booking.

Level 5: Intermediate Weapons:

Intermediate weapons are utilized to immediately impede the threatening actions of an **aggressive** suspect. They consist of:

- personal body weapons such as palm heel strike, common fist, bottom fist strike, elbow strike, knee strike, front kick, side kick, roundhouse kick,
- impact weapons such as PR-24, expandable baton, mid-range baton, short billy, riot baton and flashlight,
- less lethal munitions
- improvised weapons
- and other self-defense techniques designed to protect the officer and/or innocent citizens from bodily harm.

These weapons are generally used when lethal force is not justified and lesser levels of force have been, or will likely be, ineffective in the situation.

The baton may be appropriately displayed as a show of force if verbalization techniques appear to be ineffective when used on an aggressive suspect. A decision to draw or exhibit a baton must be based on the tactical situation. For example, the drawing of a baton may be reasonable in a situation of an officer entering a bar or other location of prior disturbance calls, or exhibiting the baton in a situation where there is an escalating risk to the officer's safety. If the situation continues to escalate, the baton can provide a viable method of controlling the suspect. The baton was designed as an impact weapon and should be used for striking movements and blocks. **Caution shall be used to avoid striking those areas such as the head, throat, neck, spine or groin which may cause serious injury to the suspect.**

In situations when use of the baton is applicable, the front, side, rear, and round house kicks can be applied as alternate use of force techniques when attempting control of an **aggressive** suspect.

Another alternative to the use of the baton as an impact weapon is the flashlight. While certainly not preferred over the baton in most situations, the flashlight is usually readily available, especially at night, and may be appropriate at times when the baton is not accessible or too cumbersome. Nevertheless, should this choice be made within an intermediate use of force situation, caution shall be used to avoid striking those areas such as the head, throat, neck, spine or groin which may cause serious injury to the suspect.

Generally, the deployment of less lethal munitions should have the goal to restore order and/or reduce the risk of more serious injury. Incidents where deployment may be an option include, but are not limited to, the following:

- Restoration or maintenance of order during a jail or civil disturbance.
- Safely controlling violent persons.
- Subduing vicious animals.
- Situations wherein the authorizing person deems their use necessary to safely resolve the incident.

Depending on circumstances, less lethal weapons can be used to safely control violent or potentially violent suspects when the officer reasonably believes the following conditions exist:

- Attempts to control the incident with lesser force options have been, or will likely be ineffective in the situation, and
- There is a reasonable expectation that it would be tactically unwise for officers to approach or place themselves in range of the suspect.

Level 6: Lethal Force:

If the situation becomes life threatening, the officer would be compelled to escalate to the ultimate level of force. The use of lethal force is a last resort dictated by the actions of a suspect **where the officer has reasonable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others.** The weapon of choice in these situations is generally one of the various departmentally approved firearms. However, this does not preclude officers from using **any reasonable means** to protect themselves or other persons from this immediate and significant threat of **death or serious physical injury.** Furthermore, where the officer has reasonable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to prevent escape by using lethal force. Thus, if the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.

The use of less lethal munitions is neither encouraged nor discouraged in deadly force situations. Officers must evaluate each situation by the facts and circumstances confronting them. Less lethal force should not be considered a substitute for deadly force in lethal situations.

USE OF FIREARMS

Firearms shall be used only when an officer believes his/her life or the life of another is in imminent danger, or in danger of great bodily harm, or when all other reasonable means of apprehension have failed to prevent the escape of a felony suspect whom the officer has reason to believe presents a serious danger to others where the felonious conduct includes the use or threatened use of deadly force.

1. **Drawing Firearm:** Officers shall only draw their sidearm or shotgun when there is likelihood of danger to the officer or other persons.
2. **Discharge of Firearm:** An officer of this Department shall not discharge a firearm or use any other type of deadly force in the performance of his/her duties, except under the following circumstances:

- a. In the necessary defense of himself/herself or any other person who is in imminent danger of death or great bodily harm.
- b. Where the officer has reasonable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to prevent escape by using lethal force. Thus, if the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.
- c. To kill a dangerous animal that is attacking the officer or another person or persons, or which if allowed to escape, presents a danger to the public.
- d. When humanity requires the destruction of an animal to save it from further suffering, and other disposition is not possible.
- e. For target practice at an approved range or in unrestricted areas.
- f. To give an alarm or call assistance for an important purpose when no other means are available.

3. **Display and Discharge of Firearms Prohibited:**

- a. Officers shall not display their firearms or draw them in any public place except for inspection or use, nor shall officers handle their weapons in a careless manner which could result in an accidental discharge of the firearm.
- b. A member of the Department shall not discharge a firearm as a warning shot.
- c. Generally, a member of the department should not discharge a firearm at or from a moving vehicle unless in the necessary defense of himself/herself or any other person who is in imminent danger of death or great bodily harm. If an officer has reasonable cause to believe the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to prevent escape by using lethal force. If the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a serious crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to prevent escape, and if, where feasible, some warning has been given.

4. **Juvenile Felony Suspects:** An officer generally should not shoot at a fleeing felon whom he has reasonable grounds to believe is a juvenile.

This section does not limit an officer's right of self-defense or his defense of others whose lives he reasonably believes are in imminent peril, except as provided in paragraph 2 a or b above.

5. **Acting as a Peace Officer While Off Duty or in Other Jurisdictions:** Officers are reminded that as employees of this Department, the policies set forth here are in force whether or not officers are on duty in this City or on special or casual assignment in another legal jurisdiction or when off duty, but acting as a police officer.

F. **OVERVIEW OF TECHNIQUES:**

When a suspect physically attacks an officer, the officer must act in self defense using one or more of the previously mentioned control techniques within approved use of force standards. Consider a situation wherein a suspect assumes a clenched fists fighting stance some distance from the officer. The officer counters by drawing his baton as a show of force. At this time, the suspect drops his hands, resumes a normal posture, and submits to arrest. Although an officer must proceed with extreme caution, maintaining an advantageous position and ensuring that no additional threat exists, they should de-escalate all the way back to verbalization. Therefore, since the suspect is now cooperating, the officer reacts accordingly by advising, warning, and persuading.

The increased amount of force used by a suspect requires an officer to escalate the degree of force needed to maintain control of the situation. **Note, however, that an officer is permitted by law to not only use the level of force used by the suspect but to use reasonable force to overcome the resistance.** As a suspect's use of force declines, the officer's reaction must also decline. The reasonable amount of force needed to control a suspect may vary from one officer to another.

G. SITUATION-BASED USE OF FORCE CONTINUUM:

The Department recognizes that building flexibility into an officer's determination of the appropriate use of force is advisable and acceptable - if not essential - given that the standard for evaluating an officer's use of force claims is reasonableness under the facts and circumstances known to the officer at the time. This is an affirmative stance by the Department designed to provide additional confidence and needed support to officers in making their decisions regarding use of force in the field.

A number of factors are taken into consideration when an officer selects force options, and when evaluating whether an officer has used reasonable force. The Department recognizes that officers are expected to make split-second decisions and that the amount of time available to evaluate and respond to a situation may impact the officer's decisions. By establishing a policy that includes a use of force continuum the Department hopes to provide additional guidance to officers making split-second decision. Examples of facts which may affect an officer's force option selection include, but are not limited to:

- Officer/subject factors (age, size, relative strength, skill level, injury/exhaustion, number of officers versus number of subjects)
- Influence of drugs or alcohol
- Proximity to weapons
- Availability of other options
- Seriousness of the offense in question
- Other exigent circumstances

Finally, it is important to note that an officer need not attempt to gain control over an individual by use of the lowest level of force on the continuum when reason dictates and the officer can articulate that a higher level of force is reasonable. Likewise, the skipping of steps may be appropriate given the resistance encountered.

Simply put, this continuum should be viewed as an elevator, not a ladder - an officer may go directly to any level of the continuum provided that the force selected is reasonable.

H. MENTAL ATTITUDE:

Officers must realize that emotional involvement is also a factor in the escalation or de-escalation of force. In order to react to every situation with the **reasonable** amount of force, an officer must be in good physical condition, possess self defense and verbalization skills, and have a mature, professional attitude. Additionally, officers must have self confidence in their training and ability to control the situation.

I. REPORTABLE USE OF FORCE INCIDENTS:

1. A reportable use of force incident is defined as an incident in which any on-duty Department employee, or off duty employee whose occupation as a Department employee is a factor, uses a less lethal control device or any physical force to:

- Compel a person to comply with the employee's directions; or
- Overcome resistance by a suspect during an arrest or a detention; or
- Defend themselves or any person from an aggressive action by a suspect.

Reportable Use of Force does not include:

- The mere presence and identification of police officer status; or
- The use of a firm grip hold which does not result in an injury, complaint of injury, or complaint of pain; or
- That force necessary to overcome passive resistance due to physical disability or intoxication which does not result in injury, complaint of injury, or complaint of pain; or
- Control holds utilized in conjunction with handcuffing and searching techniques which do not result in injury, complaint of injury, or complaint of pain, and did not require any other reportable use of force; or
- Injuries sustained by a subject as a sole consequence of his/her actions such as, but not limited to, falling while fleeing from officer(s); or
- Shooting of an animal as otherwise permitted by the Riverside Police Department Policy and Procedures Manual; or
- Use of Departmentally approved diversion or entry devices, deployed to gain entry into a structure.

2. Employee Responsibilities:

Any member who becomes involved in a reportable use of force incident or discharges a firearm, Taser, or chemical irritant control device for any reason, other than an approved training exercise, shall:

- a. Summon medical aid, as needed;
- b. Immediately notify a supervisor that they have been involved in a use of force incident;
- c. If the force used falls within Level 6 and/or results in death or serious likelihood of death, the employee shall adhere to the provisions of Section

4.8 of the Riverside Police Department Policy and Procedures Manual.

- d. Report the full details of the use of force incident in the related Department arrest or crime report;
- e. Use a Department "memorandum" form to report the full details of the use of force incident when a crime or arrest report is not required;
- f. When off duty, notify the Watch Commander immediately.

3. Supervisor Responsibilities:

The notified or designated supervisor shall:

- a. Confirm medical aid has been summoned, as needed.
- b. Respond to the scene, independently investigate the use of force and make a report of the incident.
- c. If the force used falls within Level 6 and/or results in death or serious likelihood of death, the supervisor shall notify the Watch Commander immediately and adhere to the provisions of Section 4.8 of the Riverside Police Department Policy and Procedures Manual. The Watch Commander shall make additional notifications in accordance with Section 4.8.
- d. Photographs shall be taken in all reportable use of force incidents that result in an injury, or a complaint of injury. If practicable, photographs of the subject and the injury should be taken after the injury or wound is cleansed by medical personnel and before medical treatment, if any is necessary. Care should be taken to protect the subject's personal privacy interests. Any possible concerns should be discussed with a field supervisor prior to taking the photographs.
- e. The investigating supervisor shall report the incident as follows:
 - 1. A "Supervisor Use of Force Report" form shall be completed within twenty four (24) hours and forwarded to the Office of Internal Affairs, when the force used was within Level 3, 4, or 5 of this policy.
 - The "Supervisor Use of Force Report" form shall be sufficient documentation of a Use of Force incident when the force used did not result in an injury or complaint of injury. A simple complaint of pain, without evidence of underlying injury, may properly be documented on the "Supervisor Use of Force Report" form.
 - The supervisor shall complete a separate "Supervisor Use of Force Report" form for each subject upon whom force was used. Each report shall include the force levels used by each officer involved in the incident.
 - 2. A "Use of Force Investigation Memorandum" shall be completed within ten (10) days to supplement the "Supervisor Use of Force Report" form and forwarded to the Office of Internal Affairs when:
 - The force used was the direct cause of injury or complaint of

injury, beyond a simple complaint of pain.

- The force used involved the application of a carotid restraint, chemical irritant, electrical control device or similar control technique/device.
 - The force used falls within Level 5.
- f. Internal Affairs shall have the responsibility to prepare all administrative reports of incidents wherein the force used falls within Level 6 and/or death or serious likelihood of death results. Field supervisors shall not prepare any administrative reports of such incidents unless directed by Internal Affairs.
- g. Use of force reports will be designated for inclusion into the Early Warning System (EWS) in accordance with the provisions of section 4.55 of the Riverside Police Department Policy and Procedures Manual.
- h. Alternative methods of reporting uses of force may be utilized during incidents of civil unrest. The incident commander shall make this determination and specify the reporting method to be utilized.

J. CONCLUSION:

The decision to use physical force places a tremendous responsibility on the officer. There is no one capable of advising an officer on how to react in every situation that may occur. Ideally, all situations would require only verbalization. While the control of a suspect through advice, warning, or persuasion is preferable, the use of physical force to control a suspect is sometimes unavoidable. Officers must be able to escalate or de-escalate the amount of force which reasonably appears to be necessary to control a situation as the suspect's resistance increases or decreases. Force should only be used as a **reasonable** means to secure control of a suspect.