



**BRANDON JAMES DUNBAR
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

CPRC Case No. 12-008

RPD Case No. P12-030492

Approved on
March 12, 2014

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Date of Incident: March 1, 2012

Location: 2914 Hyde Park Circle, Riverside

Decedent: Brandon James Dunbar

Involved Officers: Sancho Lopez, Police Officer
Brett Porter, 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 the CPRC independent investigator.

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 January 22, 2014, by a vote of 7 to 0 (1 absent; 1 vacancy), the Commission found that the officers use of deadly force was consistent with RPD Policy Section 4.30 – Use of Force Policy, based on the objective facts and circumstances determined through the Commission’s review and investigation.

Rotker	Hawkins	Ybarra	Taylor	Ortiz	Jackson	Roberts	VACANT	Adams
✓	✓	✓	✓	✓	✓	✓	X	Absent

III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof known as the “Preponderance of Evidence.” Preponderance generally means “more likely than not,” or in other words, the amount of information and evidence necessary to tip the scale. It also means that the Commission does not need to have certainty in their findings, such as “beyond a reasonable doubt,” which is the standard applied in criminal cases. The Preponderance of Evidence standard of proof is the same standard applied in most civil court proceedings.

IV. Incident Summary:

On Thursday, March 1, 2012 Riverside Police Officers Sancho Lopez and Brett Porter were assigned to work a “marked black and white” patrol unit with the call sign of #A315 during the graveyard shift. This two man unit was assigned patrol duties in the “Casa Blanca” area of Riverside. Both officers were dressed in full police uniforms which identified them as members of the Riverside Police Department.

Officer Lopez is an eleven year veteran and field training officer for the Riverside Police Department. Officer Lopez was the passenger when this incident occurred. Officer Porter had been hired as a Riverside Police Officer eight weeks prior to this incident, and was in “phase two” of his patrol training. He was a lateral transfer from the Los Angeles Police Department with four years of patrol experience. He and Officer Lopez were working their third shift together as partners. Officer Porter was the driver of the police vehicle.

While on routine patrol westbound on Lincoln Street, the Officers Porter and Lopez saw a white Ford Wind Star Passenger Van approaching them from an eastbound direction on Lincoln Street. Officer Lopez noticed that the front license plate on the vehicle was obstructed with plastic “or something” that blocked the numbers of the license plate. He instructed Officer Porter to make a U-turn and catch up to the vehicle.

Officer Porter was not sure why Officer Lopez directed him to make the U-turn and catch up to the vehicle. He thought Officer Lopez may have recognized the vehicle from an earlier observation while they were patrolling in the “Casa Blanca” area. As Officer Porter made the U-turn, he observed the van quickly accelerate and turn left onto Anna Street. Officer Porter accelerated his vehicle to catch up to the van. As he followed the van onto Anna Street, he activated his overhead lights, and the van came to a stop in the middle of the street.

Officer Porter made his approach along the van’s driver’s side as Officer Lopez simultaneously approached along the passenger’s side of the van. Officer Porter observed the van’s driver, later identified as Witness Harold Smith, with his head and one arm protruding out of the driver’s side window. It appeared to Officer Porter that Witness Smith was attempting to communicate, but he (Porter) could not understand what he was saying. Officer Porter sensed something was wrong and continued his approach with an elevated sense of danger.

When Officer Porter approached the driver side window, he noted that the van contained a front seat passenger, later identified as Suspect Dunbar. Officer Porter believed Witness Smith may have been deaf, but when Witness Smith verbally responded to simple questions, Porter became more curious. Officer Porter asked Witness Smith if he was on probation or parole and Smith replied, “probation off.” Officer Porter asked Witness Smith for his driver’s license and he complied. Witness Smith was then asked to step out of the vehicle. Officer Porter’s attention was focused on his encounter with Witness Smith, but he could see and hear that Officer Lopez was conversing with the passenger.

Officer Lopez approached the passenger’s side of the van and noticed that the two occupants appeared to be communicating with one another by use of sign language. Officer Lopez thought this was odd because he also heard Witness Smith verbally speaking to Suspect Dunbar. This caused Officer Lopez to feel uncomfortable with the van’s occupants. Officer Lopez instructed Officer Porter to take Witness Smith out of the

vehicle first. Once Officer Lopez saw Witness Smith produce his identification and exit the van when asked to do so by Porter, and then when Smith complied with a pat down search, Lopez elected to speak to Suspect Dunbar.

As Lopez made contact with Dunbar, he noticed that Dunbar had gang tattoos that were related to a violent street gang known as the PJ Crips out of Los Angeles County. Officer Lopez asked Suspect Dunbar if he could use sign language to help the Officers communicate with Witness Smith. Suspect Dunbar replied in the affirmative and was requested to exit the van. As soon as Officer Lopez opened the van's door, Dunbar exited and took off running.

Officer Lopez immediately used his handheld radio to broadcast he was in foot pursuit. As Officer Lopez chased Suspect Dunbar, he saw that Suspect Dunbar's hands were tucked into the front waistband of his pants. The suspect lost his shoes while running. Suspect Dunbar ran approximately fifty (50) yards, then turned east and ran up an embankment toward a perimeter block wall surrounding a residential neighborhood. Suspect Dunbar's hands were hidden from Officer Lopez' view until the suspect jumped atop a six (6) foot block wall, and into the rear yard of the property located at 2914 Hyde Park Circle. As Suspect Dunbar jumped up onto the block wall, Officer Lopez heard the sound of metal hitting the top of it, and at the same time, clearly saw a chrome-colored handgun in the suspect's right hand.

Officer Lopez felt unsafe climbing onto the block wall at the same location as the suspect, and chose a position several feet north of where the suspect went over the wall. Officer Lopez did not immediately climb the block wall. As Officer Lopez lifted himself onto the top of the block wall, he saw the suspect in the rear yard of the residence with a gun in his right hand. The suspect turned toward the block wall as if he were looking for the Officer to climb over the block wall at the same location as him. Officer Lopez believed that Suspect Dunbar's intent was to shoot him (Lopez) as he climbed the block wall. Instead, Officer Lopez said he fired two (2) to three (3) rounds at the suspect while bracing himself on the outer side of the block wall. Officer Lopez observed the suspect fall to the ground partially onto his right side and stomach. The suspect's firearm was on the ground beside his head.

Officer Lopez yelled at Suspect Dunbar, "Don't move!" Suspect Dunbar responded, "You shot me," as he reached for the gun with his right hand. Officer Lopez believed the suspect was once again making an attempt to arm himself. Due to Suspect Dunbar's actions, Officer Lopez fired an additional two (2) rounds at the suspect, while still bracing himself on the opposite side of the block wall. The suspect then rolled onto his back. Evidence collected at the scene and the charting of Officer Lopez' firearm, corroborates his statement on the number of rounds he fired. He said he initially fired 2-3 shots, then two more when Dunbar reached for his firearm. This would account for the five (5) rounds missing from Lopez' service weapon.

By this time Officer Porter and assisting units had arrived to provide backup and cover for the officers so that they could contact and apprehend Dunbar. Officer Porter had just begun the "pat down" search of Witness Smith when Officer Lopez initiated a foot pursuit of the suspect. According to Officer Porter, he immediately placed the witness onto the ground for safety but then when he saw the foot chase pass him, he placed Witness Smith in the rear seat of the patrol vehicle and locked the door so that he could give chase and assist Officer Lopez. Officer Porter heard the first volley of gunshots as soon as he placed Witness Smith inside the patrol vehicle. He sensed the gunfire was coming from

the direction in which he last saw his partner chasing the suspect. Officer Porter took cover behind a white colored vehicle parked on the west side of the street. He immediately heard an additional four (4) gunshots and could see the direction of the muzzle flash, and then ran to that location. As Officer Porter neared the shooting scene, he saw Officer Lopez perched on the side of the block wall, reach over, and fire one (1) additional shot into the rear yard of the location.

It is understandable if the volley of shots were heard in different sequences by the two officers considering the exigency of the situation, the stress factor of a traumatic event that left the officers with making split second decisions in the heat of the moment.

Officer Lopez said he initially fired 2-3 shots at Dunbar, then an additional two when he tried to retrieve his firearm. Porter was not at the shooting scene as it started and was running up to it when the last shot was fired. Porter's reporting of the sequence of gunshots fired by Lopez was likely true to what he thought he heard. It was the same situation for Lopez who was confronted with the threat. The CPRC found no issues of concerns between the two statements.

Officer Porter was directed by Officer Lopez to make an emergency radio broadcast of "shots fired, 11-99." They both felt they required additional assistance because the suspect was not secured. Officer Porter joined Officer Lopez on the side of the block wall, where they both kept their guns pointed at the suspect until backup units arrived. Officer Porter observed the suspect lying on his side on the ground and holding his stomach; groaning and saying that he could not breathe. Officer Porter saw a silver and black handgun on the ground beside the suspect. He heard Officer Lopez repeatedly tell the suspect to stop moving and to stay away from the handgun. When additional units arrived on scene, Officer Lopez went over the block wall into the rear yard as Officer Porter provided cover from the street side of the wall. Officer Lopez kicked the suspect's firearm away from reach and the suspect was secured.

Officer Porter also summoned medical aid for Suspect Dunbar. The Riverside Fire Department and AMR Ambulance responded, treated and transported the suspect to Riverside Community Hospital. The suspect was subsequently pronounced dead at 0320 hours.

V. **Evidence:**

The relevant evidence in this case evaluation consisted primarily of testimony, including that of the two involved police officers and the driver of the vehicle that contained decedent Dunbar. Other evidence included police reports, evidence collected at the scene, photographs, the involved weapons and forensic examination results.

VI. **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.

VII. Rationale for Finding:

Officers Porter and Lopez initiated a lawful traffic stop on the suspect vehicle for a traffic infraction involving a partially obstructed front license plate. Officer Porter approached the driver side of the suspect vehicle while Officer Lopez approached the passenger side. As Officer Porter approached the driver side of the vehicle, he went into a heightened state of alertness when he saw the driver extend his head and arm out the window and try to communicate. The suspect vehicle driver, Harold Smith, is deaf but can read lips and speak, however not with a lot of clarity. When he approached the vehicle, Officer Porter had no way of knowing this about Harold Smith until there was contact.

Officer Porter asked Harold Smith for his driver's license and if he was on probation or parole. Porter then asked Smith to exit the vehicle for safety purposes. As Smith exited the vehicle, Officer Porter patted him down for weapons and found none.

When Officer Porter made contact with Harold Smith, he saw that the vehicle contained a front seat passenger, later identified as Brandon Dunbar. Officer Porter could hear Officer Lopez speaking to Dunbar while he (Dunbar) was still seated in the vehicle.

When Officer Lopez made contact with Brandon Dunbar on the passenger side of the vehicle, he noticed that he had gang tattoos that were related to a violent street gang known as the PJ Crips out of Los Angeles County. There was information contained within the available documents to suggest that Dunbar was an identified PJ Watts (Crip) Gang Member. The PJ Crips' primary area of control is located along the north border of Compton, near Mona Boulevard and Imperial Highway, and into the Imperial Courts Housing Projects. Frequent crimes involving PJ Crip Gang Members include murder, drive by shootings, robbery, burglary, extortion, prostitution, possession and sales of drugs and firearms. This put Officer Lopez in a heightened state of alert for officer safety.

Officer Lopez asked Suspect Dunbar if he could use sign language to help the Officers communicate with Witness Smith. Suspect Dunbar replied in the affirmative and was requested to exit the van. As soon as Officer Lopez opened the van's door, Dunbar alighted from the vehicle and took off running.

Officer Lopez immediately used his handheld radio to broadcast he was in foot pursuit. As Officer Lopez chased Suspect Dunbar, he noticed that Dunbar's hands were tucked into the front waistband of his pants. Dunbar lost his shoes while running. He ran

approximately fifty (50) yards, then turned east and ran up an embankment toward a perimeter block wall surrounding a residential neighborhood. Dunbar's hands were hidden from Officer's Lopez' view until the suspect jumped atop a six (6) foot block wall, and into the rear yard of the property located at 2914 Hyde Park Circle. As Dunbar jumped over the block wall, Officer Lopez heard the sound of metal hitting the top of the wall at which time he clearly saw a chrome colored handgun in the suspect's right hand.

Officer Lopez felt unsafe climbing onto the block wall at the same location as the suspect, and chose a position several feet north of the suspect's position. Officer Lopez did not immediately climb the block wall. As Officer Lopez lifted himself onto the top of the block wall, he saw the suspect in the rear yard of the residence with a gun in his right hand. The suspect turned toward the block wall as if he were looking for the Officer to climb over the block wall at the same location as the suspect. Officer Lopez believed that Suspect Dunbar intended to shoot him as he climbed the block wall. Instead, Officer Lopez fired two (2) to three (3) rounds at the suspect, while bracing himself on the outer side of the block wall. Officer Lopez observed the suspect fall to the ground partially onto his right side and stomach. The suspect's firearm was on the ground beside his head. Dunbar then reached for the gun. Officer Lopez feared that Dunbar was about to re-arm himself and once again pose a threat to his life. In order to stop the threat, Officer Lopez fired another two shots at Dunbar.

There were no independent eyewitnesses to the actual shooting other than Officer Lopez and Suspect Dunbar. Suspect Dunbar's firearm was identified as a fully functional, Taurus 9mm Semi-Automatic Pistol, loaded with one (1) live round in the chamber and fifteen (15) live rounds in the magazine. The suspect's criminal history or arrest review was not made available for review.

Based on the review of the available data, the CPRC concluded that the officers acted in compliance with the Riverside Police Department's Policies and Procedures, and that their use of force in this case was not only reasonable but necessary.

The evidence examined in this investigation indicates that Officers Lopez and Porter conducted a legal traffic stop. It was during the traffic stop that Suspect Dunbar made the conscious decision to jump from the vehicle and run, causing Officer Lopez to follow in pursuit. Dunbar ignored Officer Lopez' repeated commands to stop running. According to Lopez, Dunbar drew his firearm from the waistband of his pants, lost his shoes while running, travelled up an embankment and climbed over a block wall during the ensuing foot chase. Once over the block wall, Dunbar stopped and turned back toward the block wall that he had just climbed with his firearm aimed toward the same portion of the wall where he crossed, expecting Officer Lopez to follow his path over the wall.

Due to Officer Lopez' tactical training and experience, he hesitated momentarily, but jumped onto the block wall at a different location than the suspect anticipated. Officer Lopez saw Suspect Dunbar with a gun in his hand and was reasonable in fearing great bodily harm or death at the hands of Suspect Dunbar. Officer Lopez discharged his firearm shooting Suspect Dunbar, who fell to the ground. Once he was down, Suspect Dunbar continued non-compliant behavior by reaching for his firearm, causing Officer Lopez to fire additional rounds toward Suspect Dunbar.

Officer Lopez reasonably concluded that there was a present threat to his life. Rule 4.30 of the Riverside Police Department's Policies and Procedures regarding "Use of Force,"

allows use of force that “is objectively reasonable, given the facts and circumstances perceived by the officers at the time of the event to defend themselves.” Based on the facts of this investigation, the CPRC unanimously concluded that Dunbar’s actions preceding the time of this shooting could only reasonably be interpreted by Officer Lopez as a threat to his life.

Witness Harold Smith was interviewed and informed the Detectives he is deaf, but proficient at reading lips. Sign Language was utilized during his interview. Witness Smith stated, he was at his apartment, packing personal items in preparation to relocate apartments. He was approached by Suspect Dunbar, whom he characterized as an acquaintance. Suspect Dunbar offered him \$20 for a ride to the area of Food 4 Less at University and Chicago. He did not know why Suspect Dunbar wanted to go to that area, nor did he ask any questions. He was unaware Suspect Dunbar was armed with a firearm. Witness Smith did not observe the shooting, and he was not charged with a crime in this incident.

VIII. Recommendations:

None.

IX. Closing:

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

APPENDIX

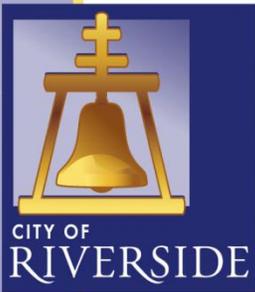
RPD Press Release / Press-Enterprise Articles	Section A
CPRC Independent Investigator Reports Mike Bumcrot Consulting	Section B
Fact Sheet	Section C
RPD Policy 4.8: Investigations of Officer Involved Shootings and Incidents Where Death or Serious Likelihood of Death Results	Section D
RPD Policy 4.30: Use of Force Policy	Section E

Section A

RPD Press Release

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Press-Enterprise Articles



PRESS RELEASE

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

FOR IMMEDIATE RELEASE

Date: Wednesday, March 1, 2012
Contact: Sergeant David Amador
Phone: 951-353-7107

Foot Chase of Armed Suspect ends in an Officer Involved Shooting

Riverside, CA. –

A Riverside police officer shot an armed suspect early this morning after a vehicle stop and foot chase. At about 2:26 am this morning, two uniformed police officers driving a marked police car stopped a vehicle on Anna Street north of Lincoln Avenue in the city of Riverside. The vehicle was stopped for license plate violation.

The two officers made contact with the driver and passenger. The two occupants remained sitting in the vehicle. After making contact, the officers asked both occupants to step out of the vehicle. After the passenger got out of the vehicle, he immediately ran away on foot with one of the officers giving chase. The suspect ran into the backyard of a nearby residence. The suspect turned towards the officer and had a handgun in his hand. The officer fired his handgun several times at the suspect who went down to the ground. The suspect was hit several times and medical aid was requested by the officers. Paramedics from the Riverside Fire Department and American Medical Response provided medical aid for the suspect.

The suspect, Brandon James Dunbar, 26, of Riverside, was transported to a local hospital where he was later pronounced deceased.

Detectives from the Robbery/Homicide Unit and technicians from the Forensic Unit responded and are currently investigating the shooting.

Anyone with information on this incident is asked to contact Detective Mike Medici at (951) 353-7104 or Detective Ron Sanfilippo at (951)353-7105.

#P12-030492#

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RIVERSIDE: Officers involved in fatal shooting after traffic stop



STAN LIM/STAFF PHOTOGRAPHER

The scene of an officer involved shooting along Anna St. in Riverside on Thursday, March 1, 2012.

BY RICHARD BROOKS

STAFF WRITER

rbrooks@pe.com

Published: 01 March 2012 09:18 AM

A pre-dawn traffic stop turned deadly today when Riverside police shot a passenger they said ran into a backyard while carrying a handgun.

The man died at a local hospital soon after the 2:30 a.m. shooting along Anna Street near Lincoln Avenue.

His name has not been released. But based on a tentative identification, his apparent criminal record would have given him a motive to run and try to avoid arrest, said Lt. Toussaint.

“He’s not currently on parole, but he’s an ex-felon,” Toussaint said. “And if I am an ex-con and I have a gun, I’m going back to prison.”

The driver was being questioned, but has not been arrested.

The traffic stop turned into a foot chase when the passenger fled, Toussaint said.

“The suspect jumped into a backyard,” he said. “As an officer entered the backyard, an officer-involved shooting occurred.”

Detectives are still investigating details of the confrontation, but have determined that the suspect was armed. “A handgun was recovered at the scene,” said Toussaint.

The shooting happened up the street from Victoria Elementary School. As parents dropped off their children this morning, they noticed the yellow crime-scene tape that cordoned off the shooting scene.

The street directly in front of the scene was blocked, but the school wasn't directly affected by the violence.

Section B

CPRC Independent
Investigator Reports

Mike Bumcrot
Consulting

MIKE BUMCROT CONSULTING

REPORT OF INVESTIGATION

DATE: March 8, 2012

CASE: Riverside Police Department File #P12030492

SUBJECT: Officer Involved Shooting Death of Brandon James Dunbar, which occurred on March 1, 2012

LOCATION: 2914 Hyde Park Circle, Riverside

On March 8, 2012, I received a written request from Frank Hauptmann, Manager of the Community Police Review Commission, to conduct a neighborhood canvass at the location of the officer involved shooting death of Brandon Dunbar. The purpose of the canvass was to search for potential witnesses who had not been located by Riverside Police Department at the time of the incident. If any witnesses were located, I was asked to conduct a thorough interview and provide a copy of said interview to Riverside Police Department.

On March 8, 2012, I responded to the vicinity of 2914 Hyde Park Circle, Riverside, and contacted several residents but found no witnesses to the incident. This was not surprising since the officer involved shooting occurred in the back yard of the location in the early morning hours. I did, however, see a lock company changing the locks of the house where the officer involved shooting had occurred.

On March 14, 2012, I attended a briefing of the incident by Riverside Police Department Investigators. I learned that Mr. Dunbar was a passenger in an automobile that had been stopped by patrol officers from the Riverside Police Department. Mr. Dunbar ran from the officers and jumped a fence, ending up in the back yard of a residence. When an officer entered the back yard to search for Mr. Dunbar, an officer involved shooting occurred and a handgun was recovered from the scene.



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I will review all aspects of the officer involved shooting death of Mr. Dunbar when Riverside Police Department provides me with access to the files.



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REPORT OF INVESTIGATION

DATE: June 15, 2013

CASE: Riverside Police Department File #P12030492

SUBJECT: Officer Involved Shooting Death of Brandon James Dunbar, which occurred on March 1, 2012

LOCATION: 2914 Hyde Park Circle, Riverside

On June 11, 2013 I was asked by Frank Hauptmann, Manager of the Community Police Review Commission, to review the officer involved shooting death of Brandon Dunbar. I was also asked to provide my expert opinion, in a written report, on the manner in which the case was investigated by the Riverside Police Department.

I reviewed hundreds of pages of police reports, photographs, and other documents contained in the presentation by the Riverside Police Department to the Riverside Police Review Commission. I also researched legal issues and drove to the scene to better understand the incident.

FACTUAL ANALYSIS

On March 1, 2012, Riverside police officers Sancho Lopez, an eleven year veteran and Brett Porter, an eight week member of the Department, although he had four years of patrol experience with the Los Angeles Police Department, were on routine patrol in the early morning hours.

Officer Lopez observed a white van pass their marked police vehicle traveling in the opposite direction. He noted that the front license plate was obstructed and thought the driver was "trying to dodge license plate readers". Due to the California vehicle code



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violation, Officer Lopez told his driver partner to make a u-turn and stop the van. As the officers turned around, the white van sped up, causing the officers to drive quickly to catch up. As the police emergency lights were activated, the van stopped immediately in traffic instead of pulling to the curb, yet another vehicle code violation. As the officers approached on foot, Officer Lopez observed the driver, Harold Smith, and the lone passenger, Brandon Dunbar, conversing in both sign language and verbally. He thought this was odd and “became uncomfortable about their behavior”. Officer Porter saw Harold Smith place his head and an arm outside the driver’s side window causing him to be on “heightened alert”.

Officer Porter asked the vehicle occupants if they were on probation or parole and Mr. Smith said “Probation off”, indicating that he could communicate. Officer Lopez observed gang style tattoos on Mr. Dunbar’s hand and noted that the vehicle was coming from a known gang area. He would later say, “The hair kind of stood up on the back of my neck, something’s not right”. Mr. Smith was asked to step out of his vehicle and, as Officer Porter checked him for weapons, Officer Lopez asked Mr. Dunbar if he could assist officers with sign language to help communicate with Mr. Smith. When Mr. Dunbar replied that he knew some sign language, he was asked to exit the vehicle for officer safety and help maintain control of the car stop.

As Mr. Dunbar stepped out of the vehicle, he immediately ran with Officer Lopez in foot pursuit. Dunbar ran about 50 yards, up an embankment towards a block wall surrounding a residential neighborhood. Officer Lopez observed that, although Mr. Dunbar was running so fast that he actually ran out of his shoes, his arms were not pumping and both hands were tucked inside his waistband.

As Mr. Dunbar reached the block wall, Officer Lopez could see that he was holding a chrome handgun in his right hand. As Mr. Dunbar grabbed the top of the wall, Officer Lopez heard the metal of the handgun strike the top of the fence. Mr. Dunbar then disappeared over the wall. It should be noted that during the foot chase, Officer Lopez had dropped both his flashlight and radio.



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Officer Lopez made a tactical decision to not jump the wall in the same place Mr. Dunbar had used. Instead, he moved several feet north of where he had lost sight of Mr. Dunbar and pulled himself atop the wall with his left arm, while holding his duty weapon in his right hand. As Officer Lopez peered over the wall, he clearly saw Mr. Dunbar still holding the chrome handgun, standing, looking at the exact spot where he had jumped over the wall.

Officer Lopez felt that it was Dunbar's intention to shoot him as he climbed the wall, so he fired 2 - 3 gunshots at Mr. Dunbar. He would later tell investigators that "I was more scared" once Mr. Dunbar disappeared over the wall.

Mr. Dunbar fell to the ground shouting "you shot me". Officer Lopez, still hanging from atop the wall by his left arm, told Mr. Dunbar "don't move", Officer Lopez could see that Dunbar had dropped his handgun, which was lying next to his head. Several commands were shouted at Mr. Dunbar to not move but he persisted in reaching for the weapon, causing Officer Lopez to fire again. Officer Lopez remained hanging from atop the wall until joined by Officer Porter and assisting units.

It should be noted, to show how fast this incident occurred, at the time the foot chase began at the car stop, Officer Porter walked Mr. Smith to his patrol car, placed him in the backseat, and as he began to close the back door, he heard a gunshot. Officer Porter, using parked cars for cover, began to move towards the sound of the shot, when he heard more gunshots and saw the muzzle flashes. He saw his partner hanging from a block wall and ran to him. He glanced over the wall and saw Mr. Dunbar lying on the ground and a silver handgun lay next to him.

STATEMENT OF HAROLD SMITH

Harold Smith was interviewed by detectives who noted that, although he is deaf, he is proficient at reading lips. Sign language was also used.



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Mr. Smith said that prior to the incident, he was packing to move from his apartment when he was approached by Mr. Dunbar, an acquaintance, who offered him \$20 to drive him to the area of Food 4 Less at University and Chicago. He didn't know why Dunbar wanted to visit that location, nor did he ask why. He was unaware that Dunbar was armed. At the time of the car stop, he saw the police car make a u-turn and drive up behind him and he stopped immediately when he saw the red lights come on because he's on probation. He was eventually placed in the back seat of the police car but did not witness the shooting.

EVIDENCE

Charting of Officer Lopez' pistol revealed that he fired a total of 5 gunshots. Officer Lopez' recorder was downloaded and is evident that it was turned on after the shooting. All that is heard is a voice saying "I can't breathe" over and over and another voice stating "don't move" and "don't touch that fucking gun". A fully loaded, functioning handgun was recovered from Mr. Dunbar.

EXPERT QUALIFICATIONS

I was employed as a peace officer for the Los Angeles Sheriff's Department for 34 years. I worked as a jail deputy, 18 months as a patrol officer, and four years assigned to the Special Enforcement Bureau (SWAT team). My last 27 years on the department, I was assigned to the Detective Division, including over 22 years assigned to the Homicide Bureau. I investigated over 450 homicides and suspicious deaths and over 100 Officer Involved Shootings, including the murders of ten police officers.

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



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

INVESTIGATION AND REVIEW

The investigation into the Officer Involved Shooting death of Brandon Dunbar was conducted by the Riverside Police Department and the Riverside County District Attorney’s Office. I reviewed all the reports submitted to the Community Police Review Commission and researched deadly force legal issues. The District Attorney found there was no criminal liability.

LEGAL ANALYSIS

California law permits the use of deadly force in self defense or in the defense of others if it reasonably appears to the person claiming the right of self defense that he actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code 197; People v. Randle (2005) 35 Cal.4th 987, 994; People v. Humphrey (1996) 13 Cal.4th 1073, 1082

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

When the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be



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justified in killing because he might have resorted to other means to secure his safety. People v. Collins 1961 189 Cal. App. 396-397

Police may use reasonable force to make an arrest, prevent escape or overcome resistance, and need not desist in the face of resistance, and in virtue of a police officers duty to act affirmatively to protect the public, a police officer is entitled to the even greater use of force that might be, in the same circumstances, required for self defense. Brown v. Ransweiler (2009) 171 Cal. App. 4th 516

The reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split second judgments in circumstances that are tense, uncertain and rapidly evolving.--About the amount of force that is necessary in a particular situation. Graham v. Conner (1989) 490 U.S. 386, 396-397.

A peace officer is entitled to use deadly force to capture a dangerous person who has committed a felony. A dangerous person is defined as one who (a) poses significant threat of death or serious bodily injury to the person attempting the apprehension or others, or (b) has committed a forcible and atrocious felony. A forcible and atrocious felony is one that by its nature and manner of its commission reasonably creates a fear of death or great bodily injury. People v. Ceballos (1974) 12 Cal. 3rd 470-CALCRIM No. 505 (Bench Notes)

CONCLUSION

The evidence examined in this investigation shows that Officers Lopez and Porter conducted a legal traffic stop and while following up on the occupants of the stopped vehicle, Mr. Dunbar chose to run from the officers. During the foot chase, Mr. Dunbar chose to draw a firearm from his waistband. Mr. Dunbar ignored commands to stop running and jumped over a block wall, out of sight of the officers.

Evidence at the scene, as well as actions and observations of Officer Lopez, suggest that the tactical training of Lopez, probably saved his life. Per Officer Lopez' statement, Mr. Dunbar, after jumping the wall, turned, gun in hand, and looked in the direction he



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had vaulted over the fence. One can only conclude that Dunbar was lying in wait for a pursuer to follow him over the wall.

After Officer Lopez gained a tactical advantage by jumping atop the fence several feet from where Mr. Dunbar anticipated, Dunbar was shot, fell to the ground, and dropped his weapon. Once again, Mr. Dunbar chose to escalate the incident, ignoring commands to the contrary, and attempted to reach for his firearm.

Officer Lopez was reasonable in fearing great bodily injury or death at the hands of Mr. Dunbar and discharged his weapon again.

Mr. Dunbar was in complete control of this incident from the time of the car stop until the last shot was fired. He could have stayed with his vehicle and, perhaps, been arrested for a misdemeanor charge of carrying a loaded weapon. Or, he could have obeyed the lawful commands of Officer Lopez to stop running. After jumping the block wall, Mr. Dunbar could have continued running through the neighborhood, or hidden. BUT, he chose to confront a police officer while holding a firearm. And finally, after he had been shot by Officer Lopez, he could have surrendered and received medical attention but his decision was to attempt to arm himself once again.

I noted that a glass pipe, normally used to smoke methamphetamine, was recovered from Mr. Dunbar's sock at the time of his emergency room treatment. This discovery suggests that Mr. Dunbar may have been under the influence of narcotics but I also noted that the Coroners protocol was redacted and I was unable to answer that question.

I find that the actions of Mr. Dunbar, the observations of Officer Lopez and the evidence recovered at the scene, created a fear of imminent death or serious bodily injury. Once Officer Lopez perceived that Mr. Dunbar posed an apparent lethal threat, his response with deadly force was justified.

I also find that the investigation into the officer involved shooting death of Mr. Dunbar was completed in a fair and impartial manner and met POST standards of practice.



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Section C

Fact Sheet

Dunbar OID Fact Sheet – v1
12-008 / P12030492

Date Occurred: March 1, 2012
Time of Occurrence: 0226 Hours
Decedent: Brandon James Dunbar
Location: 2914 Hyde Park Cr., Riverside

Officer(s) Involved: Officer Sancho Lopez, #1011, Unit Designator C426, Unit 3931

Officer Witness(s): Officer Brett Porter, #1709 (Police Officer Lateral Trainee on March 1, 2013)

Civilian Witnesses: None (No one witnessed the actual shooting. Some neighbors heard voices and/or gunshots).

Suspect's Injuries: Decedent Dunbar sustained three through and through gunshots. One round entered the left buttocks; one entered the back of the right triceps and one inside the right leg above the knee. Cause of death was listed in the investigative report as "Pending Coroner's Review." The County Coroner's report was redacted in the on-line public version due to confidentiality.

FACT SHEET

The fact sheet is numbered and designed to point you to important factual information located in the criminal case book that will help guide you in your review process. It is not designed to take the place of a cover-to-cover review. It is up to you to review the "fact sheet" data before or after a cover-to-cover review. The footnotes will direct you to a specific "Tab," page, paragraph, and / or "line number" on reports that have each line of the narrative numbered.

1. The initial crime report face page listing Officer Sancho Lopez as the victim of an assault on a peace officer with a firearm. Decedent Dunbar is listed as the suspect in the assault. File #P12-030492.¹
2. Sgt. Lambert responded to the scene of the shooting and provided details of his observations. This included obtaining a "public safety" statement from Officer Lopez who provided basic public safety information concerning his use of deadly force at the scene.²
3. Officer E. Hibbard responded to the scene of the shooting to assist in the investigation. He entered the backyard of a home where he saw Officer Lopez holding Dunbar at gunpoint.

¹ Crime Report – Detective Medici – Tab 3, p.1

² Supplemental Report – Sgt. Lambert – Tab 4, p.1 para 1 & 2

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Hibbard remained with Dunbar until medical aid arrived. While doing so, he located a silver colored firearm arm by Dunbar. Hibbard also saw a “mushroomed” bullet covered with blood in the grass by Dunbar’s feet. Hibbard maintained control of this evidence until it was photographed in place.³

4. Officer J. Schultz responded to the scene and located the suspect vehicle stopped in the roadway in front of Officer Lopez’ patrol vehicle. He located the suspect vehicle driver seated in the locked rear seat area of the patrol vehicle. Schultz took custody of the suspect vehicle driver.⁴
5. Officer J. Simpson and his trainee, Officer Samano, described taking control of the suspect vehicle driver from the rear seat of Officer Lopez’ patrol vehicle. Simpson and Samano canvassed the surrounding neighborhood for potential witnesses.⁵
6. Officer Samano arrived on the scene with his training officer, J. Simpson. Samano described taking control of the suspect vehicle driver from the rear of Officer Lopez’ police vehicle. Samano and Simpson canvassed the neighborhood for potential witnesses and interviewed eight residents. No one saw the shooting. A few reported only hearing gunshots.⁶
7. Officer K. Feimer responded to the scene and stopped the COBAN video system from running inside Officer Lopez’ patrol vehicle. He then followed the AMR ambulance containing Dunbar to Riverside Community Hospital and stood by in the trauma room while medical staff provided treatment to Dunbar. Feimer was given a glass meth pipe from RFD Captain Williams who had, at some point, located it in one of Dunbar’s socks.⁷
8. Officer R. Glover responded to the scene and was directed by a supervisor to take a photograph of an expended round and handgun that were lying near Dunbar. Glover then canvassed the neighborhood for potential witnesses. He spoke to two residents. Neither saw what happened, but heard gunshots and voices.⁸
9. Officer C. Camp responded to assist at the scene of the shooting and was directed by a supervisor to canvass the neighborhood for possible witnesses. Camp interviewed five residents and none of them saw the shooting. Most heard two gunshots and / or heard voices; one did not see or hear anything.⁹

³ Officer Hibbard – supplemental report – Tab 7, p.1 para 1 lines 6-11 and p.2, para 1

⁴ Officer J. Schultz – supplemental report- Tab 8, p.1 para 1 & 2

⁵ Officer J. Simpson – supplemental report – Tab 9, p.1, para 1 & 2

⁶ Officer Samano – supplemental report – Tab 10, p.1, para 1 & p.2 para 1-4

⁷ Officer K. Feimer – supplemental report – Tab 13, p.1, para 1-3

⁸ Officer R. Glover – supplemental report – Tab 15, p.2, para 2-4

⁹ Officer C. Camp – supplemental report – Tab 17, p.1, para 2; p.3, para 1-4

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10. Officer P. Grey responded to the scene of the shooting. Grey spoke to one resident as a potential witness, but the person did not see or hear what happened.¹⁰
11. Officer J. Brandt responded to the scene of the shooting. Brandt spoke to one resident as a potential witness who did not see what happened. Brandt handled the Crime Scene Log.¹¹
12. Officer J. Pap responded to the scene and was directed to canvass the neighborhood. Pap interviewed two potential witnesses. Neither saw anything, but both heard gunshots.¹²
13. Detective J. Simons completed a narrative report covering the photographing evidence, collection of evidence, and learning the identity of Dunbar. Simons listed the location of gunshot wounds sustained by Dunbar.¹³
14. Detective Brian Smith responded to the scene and interviewed a resident as a potential witness. The resident heard two gunshots and someone say, “Don’t move. Don’t move.” Another male subject then said, “You shot me, you son of a bitch.” The resident looked outside and saw an officer pointing a gun at someone in his backyard. The officer had his arm, with gun in hand, extended over a fence and pointing the gun at the subject in his backyard. The witness looked into his backyard and saw Dunbar lying on the ground near a planter. The backyard was estimated to be approximately 30’ x 30’ in size.¹⁴
15. Detective Medici conducted a tape recorded interview with the driver of the suspect vehicle, later identified as Harold Smith. Smith was hard of hearing and required the assistance of sign language. Detective Wheeler assisted with the sign language.¹⁵
16. Detective Medici conducted an interview with Officer Sancho Lopez.¹⁶
17. Detective Medici conducted an interview with Officer Porter.¹⁷
18. Detective R. Cobb conducted a walk-through of the crime scene, documented the position of the suspect vehicle, and described evidence located on Anna Street and the backyard of 2914 Hyde Park Circle where the shooting occurred. Cobb collected evidence, took measurements of the scene and evidence, and conducted crime scene clean-up.¹⁸
19. Detective C. Fuller conducted the crime scene investigation that included a handgun used by Dunbar. The semi-automatic handgun was jammed and the slide could not be moved

¹⁰ Officer P. Grey – supplemental report – Tab 19, p.1

¹¹ Officer J. Brandt – supplemental report – Tab 20, p.1 para 1-2

¹² Officer J. Pap – supplemental report – Tab 21, p.2 para 1-5

¹³ Detective Simons – supplemental report – Tab 24, See report.

¹⁴ Detective Smith – supplemental report – Tab 25, p.2 para 3-5

¹⁵ Detective Medici – supplemental report – Tab 26, p.2 para 1-5

¹⁶ Detective Medici – supplemental report – Tab 27, p. 1-36 (all pages should be read).

¹⁷ Detective Medici – supplemental report – Tab 28, p. 1-40

¹⁸ Detective Cobb – supplemental report – Tab 29, p. 1-4

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manually. Fuller conducted a complete charting of the gun used by Dunbar, conducted digital video recordings of the crime scene, and completed sketches.¹⁹

20. Detective J. Brandt took the gun used by Dunbar from the crime scene and delivered it to an RPD range master in order to clear the jam and render it safe enough for further inspection and booking into evidence.²⁰
21. Forensic Technician S. McKay-Davis responded to both the crime scene and Riverside Community Hospital to collect, process, and photograph evidence. (See crime scene photo logs for details.) McKay-Davis assisted Coroner Investigator R. Escobar with photos of Dunbar's body at the hospital.²¹
22. Detective David Smith witnessed the photographing and charting of both officers' handguns. Smith also witnessed the photographs taken of both officers in full uniform. Officer Lopez carried a Glock Model 22 .40 caliber semi-automatic pistol. The gun was loaded with one live round in the chamber. There were 11 live rounds in the magazine of the gun. If the gun were loaded to capacity at the time of the shooting, this would indicate that Lopez fired five rounds. There were two fully loaded extra magazines.²²
23. Forensic Tech S. Lane described evidence items that were photographed. Lane conducted the actual charting of both officers' Glock handguns.²³
24. California Department of Justice firearms examiner Richard Takenaga conducted an examination of Officer Lopez' Glock handgun.²⁴
25. California Department of Justice firearms examiner Richard Takenaga conducted an examination of Dunbar's handgun.²⁵
26. Detective David Smith reported on digital recordings that were captured on Officer Lopez' audio recorder. In the recording, Smith could hear someone say, "I can't breathe" over and over. He also heard a voice say, "Don't move. Don't touch that fucking gun."²⁶
27. Detective J. Brandt attended the autopsy of Dunbar. He described the exam and had photographs taken. Brandt reported that Dunbar sustained three through-and-through gunshots. One entered the left buttocks, one entered the back of the right triceps, and one

¹⁹ Detective C. Fuller – supplemental report – Tab 30, p.1, para 1 and pages 2-18

²⁰ Detective Brandt – supplemental report – Tab 31, p.1 para 1

²¹ Forensic Tech S. McKay-Davis – Tab 32, p. 1-6

²² Detective B. Smith – supplemental report – Tab 34, p.2 narrative

²³ Forensic Tech S. Lane – supplemental report – Tab 35, p.2 para 2&3; pages 5-8

²⁴ Calif. Dept of Justice – Richard Takenaga – 2 page report

²⁵ Calif. Dept of Justice – Richard Takenaga – 2 page report

²⁶ Detective Smith – supplemental report – p.2 para 2-3

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entered inside the right leg above the knee. The cause of death was listed in the report as follows: Pending Coroner Review.²⁷

28. Riverside County Coroner's Autopsy Protocol (Redacted).²⁸

29. All photos.²⁹

30. Letter from Riverside County District Attorney Paul Zellerbach concluding that, upon review of the entire case, there was no evidence of criminal liability against Officer Lopez.³⁰

²⁷ Detective J. Brandt – supplemental report – Tab 40, p.2 narrative

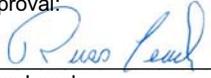
²⁸ RSO Coroner's Autopsy Protocol – Page blacked out.

²⁹ Photos – Tab 43

³⁰ Letter from DA Zellerbach – Tab 51

Section D

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

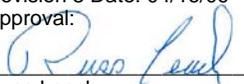
duty by the Watch or Division Commander. The involved employee(s) may be placed on paid Administrative Leave status for a minimum of one day, during which time he/she shall be provided full salary and benefits.

- 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 E

RPD Policy 4.30

Effective Date: 8/93
Revision 1 Date: 07/26/96
Revision 2 Date: 05/21/97
Revision 3 Date: 06/01/99
Revision 4 Date: 01/05/2000
Revision 5 Date: 05/09/02
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Revision 7 Date: 11/01/04
Revision 8 Date: 04/16/09
Approval:


Russ Leach
Chief of Police

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.