



**EDWARD THOMAS HAYES III
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

Case Type: IN-CUSTODY DEATH

CPRC Case No. 16-011

RPD Case No. P16200713 / PA1610039

June 14, 2018

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Date of Incident: October 31, 2016 – 2221 hours

Location: 8138 Mar Vista Ct. (near St. Lawrence St.) Riverside, CA

Decedent: Edward Thomas Hayes III

Involved Officer(s): Sergeant W. McCoy #177
Officer J. Cuevas #1819
Officer B. Brandt #1821

I. Preamble:

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

II. Finding:

On April 25, 2018, by a vote of 9 to 0, the Commission found that the officer’s use of force in searching and handcuffing Hayes 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.

Adams	Smith	Jackson	Ybarra	Huerta	Ortiz	Evans	Kurkoske	Timmons
✓	✓	✓	✓	✓	✓	✓	✓	✓

III. Standard of Proof for Finding:

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

IV. Incident Summary:

On Monday, October 30, 2016, at approximately 10:21 p.m., Officers Brandt and Cuevas were hailed down by a citizen who reported that a male subject, later identified as Edward Hayes, was stealing pallets at a business located at 8138 Mar Vista Street.

The officers drove to the location and saw an older white Chevrolet Silverado pick-up truck backed up to a wall where stacks of wooden pallets were being stored. The officers noticed several wooden pallets being loaded into the truck bed by Hayes.

When the officers spotted Hayes, he saw them as well and suddenly ran away on foot and jumped a chain link fence to the rear of the building. One of the officers spotted Hayes peering over the fence in their direction. He was ordered to put his hands up and to slowly climb back over the fence to the side where the officers were located. Hayes then continued to run toward some orange groves on Mar Vista. He was seen walking into the orange grove and out of the sight of the officers.

Other officers were alerted to the foot chase and responded to the area. When Sergeant McCoy arrived, he drove up to the area of the orange groves where Hayes was last seen. McCoy illuminated the orange grove area with his police vehicle spot light and saw Hayes walking toward him, appearing to surrender. McCoy and Officers Brandt and Cuevas went to handcuff Hayes. They noticed that he was sweating profusely and appeared disoriented. He gave slight resistance while being handcuffed and it took both Brandt and Cuevas to get the handcuffs on him. While being handcuffed, Hayes complained that he could not breathe. The officers then rolled him over on his side so that he could breathe and they noticed he was unconscious but breathing. He also had a slight pulse.

Fire/Paramedics were requested and responded to the location where they rendered aid and transported him to Parkview hospital where he was provided with emergency life support treatment. He passed away at approximately 12 midnight. The doctors believed he suffered a heart attack.

The autopsy revealed the cause of death as acute methamphetamine intoxication. It also revealed that Hayes had cardio vascular disease. There were no injuries to indicate that Hayes suffered from any physical violence. The toxicology report revealed that Hayes had cannabinoids and amphetamine in his system at the time of his death and that he was involved in physical exertion while running and jumping fences.

V. CPRC Follow-Up:

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

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of testimony by the officers involved in the arrest. In addition, a Deputy Coroner investigation and report,

along with police reports and photographs, forensic examination results and a report by the independent CPRC investigator.

VII. Applicable RPD Policy(s); Penal Codes and Case Law:

RPD – Policy Manual, Policy 300

USE OF FORCE

- Policy 300.1.1, Deadly Force

Force reasonably anticipated and intended to create a substantial likelihood of causing death or very serious injury.

- Policy 300.3, Use of Force

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time...

- Policy 300.3.2, Use of Force Factors

(a) Immediacy and severity of the threat to officers and others; (b) conduct of the individual being confronted; (c) suspect's mental state or capacity; (d) proximity to weapons; (e) potential injury to officers, suspects and others; (f) whether person appears to be resisting, evading, or attacking; (g) risk and reasonable foreseeable consequences of escape; (h) any other exigent circumstances.

California Penal Code § 835a states:

“Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

People v. Turner, 2 Cal.App.3d 632 (1969), the right of police officer to assure his own safety during the course of an investigation is not limited to disarming the person immediately before him. The officer may do anything reasonably necessary to neutralize the threat of physical harm.

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

VIII. Rationale for Finding – Within Policy:

Edward Hayes III was involved in criminal activity at the time officers made contact with him. When he spotted the officers, Hayes chose to run and jump fences to evade arrest rather than follow verbal orders by officers to stop and put his hands up. Hayes was heavily intoxicated with methamphetamine and had cannabinoids in his system when he elected to run. He was also suffering from a cardio vascular disease which was exacerbated by acute methamphetamine intoxication along with physical exertion.

Edward Hayes surrendered to officers when it appeared he had difficulty in breathing. Officer followed the proper protocols for searching Hayes for weapons before placing handcuffs on him. He was in a prone position on his stomach that allowed officers to maintain proper control during the search and handcuffing. When Hayes complained that he could not breathe, officers rolled him on his side to allow him the opportunity to breathe more freely. When the officers rolled him over, Hayes was unconscious. The officers requested fire/paramedics and removed the handcuffs so that paramedics could provide emergency medical aid. Hayes was transported to Parkview hospital where he succumbed from acute methamphetamine intoxication. An autopsy revealed that Hayes also suffered from cardio vascular disease which combined with methamphetamine intoxication and physical exertion, resulted in his death.

The officers did nothing to contribute to the death of Hayes. It was his medical condition combined with narcotics that was the prime factor. Therefore, the Commission finds that the officers involved in the arrest of Hayes followed proper police protocols and were within policy when arresting and detaining Hayes.

IX. Recommendations:

None.

X. Closing:

The Commission offers its empathy to the family, 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	Section A
Press-Enterprise Article(s)	Section B
Mike Bumcrot Consulting Report of Investigation	Section C
RPD Policy 4.8 (Rev. 6, 5/26/11): Investigations of Officer Involved Shootings and Incidents Where Death or Serious Likelihood of Death Results	Section D
RPD Policy 4.30, (Rev. 9, 4/8/11): Use of Force Policy	Section E

Section A



City of Arts & Innovation

PRESS RELEASE

Police Department
SERGIO G. DIAZ
Chief of Police

FOR IMMEDIATE RELEASE

October 31, 2016

CONTACT:

Sgt. Troy Banks
Centralized Investigations Bureau
Robbery-Homicide Unit
(951) 353-7106

THEFT SUBJECT DIES AT LOCAL HOSPITAL

RIVERSIDE, CA – On Monday, October 31, 2016, at approximately 12:07 am, members of the Riverside Police Department were flagged down in the 8100 block of Mar Vista Court reference a subject stealing wood pallets from a business. Officers located the subject at the business and attempted to contact him. The subject ran from the officers but eventually stopped a short distance away and was arrested without incident. Officers immediately noticed the subject was in medical distress and requested medical aid. Riverside Fire Department and American Medical Response personnel responded to the scene to provide medical aid for the adult subject. The adult subject was transported to a nearby hospital where he was pronounced deceased a short time later.

Detectives from the Police Department's Robbery/Homicide Unit along with an Evidence Technician responded to the scene to assume the investigation. Detectives are being assisted by the Riverside County Sheriff-Coroner. The subject has been identified as Edward Hayes III, 52-year-old of Riverside. At this time, the investigation is on-going and the cause of death is still to be determined.

Anyone with information about this incident is asked to contact Detective Jim Brandt at (951) 353-7137.

P16200713

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RIVERSIDE:

Riverside theft suspect dies soon after pre-dawn arrest

By **RICHARD BROOKS** / STAFF WRITER

Published: Oct. 31, 2016 Updated: 3:52 p.m.



A 52-year-old Riverside theft suspect suffered medical problems and died soon after his pre-dawn arrest, police say.

Edward Hayes III was apprehended minutes after a 12:07 a.m. Monday report that someone was stealing wooden pallets from a business along the 8100 block of Mar Vista Court, near the city's California Highway Patrol office.

Hayes was arrested without incident, but quickly took a turn for the worse, police said in a written statement.

"Officers immediately noticed the subject was in medical distress and requested medical aid," according to the statement. "The adult subject was transported to a nearby hospital where he was pronounced deceased a short time later."

Anyone with additional information may call Detective Jim Brandt at 951-353-7137.

MIKE BUMCROT CONSULTING

REPORT OF INVESTIGATION

DATE: March 30, 2018

SUBJECT: In Custody Death of Edward Hayes III, Which Occurred October 31, 2016
at 0012 Hours

CASE: Riverside Police Department File #P16-200713

LOCATION: 8138 Mar Vista Court, Riverside

On March 18, 2018, I was asked by Frank Hauptmann, Manager of the Community Police Review Commission, to review the circumstances surrounding the in custody death of Edward Hayes III. I was also asked to provide my expert opinion in a written report on the manner in which the case was investigated by the Riverside Police Department. I received police reports, photographs, audio and video recordings, and other documents contained in the presentation by Riverside Police Department to the Riverside Community Police Review Commission. I also reviewed legal and medical issues. To assist me in understanding the police reports, I also responded to the location. Photographs taken by lab technicians on the date of the incident were helpful and I referred to them many times during this review. I have added some of the scene photographs to assist the readers of this report.

It is my opinion that Edward Hayes III died from a drug overdose, as well as natural causes (See Conclusion Section).



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The following analysis is based on reports prepared by the Riverside Police Department, statements of witness officers, and the Coroner's Protocol regarding Mr. Hayes death.

FACTUAL ANALYSIS

On October 30, 2016, just before midnight, Riverside Police Officers Brandt and Cuevas backed their marked patrol car in to a parking lot of a closed business, located on Saint Lawrence Street, to write a report. A male, later identified as Adam Adamicska, drove up and advised the officers that someone was stealing wooden pallets from a business around the corner on Mar Vista Court. The officers drove west on Mar Vista Court, checking all of the businesses. The officers observed a white pick up truck in the rear lot of California Interfil, backed against a block wall. The bed of the truck was stacked full of wooden pallets and they saw several 20' to 30' stacks of wooden pallets on the other side of the wall, which was a business named Arc of Riverside County (See below photographs).



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The officers shouted in the direction of the truck and Mr. Hayes shouted back “OK, OK”. He was ordered to walk to them but Mr. Hayes refused to comply with commands, running from them and jumping over a block wall in an attempt to allude capture. Mr. Hayes hid amongst property stored on the property and was again ordered to come out and raise his hands. Instead, Mr. Hayes ran to the rear wall of the property, jumped up on a large bin, and hoisted himself over the block wall. The officers gave chase, never losing sight of Mr. Hayes, who slowed to a pace just faster than a normal walk. He was ordered to his knees and he complied. Mr. Hayes began looking around and suddenly got back on his feet and, again fled from the officers, who described his pace as not



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very fast and he appeared out of breath. The officers ordered him to stop but he continued to walk, stating “No”.

Mr. Hayes came to a 6 feet chain link fence, which he climbed, followed by the officers, and they were now on Saint Lawrence Street. He crossed the street and walked in to an orange grove, walking at a brisk pace. Assisting officers began to arrive and Mr. Hayes lay on the ground, placing his hands behind his back. As Officer Brandt began to handcuff him, Mr. Hayes arms became rigid and he stated, “I can’t breathe”. Officer Brandt rolled Mr. Hayes onto his side and it appeared that he was unconscious, although he had a pulse and was sweating profusely. Medical personnel were summoned but Mr. Hayes went into full cardiac arrest. He was transported to the hospital where he was pronounced dead at 0054.

On October 31, 2016, Doctor Allison Hunt, from the Office of the Chief Medical Examiner-Coroner, conducted an autopsy on the body of Mr. Hayes. It was determined that Mr. Hayes was suffering from an enlarged heart, diseased liver, hypertensive and atherosclerotic cardiovascular disease and recent intense physical exertion. The toxicology report showed both marijuana and methamphetamine in his system and the cause of death was listed as acute methamphetamine intoxication along with the above listed significant conditions. The manner of death was listed as accidental and the mode of death was illicit drug intoxication while fleeing from law enforcement. I noted that Mr. Hayes also had 3 broken ribs, which were attributed to CPR.

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.



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

For over 15 years, I have taught "High Profile Murder Investigations", "Homicide Scene Management", and Officer Involved Shooting Investigations" for the Robert Presley Institute of Criminal Investigation, police academies, advanced training classes, supervisor training, college classes, Homicide School, and in-service training. I am currently on staff with the Police Policy Studies Council where I teach and consult nationally on officer involved shooting, homicide, and suspicious death investigations. I am currently the investigator for the Riverside Police Review Commission. Although I retired from LASD in 2002, I was immediately signed to a contract to train newly assigned homicide detectives. In 2006, I was also assigned to the LASD Cold Case team where I have reviewed over one thousand unsolved murders and specifically work the unsolved DNA and latent print cases. In 2014 I wrote the investigative guidelines for officer involved shootings for the LASD Homicide Bureau.

INVESTIGATION AND REVIEW

The investigation into the in custody death of Edward Hayes III was conducted by the Riverside Police Department, the Riverside County District Attorney's Office, and the Riverside County Medical Examiner's Office. I reviewed all of the reports and photographs submitted to the Community Police Review Commission and researched both legal and medical issues.

CONCLUSION

The review of reports and the evidence examined in this case reveals that Edward Hayes III was involved in the theft of wooden pallets, possibly involving another



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unknown person. Videotape from the rear lot of California Interfil, located next door to Arc of Riverside County revealed Mr. Hayes backing his white pick up truck against a block wall. An unknown person on the Arc business side of the block wall began to hand wooden pallets over the fence to Mr. Hayes, who would then stack the pallets in the bed of his truck. When Riverside Police officers arrived on scene, they confronted Mr. Hayes. Instead of complying with instructions, Mr. Hayes chose to flee from officers by jumping over fences in an attempt to escape detection. As noted in the initial crime report of this incident, Mr. Hayes was only involved in a misdemeanor, petty theft. It is probable, had he not ran from the officers, he would have received nothing but a citation.

A timeline of the entire incident, by using the COBAN video and audio equipment in Officer Brandt's police car, is as follows:

10-30-16 at 2349-The police car backs in to a driveway on Saint Lawrence Street and Mar Vista Court;

10-31-16 at 0001-A silver vehicle approaches the police car (Adam Adamicska);

10-31-16 at 0002-Police car drives to California Interfil and its spotlights are trained on a white pick up truck, loaded with wooden pallets. Mr. Hayes' feet are visible under the driver's side of the truck. Mr. Hayes is seen jumping over a wall;

10-31-16 at 0007-Officer Cuevas shines his flashlight at a wall and orders Mr. Hayes to show his hands;

10-31-16 at 0009-Officer Brandt tells dispatch that he is following the suspect, who is not stopping, and provided a description;

10-31-16 at 0011- Sergeant McCoy advised dispatch that he is with Officer Brandt and they are taking the suspect into custody;

10-31-16 at 0012-Sergeant McCoy asked for medical aid to respond;



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10-31-16 at 0017-Riverside Fire Department arrived on scene;

10-31-16 at 0022-Riverside Fire Department advised that Mr. Hayes is in full cardiac arrest;

10-31-16 at 0034-Officer Brandt advised that he is in the ambulance with Mr. Hayes, en route to the hospital;

10-31-16 at 0054-Mr. Hayes is pronounced dead at the hospital.

I reviewed the autopsy protocol that described Mr. Hayes as a 52 years old man, six feet tall and 250 pounds. Non-traumatic findings were liver and heart disease and the toxicology report listed marijuana and methamphetamine were detected. The Coroner attributed the cause of death as acute methamphetamine intoxication in conjunction with his other significant medical conditions.

I find that the in custody death of Edward Hayes III was completed in a fair and impartial manner and, based on the material that I reviewed, I can state to a reasonable degree of professional certainty, the investigation was consistent with accepted police standards and practices.



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Section D

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


Sergio G. Diaz
Chief of Police

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

A. **POLICY:**

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

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

B. **PROCEDURES:**

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

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

C. ROLES AND RESPONSIBILITIES

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

1. Roles:

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

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

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

2. Responsibilities:

a. Involved/Witnessing Employee Shall:

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

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

b. Field Supervision Shall:

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

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

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

c. **Watch Commander Shall:**

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

d. **Centralized Investigations Lieutenant Shall:**

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

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

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

e. Officer Involved Shooting Team Shall:

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

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

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

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

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

f. **Internal Affairs Shall:**

1. The Internal Affairs Lieutenant shall be responsible for conducting an independent administrative investigation.
2. Inform the Chief of Police or his/her designee with regard to the information obtained in the course of their investigation.
3. All Internal Affairs Investigations shall be separate from the investigation conducted by the Officer Involved Shooting Team. Information obtained from the Officer Involved Shooting Team will be used to aid the Internal Affairs investigation. No information obtained from a compelled interview will be disclosed to the Officer Involved Shooting Team.
4. Interviews with witnesses, suspect(s) or involved employee(s) will not be conducted until after they have been interviewed by the Officer Involved Shooting Team, or a determination made that the officer will not be interviewed, or the officer declines to make a voluntary statement.

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

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

D. **RELIEF FROM DUTY**

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

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

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

Section E

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Revision 9 Date: 04/08/11
Approval:


Sergio G. Diaz
Chief of Police

4.30 USE OF FORCE POLICY:

A. PURPOSE:

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

B. PHILOSOPHY:

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

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

C. SERIOUS BODILY INJURY:

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

D. POLICY:

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

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

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

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

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

E. FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE:

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

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

F. USE OF FORCE TO EFFECT AN ARREST:

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

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

G. COMPLIANCE TECHNIQUES:

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

H. LESS LETHAL FORCE:

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

I. CAROTID RESTRAINT:

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

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

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

J. DEADLY FORCE:

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

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

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

K. REPORTING USE OF FORCE INCIDENTS:

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

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

L. EMPLOYEE RESPONSIBILITIES:

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

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

M. SUPERVISOR RESPONSIBILITIES:

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

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

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

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

The Internal Affairs Unit shall be responsible for conducting all administrative investigations involving the application of force.