



**JEHLANI BLACK
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

Case Type: OFFICER INVOLVED SHOOTING

Riverside Police Department

Case #P21-0006980

Riverside County Sheriff's Department

Central Homicide Bureau – Force Investigations Detail

Case #MB21-068-0002

TUESDAY, MARCH 9, 2021

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Date of Incident: March 9, 2021 – Approximately 1639 Hours

Location: 1510 University Avenue, Riverside, CA

Decedent: Jehlani Black M 08/20/2001 (19-years)

Crime Involved: **CPC 245(d)(2)** – Assault with Semi-Auto Pistol on a Peace Officer / Firefighter

Victim: Officer Sergio Mercado

Involved Officer(s): Officer Sergio Mercado

I. Preamble:

The finding by 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 as well as Riverside County Sheriff’s case file # MB21-068-0002

II. Finding:

As a result of their review, investigation and deliberations of this case, a quorum of the Commission found that Officer Mercado’s actions in this incident were consistent with RPD Policy Section 300 - Use of Force / Use of Deadly Force.

Berrellez	Teichert		DeBrier	Hirales	Gutierrez	Price	Vacant	Vacant	Vacant
✓			✓	✓	✓				

III. Standard of Proof for Finding:

In coming to a finding, the Commission applied 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 Tuesday, March 8, 2021, at approximately 4:38 p.m., Officer Mercado, Officer Gutierrez and Officer Mutuku, along with other RPD officers responded to a “man with a gun,” call at the Zacatecas Restaurant, 3767 Iowa Avenue. RPD dispatch further informed the responding officers that there were three male subjects “tagging” the outer walls of the restaurant, causing damage.

The calling party, an employee of the restaurant, reported to dispatch during his 9-1-1 call that he confronted the subjects telling them to stop when one of them raised up his shirt and displayed a handgun in his front waistband. This action caused the employee to fear for his life and went back into the restaurant to notify police. The restaurant employee provided RPD dispatch with physical descriptions of the three subjects. As the employee was still on the 9-1-1 call, he informed police dispatch that the three subjects were still at the location, tagging.

Officer Mercado was the first officer to arrive at the Zacatecas Restaurant and found that the three described subjects were no longer there and had left on foot. Mercado made contact with the calling party to obtain more detailed information and obtain more details on the physical descriptions. Mercado noticed that the letter of the graffiti represented a local "crip" street gang. Mercado proceeded to provide other responding officers with details of the suspect descriptions via police radio and remained at the restaurant to investigate the vandalism.

Officers Gutierrez and Mutuku, riding together in a marked RPD police unit, responded to the area of the Zacatecas restaurant and began checking surrounding neighborhoods. While driving on Cranford Avenue at 7th Street, the two officers saw a group of male subjects in the alley that runs north of 7th Street. They noticed that a couple of the subjects within this group matched the descriptions of those vandalizing the restaurant walls with graffiti. They stopped to further investigate this group when they suddenly ran to disperse themselves.

Officer Gutierrez saw one of the subjects matching the description begin to run from the officers south on Cranford. Gutierrez saw the subject, later identified as Jehlani Black, running with a handgun in his right hand. She then pursued Black on foot as he continued running south toward University Avenue. Gutierrez immediately notified dispatch and other officers that she was in foot pursuit of a male subject who was running with a gun in his right hand. Officer Mutuku also gave chase on foot running behind Gutierrez. Both officers repeatedly shouted at Black to stop, however he declined to follow orders and continued to run from the officers. As Black entered University Avenue, he began to run south across the west and eastbound lanes, still with the gun in his right hand.

Officer Mercado arrived around Cranford and University Avenue in his police unit just as Mr. Black began to run across the street in front of him. Officer Gutierrez saw Mercado arrive in his unit but was still a distance away from Black however she informed Mercado of where Black was as she saw him running by Mercado's location. Officer Mercado stopped his unit in the middle of University Avenue and got out on foot and gave chase after Black. As Mercado was running after Black, he (Mercado) shouted at him to "get on the ground." Black did not comply and kept running. Mercado shouted these orders three times before Black entered onto a concrete handicap access ramp off the sidewalk in front of 1510 University Avenue. As Black turned onto the access ramp he quickly stopped and turned around toward Mercado, facing him, with a handgun in his right hand. Mercado was in the process of slowing his forward movement as Black turned around with the gun in his hand, pointing it in the direction of Mercado.

At this point, Mercado feared for his life, and that of his fellow officers and community members who were in the vicinity, and fired two gunshots at Black in order to stop the threat of life against him and others. Both rounds fired by Mercado struck the front portion of Black's torso, indicating that he was in a position of facing toward Mercado as stated. When Black was struck, he fell to the ground and a handgun fell from his right hand onto the pavement. Other officers arrived immediately after the shooting and assisted Mercado in gaining control of Black and providing life saving measures in aiding him (Black). Paramedics were called to the scene and attempted lifesaving measures, however, were unsuccessful, and pronounced Mr. Black deceased at the scene. The gun that Black was in possession of and pointed toward Officer Mercado was a loaded 22. Cal pistol.

RPD established a crime scene perimeter around the shooting scene. Supervisors and other officers responded to help secure the scene and prepare for further investigation and crime scene collection. RPD homicide investigators were notified and responded to the scene. As per Riverside County Officer Involved Shooting protocols, the Riverside County Sheriff's Central Homicide bureau from the Force Investigations detail were called to the scene to take over the lead of the investigation. Members of the Riverside County DA's Office also responded as per protocol. According to the Riverside County Coroner's office, Mr. Black succumbed to multiple gunshot wounds.

Once the criminal investigation case was completed, it was provided to the Riverside County District Attorney for review of any criminal culpability on behalf of police officers. Subsequent to the review, on December 7, 2022, Riverside District Attorney Michael Hestrin, sent a letter to RPD Chief Larry Gonzalez, informing him that there was no criminal culpability on behalf of Officer Mercado.

V. CPRC Follow-Up:

The CPRC Independent Homicide Investigator / Consultant, Mr. Bill Marsh, conducted a cover-to-cover review of the Criminal Casebook, including reports submitted by the Riverside County Sheriff's Department. This investigation was extremely lengthy and required hours of in-depth review of reports, videos, digital audios, photographs and evidence. Based on his extensive training, education and experience in policing for over 49-years, that includes over 27 years of homicide investigation, including officer / deputy involved shootings, and being a recognized expert in homicide investigations in both state and federal courts in the U.S., Mr. Marsh determined that in his expert opinion, Officer Mercado acted in self-defense, defense of other police officers on scene, and numerous members of the public when he fired his weapon at Jehlani Black. Also based on his expert opinion, Mr. Marsh felt that the investigation by the Riverside County Sheriff's Central Homicide Detail, as well as the Riverside Police Department, was thorough, and that all evidence collected and preserved was completed accordingly, and within best practices of homicide investigation.

The CPRC Independent Consultant, Frank Hauptmann, also reviewed the Criminal Casebook from cover to cover, including all reports, videos, digital audios, photographs and evidence. He prepared a case fact sheet and findings rationale work sheet for

Commissioners and introduced the case for review in open session of a Commission meeting to help them navigate their review of this case.

Mr. Hauptmann facilitated the review process and provided answers to questions by the Commission throughout their review and deliberations. Mr. Hauptmann has over 45 years of experience in the law enforcement environment, including expertise in the area of both criminal and internal workplace investigations.

The Riverside County District Attorney's Office reviewed the entire investigation and on December 7, 2022, submitted a letter to Chief Larry Gonzalez confirming that they found no evidence of criminal culpability on behalf of Officer Mercado

VI. Evidence and Methodology:

The relevant evidence in this case evaluation consisted of a complete review of the Riverside Police Department Criminal Casebook, as well as supplemental reports prepared by members of RPD and RSO. This review included statements from civilian witnesses, statements from sworn officers present when the shooting incident occurred, a Deputy Coroner investigation, autopsy report, police reports, audio / video evidence, photographs, and forensic examination results. This case investigation was led by the Riverside County Sheriff's Department, Central Homicide Bureau, Force Investigations Detail, as well as the Riverside County District Attorney's Office in an effort to offer transparency and an un-biased investigation. The CPRC Independent Homicide Expert offered his expertise in demonstrating that the investigation was unbiased and handled using best practices in the investigations of officer involved death cases.

Members of the CPRC discussed and deliberated over the reports and evidence presented in this case in open session at CPRC meetings. A member of the Commission requested clarification of a portion of Officer Mercado's Body Worn Camera where Mr. Black turned toward Mercado with an alleged pistol in his (Black's) right hand. A freeze frame photograph from the video showing the gun in Mr. Black's right hand was provided for review, along with Chief Larry Gonzalez' public presentation video of the incident. Both the freeze frame photograph and video provided the commissioners with sufficient detail to conclude that there was a gun in Mr. Black's right hand which then fell out of his hand as he fell to the ground.

There were no other requests for additional information concerning the shooting incident.

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

RPD – Policy Manual, Policy 300

Policy 300.3, Use of Force

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

Policy 300.4 – Use of Deadly Force:

300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a): (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person. (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Officers shall not use deadly force against a person based on the danger that person poses to him/ herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a). An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention.

Other Applicable RPD Policy(s): (Refer to RPD Policy Manual)

307 Investigation of officer Involved Shootings and Incidents Where a Death or Serious likelihood of Death Results

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:

Upon review, analysis and deliberations of this incident, the Commission concluded that the use of deadly force by Officer Mercado was within the RPD Policy on Use of Force/Deadly Force, as well as within the Penal Code laws in the State of California, and case law under the Graham v. Conner court decision (490 U.S 396 1989).

Mr. Jehlani Black was running from police after having been involved in “tagging” gang graffiti on the wall of a local business, Zacatecas Restaurant, 3767 Iowa Avenue, along with two other male subjects, and when discovered doing so by an employee of the business, exposed a handgun in his waistband toward the witness. The employee was in fear upon seeing the handgun and called 9-1-1. RPD dispatch broadcast a call of a “man with a gun,” at the location, and provided a physical description of the three subjects. Upon the initial call, the calling party informed RPD dispatch that the three subjects were still at the location, tagging.

Several RPD officers, including Mercado, Mutuku and Gutierrez, responded to the call. Officer Mercado was the first to arrive at the Zacatecas Restaurant and found that the suspects had left on foot. Mercado then provided a physical description of the subjects over the police radio. Officers Mutuku and Gutierrez then elected to look for the subjects in the neighboring area. Mutuku and Gutierrez came upon a small group of subjects, a couple that matched the descriptions of those that fled from the tagging incident, in the north alley of 7th Street, crossing over Cranford Avenue.

The two officers exited their unit to make contact with the group. Upon doing so, the subjects began to run away on foot. Officer Gutierrez saw one of the subjects, later identified as Jehlani Black, matching the descriptions, run south on Cranford Avenue with a handgun in his right hand. Gutierrez then gave chase after Mr. Black on foot, followed by Officer Mutuku. During the foot chase, the officers informed other officers and dispatch over the police radio that they were in foot pursuit of a male subject who was running from

them with a handgun in his right hand. The officers provided the direction of travel as south on Cranford Avenue, approaching University Avenue. Both officers shouted at Mr. Black several times to stop, however he did not comply with their orders.

Mr. Black ran south across the east and westbound lanes of University Avenue, dodging traffic while doing so.

As Mr. Black entered University Avenue, Officer Mercado was driving on University at Cranford, and saw him (Black) running south in front of him. Officer Gutierrez saw Mercado on University and informed him via police radio that Mr. Black was “right there,” by him. Mercado immediately exited his police unit mid roadway on University and gave chase after Mr. Black on foot.

While running after Mr. Black, Officer Mercado shouted at him three separate times, “get on the ground.” Black did not comply and ran up a concrete handicap ramp off the sidewalk at 1510 University Avenue, as he did so, Mercado shouted “drop it.” Black turned toward Mercado with a handgun in his right hand and pointed in the direction of Mercado. Mercado repeatedly shouted, “drop it,” as Black turned toward him. In fear of his life, and that of the other officers and passing public, Mercado fired his weapon at Black two times until he (Black) fell to the ground, dropping the gun. The gun in his right hand was a loaded .22 caliber pistol. Responding officers immediately assisted Officer Mercado in securing Mr. Black and providing lifesaving aid to him pending the arrival of paramedics. Paramedics arrived at the scene and were unsuccessful in resuscitating him and pronounced him deceased at the scene.

In their discussions in this incident, several commissioners pointed out that Mr. Black was ordered to stop by officers while running from them but failed to do so and continued in his attempt to evade. This, coupled with him stopping when entering the concreted handicap access ramp, turning around toward Mercado with a gun in his right hand as Mercado was still moving forward toward him, left Mercado with only split seconds to assess the threat and respond with the use of deadly force to protect his life and that of other officers and community members in the area. The Commission felt that since Mr. Black was struck by gunfire to the front of his torso, it showed that he was facing the officer at the time deadly force was applied. In addition, as he fell to the ground, the handgun in his right hand fell to the ground as well. Commissioners concluded that the use of deadly force by Officer Mercado was reasonable and justifiable under the circumstances.

The Commission suggests that the Riverside Police Department continue with training on use of force policies, decision-making under stress conditions, use of firearms and non-lethal weapons, as well as de-escalation techniques. The threat to the life of Officer Mercado and other officers and community members was so fast in progression by Mr. Black’s actions left Officer Mercado with no other alternative other than deadly force. One of the Commissioners felt that Officer Mercado showed restraint with De-escalation of the situation by only firing two shots at Black and assessing the situation from there.

IX. Recommendations: None.

X. Closing:

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

APPENDIX

RPD Policy 300 / Policy 300.3, Use of Force; **Policy 300.3.2**, Use of Force Factors; **Policy 300.4**; **Policy 307** Investigation of officer Involved Shootings and Incidents Where a Death or Serious likelihood of Death Results