



**FELIX MARQUEZ
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

Case Type: OFFICER INVOLVED SHOOTING

Riverside Police Department

Case #P21-0012809

Riverside County Sheriff's Department

Central Homicide Bureau – Force Investigations Detail

Case #MB21-128-0001

TUESDAY, MAY 8, 2021 – 0821 Hours

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Date of Incident: May 8, 2021 – Approximately 0821 Hours

Location: 3764 Elizabeth Street, Riverside, CA

Decedent: Felix Marquez M 09/15/1986 (35-years)

Crime Involved: **CPC 245(c)** – Assault w/Deadly Weapon on Peace Officer – non-firearm.

Victim: Both involved officers.

Involved Officer(s): Officer Justin Mann #1453
Officer Jorge Cuevas #1567

Officer Witness(s): None

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, and the CPRC Independent Homicide Consultant, Mr. Bill Marsh. The review of this case was presented and facilitated by the CPRC Independent Consultant, Frank Hauptmann.

II. Finding:

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

Berrellez	Teichert		DeBrier	Vacant	Gutierrez	Prince	Dillon	Garcia	Vacant
✓	✓		✓	N/A	✓		✓	✓	N/A

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 does 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 Saturday, May 8, 2021, Officers Mann and Cuevas, along with a Riverside Code Enforcement Officer and two CityNET employees, all with the Public Safety Engagement Team (PSET), organized and planned to check specific locations in the City of Riverside where they have received numerous complaints of transients camping on the sidewalks, and leaving trash and miscellaneous debris around them. The PSET is comprised of two sworn police officers, one Code Enforcement Officer, and Two CityNET (homeless outreach) workers that are associated with a private non-profit organization. **NOTE:** *PSET no longer contracts with CityNET since the outreach workers are now city employees.*

Code Enforcement staff members organize the locations where the Team will conduct investigative checks. Code Enforcement develops the lists based on complaints from community members and businesses. Code Enforcement officers handle city code violations at the sites. The CityNET team works with homeless individuals in order to find alternative housing for them. The police officers are present for safety purposes, and to check individuals for any wants or warrants before they are provided with alternative housing.

On this particular day, the PSET met at City Hall in the morning. This is their typical protocol on Saturdays. The Code Enforcement Officer provided the officers and CityNET workers with three locations where new complaints had been received. The complaints were in an area referred to as the "Elizabeth Corridor," that includes the area of Magnolia and Elizabeth, as well as the immediate surrounding area. According to Code Enforcement, the Elizabeth Corridor has consistently been one of the most problematic areas for homeless camps and trash.

Just after 8:00 a.m., the Code Enforcement Officer led the way from City Hall with Officers Mann and Cuevas riding together in the same marked police unit behind him, and CityNET employees driving in a separate vehicle behind the police unit. Officer Mann was driving the marked unit, and Officer Cuevas was seated in the front passenger seat. Both officers were dressed in police uniforms marked in bold letters, POLICE.

When they arrived in the 3700 block of Elizabeth that curves south from Magnolia, the Code Enforcement Officer activated his rear amber flashing lights as he turned the corner. This was a pre-arranged signal between the code enforcement officer, CityNET workers, and police officers that potential homeless individuals were present in the targeted area.

The Code Enforcement Officer pulled to the right curb to park his truck, followed by the CityNET vehicle. When the officers rounded the corner, they saw a couple of occupied vehicles parked along the curb across from where the other PSET members had parked. The officers also saw a male subject, later identified as Felix Marquez, sitting on steps of a law office. There was a "no trespassing" sign affixed to the wall behind the steps Marquez was sitting on. There were blankets, trash and a disassembled bicycle situated adjacent to where Marquez was sitting.

Officer Mann stopped the police unit along the curblin on the opposite side of the street from where the other PSET members parked. The front of the police unit faced the steps where Marquez was sitting. You can clearly see Marquez sitting on the steps from the police unit dash-cam video. Before the unit came to a complete stop, Marquez immediately stood up and initially began to walk along the sidewalk in the direction of the officers. As Mann exited his unit, Marquez turned around and began to walk in the opposite direction of the officers. Marquez was wearing a black hoodie sweatshirt with the hood covering his head.

Based on Marquez' actions with getting up right away when the officers arrived, then walking toward them but abruptly turning to walk in the other direction, they felt he was trying to avoid contact with them. As Marquez began to walk away from the officers, he was told to stop several times by Mann, and to show his hands but he did not comply. The officers proceeded to follow Marquez on foot with the intent of contacting him. As Marquez was walking away from the officers, he was carrying a white bag in his right hand. Marquez then took the bag from his right hand with his left. This left his right hand free. The Code Enforcement Officer also had exited his truck about the same time the officers did and began to walk across the street toward Marquez. As Marquez proceeded to walk away from the officers, he turned his head to look in their direction a couple of times, but did not stop. Based upon Marquez' behavior, the officers felt that he may try to run from them.

While walking away from the officers, Mr. Marquez suddenly reached into his front waistband with his right hand and pulled out what appeared to be a black pistol, simultaneously looking back at the officers and began to point it in their direction. At this point, Officer Mann feared for his life, and that of Officer Cuevas, the other PSET members, as well as people seated in vehicles, and fired his duty weapon at Marquez. Officer Cuevas and the Code Enforcement Officer also saw Marquez retrieve a black pistol from his front waistband, with his right hand. Cuevas feared for his life, and that of Officer Mann, the PSET members and other people in vehicles, and fired his duty weapon at Marquez. Marquez then fell to the ground. The officers stopped firing their weapons once Marquez fell to the ground, and no longer posed an immediate threat. Officer Mann believed he fired 4-6 rounds, and Cuevas believed he fired twice.

Once Marquez fell to the ground, he was slightly moving his body. The pistol could be seen underneath his arm. Since Marquez still posed a potential threat with a pistol within reach, the officers did not approach him and took up positions of cover behind a vehicle parked on the street near them. The officers held Marquez at gunpoint until other officers could arrive to assist in taking him into custody. Officer Mann called out to Marquez and told him to keep breathing and that help was on the way. Marquez can be heard in the officer's BWC moaning while lying on the ground. He was told by the officers not to touch the gun. Other officers and supervisors arrived at the scene, and a tactical plan was organized by Sergeant Collopy to take Marquez into custody. Fire/Paramedics were called at the time of the shooting and responded.

When the officers felt it was safe enough to approach Marquez with a ballistic shield and sufficient officers, they proceeded to make physical contact with him. Marquez was moved away from the gun and taken into custody. As soon as the scene was rendered safe by the officers, paramedics approached and provided medical aid to Marquez. Marquez was then transported to Riverside Community Hospital where he later succumbed to his wounds and was pronounced deceased.

The crime scene and perimeter were secured. As per the proper protocol for officer involved shootings, the RSO Force Investigations Detail was requested, along with RPD homicide detectives, and members of the Riverside County DA's office. A joint investigation was subsequently initiated. Upon further investigation, the pistol that Marquez used in this incident was discovered to be a black air-soft BB pistol. Photographs of the gun used by Marquez were taken as part of the investigation and by all appearances looked real. Body Worn Camera videos from Officer's Mann and Cuevas, as well as the dashcam videos from their police vehicle, show Marquez' actions as described by the officers.

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 review of the investigation, Mr. Marsh determined that in his expert opinion, Officers Mann and Cuevas acted in self-defense, defense of other PSET members, and several members of the public, when they fired their weapons at Felix Marquez. 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.

Mr. Marsh's commentary on his opinion of the use of deadly force by Officers Mann and Cuevas, as well as the criminal investigation, is based on his extensive training, education and experience in policing for over 49 years, that includes over 27 years of homicide investigation, and officer / deputy involved shootings. He is a recognized expert in homicide investigations in both state and federal courts in the U.S.

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 to the Commission. He assisted Commissioners in navigating their review of this case and facilitated the review process. In addition, he provided answers to questions by the Commission throughout their review and deliberations. Mr. Hauptmann has over 50 years of experience in the law enforcement environment, including expertise in both criminal and internal workplace investigations.

The Riverside County District Attorney’s Office reviewed the entire investigation and on December 6, 2022, submitted a letter to Chief Larry Gonzalez confirming that they found no evidence of criminal culpability on behalf of either Officer Mann or Officer Cuevas.

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 ensure that an unbiased investigation was completed. 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 a presentation by the City of Riverside Code Enforcement office regarding the City PSET operations, practices and protocols concerning interactions with the homeless and homeless encampments throughout the city. The presentation was delivered by Ms. Megan Stoye who oversees the Code Enforcement Department.

There were no other requests for additional information, training or investigation concerning the shooting incident.

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

RPD – Policy Manual, Policy 300

USE OF FORCE

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; (e) suspect’s mental state or capacity; (f) proximity to weapons; (k) potential injury to officers, suspects and others; (l) whether person appears to be resisting, evading, or

attacking; (m) risk and reasonable foreseeable consequences of escape; (q) 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.”

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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 both Officer Mann and Officer Cuevas 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).

The Members of the Community Police Review Commission (CPRC) reviewed all relevant police reports from the Riverside County Sheriff's Department, members of the Riverside Police Department and the CPRC Independent Expert Homicide Consultant, Bill Marsh, including forensic evidence reports, videos, audios and photographs. The CPRC also learned detailed information about the Riverside PSET operations, roles and responsibilities through a presentation by the Riverside Code Enforcement staff that oversee the program. All pertinent questions members of the Commission felt were important were asked and answered sufficiently by the CPRC Independent Consultant, Frank Hauptmann, and/or RPD Command staff and Mr. Marsh, to proceed through and complete the deliberation process.

This incident began on Saturday, May 8, 2021, at approximately 8:21 a.m., when PSET members arrived in an area known as the "Elizabeth Corridor," off Magnolia Avenue and Elizabeth Street, in order to conduct a pre-arranged inspection of homeless encampments based on complaints from businesses and residents. Upon arrival, the code enforcement officer activated his rear amber flashing lights which was a pre-arranged signal that there were homeless people present. When the code enforcement officer activated the flashing lights, he was rounding a curve on Elizabeth Street going south. The code enforcement officer parked his truck along the east side curb of Elizabeth and the CityNET employees parked behind him.

When Officer Mann and Cuevas made the turn onto southbound Elizabeth, they immediately saw Mr. Marquez sitting on a set of concrete steps at a law office. There was a "no trespassing" sign on the door of the law office. Officer Mann stopped along the west curb of Elizabeth, across from the code enforcement and CityNET employees.

Before Officer Mann came to a complete stop, Mr. Marquez stood up from the steps he was sitting on and walked in a north direction on the sidewalk toward the officers.

Mr. Marquez had a white plastic bag in his right hand and another small unknown white container in his left hand. As soon as Officer Mann stopped his unit and began to exit the vehicle, Marquez turned to walk away in the opposite direction, south on Elizabeth. As Marquez turned around away from the officers, he placed both items that were in his right hand into his left hand.

Officer Mann began to follow Marquez and called out to him several times asking him to stop but he did not comply and kept walking away. Officer Cuevas also exited the unit and walked toward Mann and Marquez who were still walking south. Marquez looked back in the direction of the officers over his left shoulder first, then over his right shoulder. Marquez then reached into his waistband with his right hand and removed what looked like a black semi-automatic pistol. At the same time, he turned to his right, raising his right hand and pointed the pistol in the direction of the officers. The very short amount of time from contact by officers to the presentation of the pistol by Marquez did not allow for officers to engage in non-lethal use of force or to secure the scene for potential de-escalation.

The Commission felt that the immediate threat posed by Marquez by pointing what appeared to be a pistol in the direction of the officers left them with no other choice but to fire their weapons at Marquez in order to protect themselves, other PSET members and other civilians from death or serious bodily harm. It was pointed out that one bullet struck Marquez in the right temple area that would be indicative of him turning to his right when shots were fired. Several Commissioners pointed out that Marquez did not follow directions by refusing to stop when asked by Officer Mann to do so several times. This behavior would warrant concern by the officers as to what Marquez was up to. One comment made by a commissioner was that Marquez' behavior before he was shot was "erratic."

The Commission felt that the evidence in this case supports the reasonable belief by both Officers Mann and Cuevas that their lives, and that of other civilians in the area were in immediate danger of death or serious injury by the actions of Mr. Marquez and therefore their use of deadly force in this situation was within the law as well as Department policy and procedure.

IX. Recommendations: None. The Commission would however like to suggest that the Department continue with their training protocols on de-escalation techniques as well as the use of non-lethal weapons even though neither was an option in this particular case.

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

