



# MEMO

## Police Department

**DATE:** February 8, 2017  
**TO:** SERGEANT TROY BANKS  
**FROM:** DETECTIVE DAVID SMITH  
**RE:** SUMMARY: OFFICER INVOLVED FATAL INCIDENT

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**CASE NUMBER:** P16-237-976

**DATE OF INCIDENT:** Wednesday – December 29, 2016

**TIME OF INCIDENT:** 1855 hrs

**LOCATION:** 2769 Mary Street, Riverside CA  
Washington Park

**INVOLVED OFFICERS:** Sergeant Chad Milby #1336  
Riverside Police Department – Patrol Division

Sergeant Edward Collins # 574  
Riverside Police Department – Patrol Division

Officer Kevin Feimer #1001  
Riverside Police Department - Canine Handler

Officer Shadee Hunt # 1680  
Riverside Police Department - Canine Handler

Officer Vicente De La Torre # 1222  
Riverside Police Department – Motor Officer / Traffic Division

Officer Chris Tonetti # 1334  
Riverside Police Department – Patrol Division

**OFFICER INJURIES:** None

**SUSPECT:** SMITH, Dominic William DOB: 04-03-1979  
WMA, 37 years old, 5'7, 170, BLK, GRN

[REDACTED]

**SUSPECT'S INJURIES:** No obvious injuries - Deceased

**CIVILIAN WITNESSES:** BROWN, Douglas [REDACTED]  
Security Guard at Stater Brothers Market  
2841 Mary Street, Riverside CA

SMITH, August L. [REDACTED]  
Dominic Smith's Father  
[REDACTED]

**CIVILIAN INJURIES:** None

**SUMMARY**

On 12-29-16 at approximately 1855 hrs the listed Involved Officers responded to the Stater Brothers Market at 2861 Mary Street in Riverside in response to a call from Witness Douglas Brown, a uniformed security guard at the market. W-Brown reported a white male, later identified as S-Dominic Smith, was in the parking lot of the Stater Bros swinging a pair of nunchucks and acting strangely.

Officers Hunt and Feimer were working partners in a canine unit and Officer De La Torre is assigned to traffic and was on a police motorcycle. They arrived at the same time and W-Brown told them that a customer complained that S-Smith was in the parking lot talking nonsense and swinging nunchucks around. W- Brown found S-Smith in the west parking lot and followed him as he walked over to Washington Park next door and lay down in the grass. W-Brown pointed out S-Smith in the Park to the officers.

Officers Hunt and Feimer and Officer De La Torre drove over to the Park and got out of their vehicles. Sgt. Collins arrived around this time and Officer Feimer ordered S-Smith to lie on his stomach. S-Smith complied but kept moving all over the place and could not remain still. As the officers approached S-Smith they could see a fairly large, fixed blade, knife in a sheath on his belt. They did not see the nunchucks. They were able to approach S-Smith and handcuff him without incident. Officer De La Torre removed the knife.

The officers began asking S-Smith questions. S-Smith identified himself by name and date of birth and said he lived nearby on Peppertree Lane. Officer Feimer asked him if he had used any drugs and he admitted he had used methamphetamine earlier. Sgt. Milby and Officer Tonetti arrived at about this time.

S-Smith appeared to be under the influence of a stimulant, was acting bizarre and was sweating profusely. Sgt. Collins requested medical aid. Within a few minutes S-Smith yelled that the officers were trying to kill him and he began to roll and kick his feet. Officers Hunt and De La Torre restrained S-Smith in the upper back and shoulder area and Officer Feimer controlled S-Smith's legs. S-Smith struggled briefly and then went limp. The officers checked his breathing and pulse and saw that he was unconscious. After attempting to wake him up without success they began CPR.

RFD arrived and took over lifesaving efforts. S-Smith was transported to Riverside Community Hospital (RCH) where he was later pronounced deceased.

The area in the park the incident occurred in was secured and the involved officers were taken to the Magnolia Police Station for follow-up. Officer Tonetti went to RCH and stood by with S-Smith until he was relieved.

### **WITNESS STATEMENTS**

#### **Douglas Brown – Security Guard**

I interviewed W-Brown at the Stater Brothers.

W-Brown is a uniformed security guard assigned to work at the Stator Bros several days a week. On this date he was approached at the store by a customer who told him that a man was in the parking lot on the west side of the store acting strangely, talking to himself and hitting himself with nunchucks. W-Brown said he walked over to the west parking lot and saw S-Smith. S-Smith was flailing his arms, talking to himself and had a metal object in his hand that appeared to be nunchucks.

W-Brown called Riverside Police Dispatch and followed S-Smith over towards the loading docks on the southwest side of the business. W-Brown said S-Smith approached a planter and began pulling up the plants in it and throwing them over his shoulder. S-Smith then walked off the Stater Bros property and into Washington Park next door. S-Smith walked over to an area in the grass near the south side of the park, lay down on the grass and started rolling around. Shortly after this uniformed officers began to arrive and W-Brown pointed out S-Smith to them.

W-Brown said he stayed where he was until he saw the officers approaching S-Smith and then he walked back to the Stater Bros. He did not see or hear what happened after that because he returned to the store.

W-Brown said he has never seen S-Smith before.

## **August Smith – S-Smith's father**

On the evening the incident occurred Det. O'Boyle interviewed Mr. August Smith at his home on [REDACTED], which is walking distance from Washington Park.

Mr. Smith said his son S-Smith lives with him because his mother is afraid of him and has a restraining order against him. Mr. Smith said that his son is an addict and has had a drug problem for a long time.

Mr. Smith told Det. O'Boyle that S-Smith was acting irrational that evening, sweating a lot and swinging a set of nunchucks around the house. Mr. Smith described him as "racing" and "non-stop".

At about 6:30 or 7:00 PM S-Smith left the house on foot. Mr. Smith said he got into his truck and went looking for him and found his hat in the street, but he could not find S-Smith, so he went back to the house.

Mr. Smith told Det. O'Boyle that because of the way that S-Smith was acting he had a feeling that something bad was going to happen to him.

## **INVOLVED OFFICERS STATEMENTS**

### **Sgt. Collins**

Det. Wheeler and I interviewed Sgt. Collins.

Sgt. Collins heard the call of a 5150 subject in the parking lot of the Stater Brothers and began heading in that direction. As he arrived he saw marked RPD units (a car and a motorcycle) in the parking lot of Washington Park so he headed over there.

When he got to the park he exited his unit saw officers approaching S-Smith on foot. S-Smith was lying down in the grass in the park and one of the officers was giving him verbal commands. During their approach the officers saw S-Smith had a knife on his belt which caused them to stop for a moment. The officers gave S-Smith commands to put his hands behind his back and he complied. Two officers approached and handcuffed him while the third officer removed the knife from the belt. Once S-Smith was handcuffed he was moved into a sitting position where he was able to rest his upper body against Officer Feimer's legs.

While Officer De La Torre was obtaining S-Smith's name and birthdate Sgt. Collins heard him admit that he had used Methamphetamine earlier. All of the sudden he began yelling "You guys are going to kill me!" Sgt. Collins tried to reassure him that no one was going to kill him. At some point S-Smith laid back down on the ground and began to kick his legs. The officers took control of his legs and upper body again so he could not kick them. S-Smith did not say anything else during the remainder of the incident.

Sgt. Collins saw a small amount of blood on S-Smith's wrists. He did not know where it came from so he decided to call for medical aid. The officers then rolled S-Smith over on his side to confirm he was still breathing and at that time Officer Hunt confirmed that he was.

Moments later, the officers discovered S-Smith was no longer breathing. They decided to remove the handcuffs and begin CPR. Officer Tonetti arrived and helped to maintain the subject's airway while CPR was being performed. Sgt. Collins broadcast over the radio that they needed medical aid to expedite. When medical aid arrived the officers transferred care over to the medical staff and S-Smith was transported from the scene.

Sgt. Collins did not use, and did not see any of the officers use, any type of force on the subject during this incident. Sgt. Collins felt that the officer's actions were proper and appropriate given the situation.

### **Sgt. Milby**

Det. Wheeler and I interviewed Sgt. Milby.

Sgt. Milby heard the call of a 5150 subject at Lincoln & Mary and that Sgt. Collins was in that area. Sgt. Milby decided to head that way and on the way there he heard that officers had taken the subject into custody. A short time later Sgt. Milby heard Sgt. Collins broadcast that he wanted medical aid dispatched to the scene.

When Sgt. Milby arrived he saw Sgt. Collins, Officer De La Torre, Officer Feimer and Officer Hunt in contact with S-Smith, who was on the ground. Sgt. Milby exited his vehicle and approached the group of officers. He saw Officer De La Torre and Officer Feimer controlling each of S-Smith's arms and Officer Hunt controlling his legs by means of a "figure four" technique. S-Smith was face down and his wrists were handcuffed. S-Smith did not appear to be struggling. Sgt. Collins was standing up by the officers giving directions. Sgt. Milby recalled seeing the S-Smith's pulse pounding rapidly in the area of his bicep.

Within approximately 90 seconds Sgt. Milby heard one of the officers say, "Is he breathing?" Hearing this and not seeing much movement from the subject, Sgt. Milby instructed the officers to turn S-Smith over onto his side so they could see if he was breathing. Once on his side S-Smith was non-responsive and his complexion was dark. One of the officers began rubbing S-Smith's sternum to elicit a response but there was none. Sgt. Milby then directed the officers to remove the handcuffs and start CPR.

Sgt. Milby got on the radio and asked for an ETA for medical aid and that it be expedited. He also advised dispatch that CPR had been started. While the officers were doing CPR, Sgt. Milby was concerned the subject might become conscious again and possibly combative so, he maintained control of subject's left forearm. Medical aid arrived a short time later and asked Sgt. Milby to cut off the subject's shirt. Sgt. Milby and the officers then secured the scene.

Sgt. Milby did not observe and was not told by any of the officers that any type of force was used to subdue the subject. He felt the officers conducted themselves professionally and appropriately during the incident. Sgt. Milby did not hear the subject making any noises or statements while he was present.

#### **Officer De La Torre**

Det. O'Boyle and I interviewed Officer De La Torre.

Officer De La Torre is assigned to the traffic division as a motor officer and rides a marked police motorcycle. He heard the radio call of a 5150 (WIC) at the Stater Bros at Mary and Lincoln and decided to respond with Officer Feimer and Hunt since he was going that way.

Officer De La Torre said when they got to the Stater Bros parking lot they were flagged down by a security guard over near Washington Park. As they spoke to the guard they saw S-Smith in the park on his hands and knees.

The officers drove over to the park. Officer De La Torre said he parked his motorcycle facing S-Smith and Officers Feimer and Hunt parked next to him. Officer De La Torre made announcements from his P.A system for S-Smith to lie down on the ground and put his arms out to his sides. S-Smith complied but continued "flopping around on the ground."

Officer De La Torre got off of his motorcycle and Officers Feimer and Hunt exited their police car. They then approached S-Smith, Officer De La Torre to the left and Officers Feimer and Hunt to his right. As they approached they gave S-Smith more verbal commands to stay on the ground. S-Smith rolled over onto his back, so they instructed him to roll onto his stomach and cross his legs, which he did.

Officer De La Torre said that when S-Smith was rolling around they saw a large knife in a sheath attached to his belt. The officers reached S-Smith and Officers Feimer and Hunt handcuffed him while Officer De La Torre removed the knife from the sheath and walked away a short distance and dropped it in the grass. When he returned to S-Smith Officers Feimer and Hunt had S-Smith handcuffed and seated on the ground leaning up against Officer Feimer's leg.

The officers asked S-Smith his name and date of birth and confirmed it with a social security card they found in his wallet. They asked him where the nunchucks were and he told them they were "at home". S-Smith admitted that he had used methamphetamine earlier.

Officer De La Torre said he went back to his motorcycle to retrieve his flashlight so he could start looking around for the nunchucks. While he was checking the area he looked back to where S-Smith was seated and he saw the officers were struggling with him. Officer Feimer had S-Smith's legs in a "figure four" and Officer Hunt was trying to control his upper body. Officer De La Torre said he returned to help and saw S-Smith kick his legs free from Officer Feimer's hold. Officer Feimer was able to reapply the hold on his legs and Officer De La Torre kneeled down with his left knee on S-Smith's left shoulder blade to help restrain his movement. S-Smith kept struggling for a short time and then stopped.

While they were trying to calm S-Smith down Officer De La Torre said he noticed that S-Smith's left triceps was "fluttering really bad." After a few minutes they noticed S-Smith did not appear to be conscious so they rolled him over and Officer Hunt began to do "sternum rubs" on his chest to see if he would respond. S-Smith did not respond so the handcuffs were taken off of him and Officer Feimer and Hunt began CPR chest compressions. While the chest compressions were being done Officer Tonetti arrived and positioned S-Smith's head to open his airway. The Riverside Fire Department arrived shortly after that and took over.

Officer De La Torre said at no time did he, nor anyone else, strike S-Smith with anything nor constrict his airway in anyway.

### **Officer Feimer**

Det. O'Boyle and I interviewed Officer Feimer.

Officer Feimer is a canine handler but he did not have his police canine with him this evening. He was riding partners with Officer Hunt and Officer Hunt's police dog (Arrow) since Officer Hunt is new to the canine unit. They were in police unit 3517 and Officer Hunt was driving.

Officer Feimer said that they were dispatched to the Stater Bros at Lincoln and Mary for a subject swinging nunchucks and yelling in the parking lot. On the way there they ended up behind Officer De La Torre (on his motorcycle) and followed him to the scene. When they arrived they split up from Officer De La Torre and began driving around the area looking for the subject. They were waived down by a security guard who was standing in a small driveway that went from the Stater Bros property over into Washington Park next door. As they pulled up to the security guard Officer Feimer said he could see S-Smith in the grass in the park at the far end of the parking lot. S-Smith looked like he was doing push-ups, then he stood up and was moving around erratically.

The security guard pointed to S-Smith and told them he was the subject that he had called about. The security guard told them that S-Smith had been swinging nunchucks around, was acting bizarre and they did not want him back on the property. At this time Officer De La Torre had pulled up with them and they pointed S-Smith out to him. They all then decided to go contact S-Smith in the park.

Officer Feimer said that they drove into the park parking lot and stopped about 20 yards from S-Smith. They put their spotlights on S-Smith and exited their police car. S-Smith was up on his knees and then he lay down on the ground. Officer De La Torre gave S-Smith commands over his P.A to lie down and put his hands out to his sides. S-Smith initially complied but then he flipped over onto his back. They decided to approach S-Smith and as they did they noticed S-Smith had a knife on his belt. They didn't see the nunchucks anywhere.

As they moved in S-Smith automatically put his hands behind his back in a handcuffing position. Officer Feimer said he then moved in on S-Smith's right side and put one knee on S-Smith's back and one on his shoulder to control him until they could secure the knife. Officer Hunt went around on S-Smith's left side to control his left arm. Officer De La Torre was somewhere near his feet. Officer Feimer then attempted to place handcuffs on S-Smith as S-Smith tried to straighten his arms out and roll back and forth. Officer Feimer was able to handcuff him in spite of it.

Officer De La Torre then removed the knife from the sheath on S-Smith's belt and backed away with it. Officer Feimer and Officer Hunt then searched S-Smith for any other weapons and sat him upright with his back leaning up against Officer Feimer's legs. During this time S-Smith was talking "gibberish". Officer Feimer asked S-Smith his name and if he had used any drugs. S-Smith gave them his name and said he had used "meth". S-Smith was answering their questions but he was also staring off, possibly seeing things and sweating profusely. S-Smith told them his nunchucks were at home.

Officer Feimer stepped away from S-Smith causing S-Smith to lie down on his back. S-Smith immediately started kicking, rolling over and yelling. In an attempt to restrain him Officer Feimer put S-Smith's legs into a "figure four" while Officer De La Torre and Officer Hunt tried to pin his upper body. S-Smith managed to kick out of Officer Feimer's hold but he was able to re-apply it. S-Smith struggled briefly and then went "passive". Officer Feimer said he could see S-Smith arms still "pulsating".

Sgt. Collins told them to check S-Smith's vital signs so they rolled him on his side and started calling to him. S-Smith appeared to be unconscious so Officer Hunt began to rub his sternum with his knuckles. S-Smith did not respond so they rolled him onto his back and checked his pulse. They didn't feel a pulse so they un-handcuffed him. Officer Tonetti had now arrived so he held S-Smith's head to open his airway while Officer Hunt and Officer Feimer took turns doing CPR chest compressions. Officer Tonetti told them that he had a pocket mask (for rescue breathing) in his car so Officer De La Torre went to get it. Before they could utilize it the fire department arrived and took over.

Officer Feimer said that S-Smith never said anything to them about being in medical distress prior to going unconscious. He was just acting very erratic. Officer Feimer said none of the officers present ever struck S-Smith or used any force weapons on him.

#### **Officer Hunt**

Det. Wheeler and I interviewed Officer Hunt.

Officer Hunt told me that Officer Feimer and he were riding together because he was new to the canine unit. They were dispatched to the Stater Bros to assist on a 5150 subject that was "twirling" nunchucks in the parking lot and appeared to be a danger to customers.

When they arrived they were flagged down by a security guard who pointed over to S-Smith next door in Washington Park. The Guard told them S-Smith was the subject he had called about and he didn't want S-Smith back on Stater Bros property.

Officer Hunt said he could see S-Smith on the grass in the park lying down on the ground and yelling something. Officer De La Torre had arrived on scene with them and they came up with a plan to approach S-Smith. As they approached S-Smith on foot they saw that he had a large knife in a sheath on the right side of his belt. They told S-Smith to keep his hands up and to get down on the ground. S-Smith was mumbling something and went down to one knee, but then stood up again. They again told him to get down on the ground and he complied. They then told him to put his hands out to his sides, but instead he put them down next to his sides. They told him again to put his hands straight out and he did.

Officer Hunt said that when S-Smith was finally prone on the ground they approached him. Officer Hunt said he grabbed S-Smith's left arm, someone else grabbed his right arm, and Officer Feimer placed him in handcuffs. They then started asking him for identifying information which he provided. S-Smith admitted to them he recently used methamphetamine. Officer De La Torre removed the knife from the sheath and took it away from the immediate area.

Officer Hunt said that they did a quick search of S-Smith, rolled him on his side and then sat him up. A short time later S-Smith fell backwards and starting thrashing around, kicking his legs and yelling. To gain control of him they rolled him over (on his stomach). Officer Hunt said he was on S-Smith's right side and tried to control his upper body by placing one of his knees on his upper body and his other knee on the ground. Officer Hunt said he could feel S-Smith's heartbeat with the hand he had on his body and his heart was "racing".

After a while S-Smith calmed down. They decided to roll him on his side to check on him. Officer Hunt said he could still feel S-Smith's heart beating but it didn't look like he was breathing so he started doing sternum rubs on him to see if there was a reaction. S-Smith wasn't reacting so they decided to take the handcuffs off and start CPR. Officer Hunt said he began chest compressions and continued until he was tired, then Officer Feimer took over. They continued switching off until the medical aid arrived and took over.

Officer Hunt told me that S-Smith was sweating profusely and his breathing was rapid during their contact with him. Officer Hunt said that none of the officers ever struck S-Smith with any weapons or applied any neck holds. The only force used to detain him was what he described in our interview.

#### **Officer Tonetti**

Officer Tonetti chose to write his own statement and took the Initial Report.

Officer Tonetti wrote that he was dispatched to a 5150 WIC at the Stater Brothers. The other officers arrived before him and on the way he heard Sgt. Collins advise that they were with the subject at Washington Park and he asked for medical aid.

Officer Tonetti said that he arrived at the park at about the same time as Sgt. Milby. He saw S-Smith face down in the grass being "controlled" by the other officers. Officer Tonetti said he exited his police car and walked over to them and noticed that the brachial artery near S-Smith's left bicep was "pulsing at a rapid rate." The officers rolled S-Smith over and Officer Tonetti said he checked his carotid artery for a pulse. He did not feel a pulse so they immediately took the handcuffs off and Officers Hunt and Feimer began chest compressions.

Officer Tonetti wrote that he noticed some blood in S-Smith's mouth so he told the officers that he had a protective CPR mask in his patrol car. Officer De La Torre took off to retrieve it but the Fire Department arrived before they could use it.

S-Smith was transported to RCH and Officer Tonetti followed them to the hospital. While at the hospital medical staff continued lifesaving efforts but S-Smith was pronounced deceased at 1953 hrs.

**SCENES / EVIDENCE**

Detective Mike O'Boyle and Evidence Tech Sue Lane processed the scene at Washington Park.

Metal nunchucks were recovered in some bushes in the Stater Brothers parking lot. A gold colored necklace was recovered from a bush in the small driveway leading from the Stater Brother's property into Washington Park. S-Smith's knife was recovered from the grass where Officer De La Torre had dropped it along with Officer Tonetti's CPR mask.

**COBAN VIDEO**

The following police vehicles were on scene and equipped with COBAN video recorders. Buffered video was recovered from them by Reuel Hinojales from IT:

- Unit 3517 Officers Hunt and Feimer
- Unit 3131 Sgt. E. Collins
- Unit 3403 Sgt. C. Milby

All of the videos depict portions of the incident from various points of view and are without sound. By utilizing the three videos the entire incident was captured. The statements the officers gave concerning this incident are consistent with what is seen in the videos.

**AUTOPSY**

I attended the autopsy of S-Dominic Smith at the Riverside County Sheriff/Coroner's Office in Perris CA on 01-03-17.

Dr. Hunt examined S-Smith's body and told me she did not find any obvious injury or cause of death at that time. After toxicological testing and the Coroner's Review it was determined that S-Smith's cause of death was acute heroin and methamphetamine intoxication. The death was ruled an accident.

See Coroner's Protocol for further details.

**SUSPECT [REDACTED] CRIMINAL HISTORY**

