

MEMORANDUM
Riverside Police Department
Central Investigations Bureau

TO: Sergeant Mark Rossi

DATE: 12-15-2008

FROM: Detective Ron Sanfilippo

SUBJECT: Summary of Officer Involved Fatal Incident

CASE: RPD #P08157587

DATE OF INCIDENT: 10-31-2008

TIME OF INCIDENT: 2145 hours

LOCATION: 7857 Cypress, Riverside

**SUSPECT: Acevedo, Marlon Oliver, [REDACTED] 5'7", 230, black, brown,
LKA_7857 Cypress, Riverside CDL#-[REDACTED]; CII#-[REDACTED];
FBI#-[REDACTED]; SS#-[REDACTED]**

**INVOLVED OFFICERS: Officer Dan Koehler #1538 / Officer Jeff Ratkovich
#1511 / Officer James Heiting #1610**

CHARGES: 69 P.C. / Exceptionally cleared

Summary

At approximately 2145 hours, Officers Koehler and Ratkovich were dispatched to the area of 7850 Cypress Avenue reference a male adult subject in the roadway screaming at vehicles as they attempted to pass him. RPD dispatch had received multiple calls from citizens in the area stating the subject was possibly 5150, HBD, or on H&S.

As Officers Ratkovich and Koehler drove west bound on Cypress Avenue, they observed a male adult subject, later identified as Marlon Oliver Acevedo standing in the roadway at the 7800 block of Cypress. Officer Ratkovich parked the marked police unit in the middle of Cypress Avenue and the two officers wearing department issued police uniforms exited the unit. Officer Koehler made verbal contact with S/Acevedo. Officer Ratkovich was standing to the left side of Officer Koehler as Officer Koehler spoke with the suspect.

Upon initial contact of S-Acevedo by the officers, S-Acevedo refused the officer's commands and began to grunt and growl at the officer. S-Acevedo took a fighting posture with clinched fists and threw a punch that missed Officer Koehler. Officer Koehler and Officer Ratkovich removed their expandable batons, extended them, and instructed S-Acevedo to get down on the ground. S-Acevedo refused to comply and both officers struck S/Acevedo with their expandable batons. Officer Ratkovich struck S-Acevedo twice near the suspect's right knee although it had no effect on S-Acevedo. Officer Koehler struck the suspect with his expandable baton several times in the left thigh but it also had no effect on S-Acevedo. S-Acevedo continued to swing his fist at Officer Koehler striking the officer in the face knocking his glasses off. Officer Koehler then grabbed S-Acevedo to gain control him. The two struggled for several moments as they both went to the ground in the roadway. Officer Ratkovich then deployed his department issued X26 Taser at S/Acevedo.

The darts of the X26 Taser struck the S/Acevedo in his abdomen. The taser cycled through its charge but did not incapacitate the suspect. Officer Koehler continued to struggle with S-Acevedo as he gave S/Acevedo commands to give them his hands. S-Acevedo never complied. Officer Ratkovich stated that S-Acevedo appeared to be rolling back and fourth on the ground as if he was trying to break free from the taser darts. Officer Ratkovich said he depressed the trigger of his X26 Taser 4 to 5 more times after the initial deployment to incapacitate the suspect. Each time, the taser deployment cycled however it did not incapacitate the suspect.

Officer Ratkovich said he was unsure if both taser darts were making contact with S-Acevedo. Officer Ratkovich advised while S-Acevedo was still on the ground struggling with Officer Koehler then deployed his taser by making a "drive stun" contact to the upper back of S-Acevedo. This deployment incapacitated S/Acevedo and he was taken into custody.

Medical Aid was summoned and AMR and RFD responded to the scene. While waiting for their arrival, the suspect began to kick at the officers and they requested a unit to assist with hobbling S-Acevedo. When Officer Heiting arrived on-scene he assisted by applying the hobble to the suspect's feet. The hobble was then attached to the handcuffs of S-Acevedo which placed him into the TARP position. Medical personnel arrived on-scene and the suspect was rolled over onto his side. When medical personnel observed S-Acevedo to be in medical distress the hobble restraint and handcuffs were removed.

S-Acevedo was placed on a gurney and into an AMR ambulance where medical personnel continue to treat him. S-Acevedo was transported to Parkview Hospital where he was pronounced deceased by hospital staff.

Note: Early this evening (10/31/08), at approximately 1700 hours, Officers Koehler and Ratkovich were en route to a call and proceeding westbound on Cypress approaching the 7800 block. They observed a male subject (later identified as S-Acevedo) yelling at vehicles. They stopped their unit and contacted the subject. The subject yelled at them to "Keep the streets safe." The officers saw no lawful reason to continue their contact with S-Acevedo and proceeded to their call.

Statements from Involved Officers

Officer Koehler:

Officer Koehler was interviewed on 11-01-2008. Officer Koehler said that on 10-31-08, he was riding partners with Officer Ratkovich under the call sign of C-420. Officer Koehler said at 1700 hours he and Officer Ratkovich were patrolling in the 7800 block of Cypress Avenue when they came upon a Hispanic male standing in the middle of the street on Cypress Avenue. The man later identified as Marlon Acevedo yelled to the officers prompting them to turn around and pull up next to him. Officer Koehler said that S-Acevedo told them that he was keeping the streets safe and for them to do the same. Officer Koehler stated at the time he didn't think anything about it and they continued with their patrol duties.

Officer Koehler said on 11-01-08 at approximately 2145 hours, he and Officer Ratkovich monitored a dispatched call of a 5150 subject walking in the middle of the street on Cypress Avenue attacking cars. By description, Officer Koehler believed that it was S-Acevedo again so he and Officer Ratkovich responded to the call.

Officer Koehler said when they arrived on scene, he saw Acevedo standing in the middle of the street making grunting noises. Officer Koehler exited the patrol car and told S-Acevedo to get out of the street because he was holding up traffic. Officer Koehler advised S-Acevedo immediately directed his attention towards him and took a fighting stance. Officer Koehler said S-Acevedo held up both of his arms and clenched both of his fists as he faced him (Officer Koehler).

Officer Koehler said S-Acevedo was ready to throw a punch so he struck S-Acevedo in the left leg with his Asp Baton. The baton had no effect on S-Acevedo who then threw a punch striking Officer Koehler in the face. S-Acevedo continued throwing punches and fighting with Officer Koehler. Officer Koehler yelled for Officer Ratkovich to deploy his taser on S-Acevedo. Officer Koehler added Officer Ratkovich deployed the taser but it had little effect.

Officer Koehler said they eventually were able to place S-Acevedo into handcuffs. Officer Koehler said he placed S-Acevedo onto his left side. Medical aid arrived on scene seconds after S-Acevedo was placed into the handcuffs. Officer Koehler was not aware that S-Acevedo was in medical distress until the paramedics said he did not

appear to be breathing. Paramedics and RFD personnel began CPR and transported S-Acevedo to the hospital.

Officer Koehler had a complaint of pain to both of his legs, his face, and his collarbone. Officer Koehler had visible redness and abrasions to his face. Officer Koehler's uniform appeared to be disheveled and dirty. His nametag was hanging off of his breast pocket by just one fastener.

Officer Ratkovich:

Officer Ratkovich was interviewed on 11-01-2008 at 0458 hours. Officer Ratkovich was assigned to a two man unit with Officer Koehler. Officer Ratkovich advised they monitored a 5150 W.I.C. subject in the roadway in the 7800 block of Cypress Avenue. Officer Ratkovich stated they responded to the call because of a field contact earlier in the evening with a similar subject. Upon arrival, Officer Ratkovich observed S-Acevedo standing in the middle of Cypress Avenue. Officer Ratkovich said there were vehicles stopped and people standing on both sides of Cypress Avenue. Officer Ratkovich said as they exited the police unit Officer Koehler was giving commands for S-Acevedo to get out of the roadway. Officer Ratkovich stated he was in the cover officer position as S-Acevedo keyed in on Officer Koehler. S-Acevedo took a fighting stance with his fists up. Officer Ratkovich advised he deployed his collapsible baton as he approached S-Acevedo. Officer Ratkovich advised S-Acevedo immediately threw a punch at Officer Koehler.

Officer Ratkovich said he began to deliver baton strikes to the outside of S-Acevedo's right knee area. Officer Ratkovich stated S-Acevedo wasn't responding to any of the commands he was being given. Officer Ratkovich said S-Acevedo had a "crazed look on his face", adding he looked "angry and upset". Officer Ratkovich advised both Officer Koehler and S-Acevedo went to the ground as they were struggling with each other. Officer Ratkovich observed S-Acevedo punching Officer Koehler while on the ground. Officer Ratkovich added S-Acevedo was kicking his legs and throwing punches as they attempted to control him.

Officer Ratkovich advised during the struggle Officer Koehler told him to "tase him". Officer Ratkovich said he could only get about a 2-3 foot distance as he deployed the taser. Officer Ratkovich advised the taser darts connected to S-Acevedo's stomach area. Officer Ratkovich said he deployed 4-5 cycles but it didn't affect S-Acevedo. Officer Ratkovich stated S-Acevedo then began to roll on the ground and ended up on the north side of the roadway. Officer Ratkovich stated due to the ineffectiveness of the taser he removed the cartridge of the taser and deployed a "drive stun" on S-Acevedo's back. Officer Ratkovich said this allowed them the ability to roll S-Acevedo onto his stomach to get handcuffed. Officer Ratkovich said S-Acevedo continued to kick at both of them so they decided to place a hobble on S-Acevedo's legs. Officer Ratkovich stated he grabbed onto the hobble after it was placed on S-Acevedo's legs by Officer Heiting. Officer Ratkovich said he clipped the hobble to the handcuffs placing S-Acevedo in the "TARP". Officer Ratkovich added S-Acevedo was then rolled onto his left side by Officer's Koehler and Heiting. Officer Ratkovich advised he then left S-Acevedo as he searched the area for witnesses. Officer Ratkovich said he did brief medical personnel upon their arrival. Officer Ratkovich said he first learned of S-

Acevedo's medical distress when he heard AMR Paramedic Brein advised that S-Acevedo was unresponsive.

Officer Heiting:

Officer Heiting was interviewed on 11-01 2008 at 0307 hours. Officer Heiting advised he was dispatched to a 5150 W.I.C. call at Van Buren Blvd. and Cypress Ave. Officer Heiting stated while driving to the location he heard the 420 beat unit arrive on scene. Officer Heiting said the 420 beat unit immediately requested more units for crowd control. Officer Heiting advised upon his arrival he observed Officer Ratkovich and Officer Koehler struggling to control S-Acevedo on the ground.

Officer Heiting said he was asked by the two officers for a "tarp or a hobble". Officer Heiting stated he retrieved his hobble from the trunk of his police unit and went to assist the officers with S-Acevedo. Officer Heiting advised Officer Koehler was attempting to control S-Acevedo's upper torso and Officer Ratkovich was trying to hold S-Acevedo's legs from kicking. Officer Heiting said it was difficult to place the hobble on S-Acevedo because of his movements. Officer Heiting added Officer Ratkovich hooked the hobble to the handcuffs. Officer Heiting advised the only thing he heard from S-Acevedo during this incident were "grunting noises".

Officer Heiting said medical personnel were on scene within 30 seconds after S-Acevedo had been placed in the "Tarp" position. Officer Heiting said after he rolled S-Acevedo onto his left side for medical personnel he checked the area for witnesses. Officer Heiting advised he didn't know at the time S-Acevedo was in medical distress or even given CPR. Officer Heiting wasn't aware the Taser had been deployed until S-Acevedo was rolled onto his left side and he observed the wires.

Witness Statements

Justin Rescorl interview:

W-Justin stated he was with his wife, W-Sarah Rescorl, and his two young children. W-Justin stated his neighbor (W-Germain Gabaldon) was also in front of their complex watching. W-Justin stated they had just finished trick-or-treating in the neighborhood. W-Justin stated they arrived to the front of their apartment complex, when he heard a Hispanic male, bald, 6-00, 220 lbs. yelling in the middle of the street. W-Justin stated they were approximately 100' away and could see the whole incident clearly. W-Justin stated the Hispanic male, later identified as S-Marlon Acevedo, was blocking traffic and yelling at the cars as they passed. W-Justin stated he heard S-Acevedo yelling, "Kill me" as well as other things that he couldn't understand. W-Justin stated he saw S-Acevedo throw a black box type object at a blue car that was parked across the street. W-Justin stated a Hispanic female came from somewhere west of his apartment complex. She was trying to get S-Acevedo to calm down, but he started fighting with her so she left. W-Justin thought S-Acevedo was going to get hit by a car, so he called 911 at 2144 hours.

W-Justin stated the police arrived a short time later. W-Justin stated the red and blue lights on top of their unit were on and he thinks they might have used their spotlight. W-

Justin stated the helicopter was also above with its spotlight on. W-Justin stated when the officers arrived there was no doubt they were officers in their uniforms. W-Justin stated two officers arrived in one unit. W-Justin stated S-Acevedo was standing near the middle of the road just east of their complex. The officers approached S-Acevedo and identified themselves as police officers. W-Justin stated S-Acevedo tensed up at that point. S-Acevedo clenched his fists and he could see his body tense up. W-Justin stated the officers removed their batons. W-Justin stated S-Acevedo started swinging at the officers, but he could not tell if S-Acevedo actually hit the officers. W-Justin saw the two officers hit S-Acevedo three to four times with their batons in the legs and lower torso. W-Justin could hear S-Acevedo saying, "Get the fuck off of me." W-Justin stated they all went to the ground and appeared to be struggling to get S-Acevedo in custody. W-Justin saw one officer get off S-Acevedo and say, "Stand back." W-Justin stated S-Acevedo was not cooperating with the officers. W-Justin heard the officer use his taser on S-Acevedo. W-Justin stated after that S-Acevedo seemed to calm down. W-Justin stated it looked like they handcuffed S-Acevedo. W-Justin did not see the officers tie (Hobble) S-Acevedo's legs together. He saw that the officers were trying to restrain S-Acevedo's legs and when the ambulance arrived they restrained him on the board. S-Acevedo stated the ambulance arrived quickly, approximately 2-3 minutes after S-Acevedo was tased.

W-Justin stated he did not see anyone else on the street watching the incident. W-Justin stated he did not see the girl that tried to help S-Acevedo earlier on the street when the police arrived. W-Justin did not see anyone across the street from his apartment complex watching the incident.

Germain Gabaldon Interview:

W-Germain was inside his apartment when he heard a guy "going crazy" and screaming outside. As he walked outside to see what was happening he heard a banging sound like somebody punching a car. He went to the front of the apartments and saw S-Acevedo walking around in the street. W-Germain went back to his apartment and told his wife to lock the door. He went back out front and was standing on the sidewalk in front of the complex and saw S-Acevedo standing in the street, screaming and holding up traffic. S-Acevedo was nearly hit by passing vehicles twice. At one point, someone in a white and burgundy Suburban stopped and asked S-Acevedo what was wrong with him. S-Acevedo nearly hit the Suburban but the driver was able to back away.

W-Germain said his friend "Safety" was outside with him and called 9-1-1. ("Safety" was identified as Justin Rescorl).

W-Germain said two uniformed police officers arrived in one marked patrol car and approached S-Acevedo. He said the officers were talking to S-Acevedo but W-Germain could not hear what was being said. As the officers walked closer to S-Acevedo he started swinging his fists at them. He saw a black flashlight fall on the ground and assumed S-Acevedo knocked it out of one of the officer's hands.

W-Germain said S-Acevedo was "like a maniac on, on them [officers]" so one of the officers used his baton. W-Germain stated "from my point of view, it was self defense. They had no choice but to use it".

W-Germain said his eyes are kind of bad at night and he was too far back to know if the officers struck S-Acevedo.

He also described that the patrol car actually blocked some of his view as well. W-Germain said the officers were trying to restrain S-Acevedo but he was not listening to them and not following their directions.

During the altercation, W-Germain heard two shots. W-Germain said "I then heard like a loud ssss sound". W-Germain added he then observed what he thought was vomit in the street.

W-Germain said he went back and forth from his apartment during this incident and after coming back out the last time the ambulance and fire department were arriving on-scene. There were also additional police officers there. He said he observed several officers and medical personnel place S-Acevedo on the gurney.

Sarah Rescorl Interview:

W-Sarah was just returning from trick or treating with her husband (Justin Rescorl) and their two (2) children when she heard S-Acevedo yelling. W-Sarah said she saw that he was standing in the street, nearly being hit by passing vehicles and stopping traffic. W-Sarah advised S-Acevedo was yelling at people as they passed by on foot and in vehicles. W-Sarah added S-Acevedo also threw a suitcase or briefcase at a parked car. W-Sarah said an unknown lady, possibly S-Acevedo's wife, tried to get him to come out of the street but he refused. Concerned that S-Acevedo was going to be hit by a car, her husband W-Justin called 9-1-1.

W-Sarah stated a short time later two uniformed police officers arrived in a marked police vehicle. W-Sarah advised when the officers walked up to S-Acevedo "he was just really belligerent and out of it." W-Sarah stated the officers were saying something to S-Acevedo but she was too far away to hear. W-Sarah said S-Acevedo starting swinging punches at the officers. W-Sarah added she did not see if S-Acevedo had anything in his hands. W-Sarah stated he officers each took out their batons and she thinks they both struck S-Acevedo. W-Sarah advised she described that the strikes were on the outside portion of his thigh or knee. W-Sarah did not see strikes on the upper torso or the head. W-Sarah advised S-Acevedo was standing when he was struck but ended up on the ground. W-Sarah stated when S-Acevedo went to the ground she could not see what was happening because the marked police car was obstructing her view. W-Sarah said she heard a clicking sound and asked her husband what the noise was. W-Sarah was told by her husband that it was a taser. W-Sarah advised she only heard the clicking noise one time and believes the officers handcuffed S-Acevedo, who was lying on his stomach. W-Sarah added one of the police officers then bent S-Acevedo's legs up towards his buttock. W-Sarah stated an ambulance arrived at the scene a short time later.

Crime Scene

The crime scene was located on Cypress Avenue between the addresses of 7875 and 7857. The area was lit by a street light which was on the south side of Cypress Avenue, across from 7875.

This physical altercation between Officers Ratkovich, Officer Koehler and S-Acevedo occurred in the street in front of Riverside Police Unit 3746.

A pair of black "Vox" shoes was found in the street in front of Riverside Police Unit 3746. The shoes belong to S-Acevedo. It is unknown if they came off during the altercation and arrest, or when he was being treated by paramedics.

Two silver colored metal caps from the taser cartridge were found on the street in front of Riverside Police Unit 3746.

The ASP batons belonging to Officers Ratkovich and Koehler were found inside Riverside Police unit 3746, on the center console between the front seats. One ASP baton was fully extended and the other was collapsed. Sgt. Blomdahl stated the ASP batons were originally on the street when S-Acevedo was taken into custody. They were picked up by officers and secured in the front seat of Unit 3746. Evidence Technician McKay-Davis photographed and collected all evidence.

Photos of Taser and Involved Officers

Detective Rowe and ID Tech Selena McKay-Davis photographed Officer Koehler, Officer Ratkovich and Officer Heiting in their police uniform they were wearing during the incident. The tasers that are assigned to the above mentioned officers were also photographed. The taser assigned to Officer Ratkovich was collected for evidence.

Video /Audio /Recordings

There are Coban video recordings from Officers Koehler and Heiting's units. The I.T. Unit uploaded the hard-drives from both police units. Recordings were placed on CDs for viewing. None of the three officers activated their belt audio recorders.

Weapon Charting:

Officer Ratkovich and Officer Heiting had their X26 Tasers charted. Officer Koehler was not in possession of a taser. Officer Heiting didn't deploy his taser with the printout deployment history located in section 22. Officer Ratkovich deployed his taser with the printout information documented below and also in section 30. Officer Ratkovich taser deployment history revealed the following:

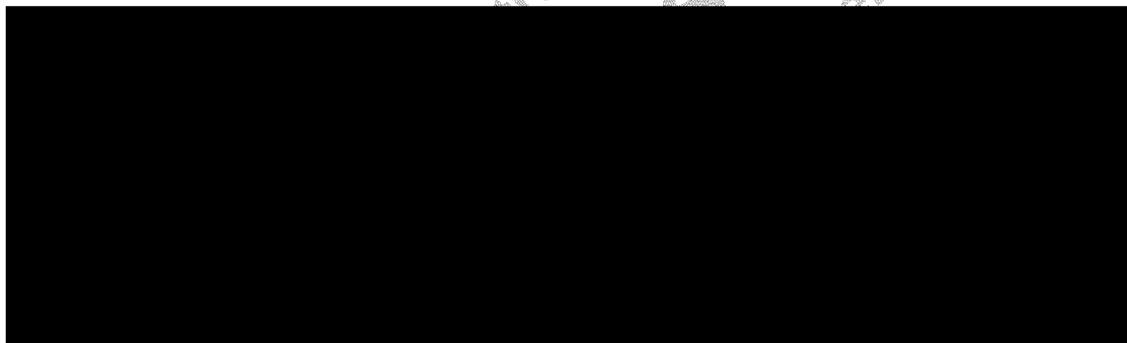
| Deployments | Cycle Time | Battery Charge |
|----------------------------|------------|----------------|
| 1 st - 21:43:23 | 5 seconds | 78 |
| 2 nd - 21:43:31 | 5 seconds | 78 |
| 3 rd - 21:43:39 | 5 seconds | 77 |

| | | |
|----------------------------|-----------|----|
| 4 th – 21:43:47 | 5 seconds | 77 |
| 5 th – 21:44:15 | 5 seconds | 76 |
| 6 th – 21:44:22 | 5 seconds | 76 |

Bio-Tox Results / Cause of Death

Marlon Oliver Acevedo had blood drawn at the autopsy with the detection of Phencyclidine, Cannabinoids and Atropine. Cause of death listed as Acute Phencyclidine Intoxication. Other significant conditions: Hypertrophic Cardiomyopathy; Physical confrontation with Law Enforcement; Application of electro muscular disruption.

Suspect Arrest Information



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CPRC Pub
CPRCROBERT 9/1/2010 9:26:55 AM