



Officer-Involved Shooting

District Attorney Investigations Case #S.A. 17-013
Fatal Incident Involving Edwin Moreno Fuentes



June 20, 2018
News Conference

Investigative Methodology

OCDA is responsible for investigating officer-involved shootings within Orange County when someone is injured/killed because of police gunfire.

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During the course of this investigation:

➤ **20 interviews conducted**

➤ **22 additional witnesses contacted during supplemental canvass interviews**

Investigation (Cont.)

OCDA Investigators obtained:

- **TPD reports & recordings**
- **BWC and Patrol videos**
- **OCCL reports**
- **Medical records**

Review Findings

- **Expressly limited to a determination relating to possible criminal conduct; and**
- **Expressly not addressing any possible issues related to policy, training, tactics, or civil liability.**

Factual Summary

Wednesday, May 16, 2017

- **Fuentes received an email from CNI College terminating him from the MRI program.**
- **Fuentes was very upset - receiving disability money and money for school through the GI Bill.**
- **At about 2:00 p.m. Fuentes' wife (JD1) returned home and he told her the news.⁷**

Fuentes Goes to CNI College

- **Fuentes told his wife he was going to CNI**
- **Fuentes packed a gym bag with clothing and a Glock handgun.**
- **JD1 left the house with her son and aunt to go to the mall.**
- **At 3:01 p.m., Fuentes sent a text message to JD1 stating that if he did not return, “I love you, these people fu**** me.”**

Communication with John Doe

- **At 3:35 p.m. Fuentes texted & called his classmate (JD)**
 - **Dropped from MRI Program**
 - **Outside the College**
 - **Wanted to hurt everyone but couldn't**
 - **Planned to shoot himself in the leg**
 - **Wife's contact info**
- **At 6:04 p.m. Fuentes sent a series of text messages stating that he was at school begging for help and another chance.**

Fuentes Returns Home

- **At 6:11 p.m. Fuentes texted his wife that he was coming home.**
- **At home, Fuentes was angry.**
- **He dressed in his military uniform**
- **He said he was going to UCIMC and they would call her to let her know what happened.**
- **Fuentes left with the gym bag.**

Report to SAPD

- **Classmate called SAPD: Fuentes had a gun and was going to injure himself**
- **SAPD called JD1 shortly after Fuentes left**
- **She walked outside and saw him in his car**
- **She gave SAPD a description of the car**
- **She told SAPD that Fuentes put a gun in his bag, was suicidal, and suffered from PTSD**

More Text Messages to JD1

- **Around 7:08 p.m. Fuentes drove out of the complex**
- **At 7:10 p.m. Fuentes texted his wife JD1:**

“Don’t report me or my plates to the police I will shoot at this point if they stop me. They will take me seriously.”
- **JD1 informed him that the police spoke to her and were heading to her residence.**

More Text Messages to JD1

○ **At 7:13 p.m. Fuentes texted his wife JD1:**

“Don’t set me up with the police I know you don’t want me in your life but if the cops show up it will not end will [sic] I lost everything. I’m coming back but loaded don’t set me up.”

Police Arrival

- **At 7:14 p.m. TPD Officers Timothy Carson and Michelle Jankowski were dispatched to the area.**
- **When they arrived, Fuentes' was in his vehicle stopped just inside the gate of the parking area.**

Police Arrival

- **As Officer Carson pulled into the alley, Fuentes began slowly driving his vehicle back and forth in the alley.**
- **Officer Carson turned on the emergency lighting of his vehicle and parked on the east side of the alley.**

Police Arrival (contin.)

- **Officer Jankowski stopped on the west side of the alley.**
- **Using PA told Fuentes to put his vehicle in park and put his hands up.**
- **Fuentes momentarily complied.**

Police Arrival (contin.)

- **Fuentes then put his vehicle in reverse and started backing away from the Officers.**
- **Fuentes then came to a stop and again raised his hands.**

Initial Contact

- **Officers Carson and Jankowski walked along the west side of the alley to better see Fuentes.**
- **They stood behind a car parked approximately 10 feet away.**
- **Fuentes' driver's side window was down.**

Initial Contact

- **The Officers, both wearing body cameras, tried engaging him in conversation.**
- **Fuentes made statements about wanting to die in his military uniform.**
- **Fuentes had a handgun in his right hand and was pointing the handgun to his head and under his chin.**

Initial Contact (contin.)

- **At approximately 7:20 p.m. TPD Officer Knostman arrived and began speaking with Fuentes about his background as a Marine.**

Initial Contact (contin.)

- **Fuentes told the officers:**
 - **put one in his head,**
 - **kill him and make it easier on them,**
 - **he was not going to hurt them,**
 - **he was only going to hurt himself.**

Fuentes Contacts his Father-in-Law

- **At approximately 7:22 p.m. Fuentes called his father-in-law and told him he was going to shoot himself.**
- **Over the course of multiple phone calls, Fuentes' father-in-law told Fuentes to surrender his gun to the police.**

Discussion with Fuentes' Wife

- **At about 7:33 p.m. TPD Officer Houle positioned his patrol car foreclosing Fuentes from backing out of the alley.**
- **Officer Houle met with JD1 and her father nearby.**
- **JD1 provided Officer Houle with background information about Fuentes.**

Discussion with JD1

- **Fuentes tried calling JD1 several times.**
- **Officer Houle took possession of JD1's cell phone**
- **JD1 and her father were asked to go to a command post located nearby.**

Additional Police Response

- **At 7:47 p.m. SAPD Officer Arroyo, who served in the Army, arrived to assist in the negotiation.**
- **Officer Arroyo positioned himself behind the right front fender of a nearby car.**

Additional Police Response

- **Officer Arroyo was exposed from the waist up.**
- **Officer Arroyo observed Fuentes' Glock gun.**
- **Officer Arroyo stated that his life was in danger throughout his negotiation with Fuentes.**

Fuentes' Behavior

- **Officer Arroyo took steps to develop rapport with Fuentes: he spoke on a personal level about family and children, left his gun on his belt, urged Fuentes to consider that he had much for which to live.**
- **Fuentes responded erratically, crying and yelling, putting the gun to his head, in his mouth, and pressing it against his neck.**
- **Fuentes ignored requests to put down his gun and exit the car.**

Fuentes' Behavior

- **Fuentes transitioned from calm to angry as the conversation with Officer Arroyo continued.**
- **Fuentes told Officer Arroyo he was on a mission to “end it.”**

Fuentes' Behavior (contin.)

- **Officer Arroyo concluded Fuentes was not going to surrender and intended to commit suicide or provoke the officers into shooting him.**
- **Fuentes would start his vehicle and back up several feet, continue talking, readjust his car again, and come to a stop to continue talking.**

Fuentes' First Gunshot

- **As it started getting dark, officers attempted to illuminate Fuentes with light from a police vehicle but this lighting was eased as a result of Fuentes getting agitated.**
- **Fuentes continued moving his car forward and backward stopping 10 to 15 feet away from Officer Arroyo.**
- **Fuentes asked to see his wife and was told that they first needed to make it safe for everyone.**

Fuentes' First Gunshot

- **Fuentes reacted by discharging his handgun inside his car and backing away.**
- **Officer Arroyo again told Fuentes that he needed to put the gun down and get out of the car.**

Fuentes' Second Gunshot

- **Due to Fuentes' insistence on seeing his wife, officers decided to obtain a recorded message from her to be played for Fuentes.**
- **Fuentes stated that he was not going to hurt the officers and just wanted to hurt himself.**

Fuentes' Second Gunshot

- **Officer Arroyo asked Fuentes if he needed medical attention but Fuentes did not respond.**
- **Approximately **four minutes** after firing his first shot, Fuentes discharged his handgun a second time.**

Fuentes' Behavior

- **Officer Arroyo reassured Fuentes that he wanted to help him and that Fuentes' safety was a top priority.**
- **Fuentes drove forward to within 10-15 feet of the officers.**
- **Fuentes threatened to shoot himself if his wife was not immediately brought to see him one last time.**

Fuentes' Behavior

- **Fuentes asked the officers to shoot him.**
- **Fuentes asked the officers if they would shoot him if he pointed his handgun at them and made a comment about killing himself.**

Fuentes' Third Gunshot

- About **two minutes** after firing his second shot, Fuentes fired his gun for a third time inside his car.
 - **All 3 shots fired toward the floor**
- Officer Arroyo concluded that producing JD1 would not resolve the crisis and would give Fuentes stronger motive to shoot himself in front of his wife.

Fuentes' Third Gunshot

- **During these latter stages of the negotiation, TPD Officer Michael Carter was positioned atop a carport north of Fuentes' vehicle.**
- **Officer Carter was armed with a rifle and he gave cover to negotiators who were positioned behind the nearby car.**

Police Strategy

- **Officer Carter turned on the flashlight mounted on his rifle and shined the light into Fuentes' vehicle.**
- **Fuentes backed the vehicle up several feet and stopped for several seconds.**

OCSD Helicopter

- **Fuentes pulled forward toward the officers stopping about 15-20 feet away.**
- **An OCSD helicopter arrived and orbited the area.**
- **Fuentes backed his vehicle up just south of the officers' position.**

OCSD Helicopter

- **Officer Arroyo pled with Fuentes to come back and give him the opportunity to help him and Fuentes drove his vehicle north and stopped.**
- **Officer Carter used the weapon mounted flashlight once again to shine into the interior of Fuentes' vehicle.**
- **After stopping his vehicle briefly, Fuentes backed up several feet and stopped.**

OCSD Helicopter (contin.)

- **Officer Arroyo told Fuentes they had a message from his wife.**
- **The OCSD helicopter illuminated Fuentes' vehicle.**
- **Fuentes opened his driver's door and placed his foot on the ground outside the vehicle.**

OCSD Helicopter (contin.)

- **Fuentes leaned out of his vehicle and appeared to look back.**
- **Fuentes re-entered his vehicle and backed up several feet before stopping again.**
- **The helicopter was requested to fly higher to decrease Fuentes' agitation.**

Continued Negotiations

- **Using a megaphone, the officers played a recorded message from Fuentes' wife.**
- **Officer Arroyo told Fuentes they will get him help and that he needed to come out of the car with his hands up.**
- **Officer Arroyo had been negotiating with Fuentes for approximately an hour and was beginning to lose rapport.**

Continued Negotiations

- **Corporal Estrada, who had been assisting and monitoring the negotiations, changed out Officer Arroyo with TPD Officer Robert Nelson.**
- **Officer Arroyo introduced Officer Nelson to Fuentes and Officer Nelson took over negotiations.**

Continued Negotiations

- **Officer Nelson asked Fuentes several times to talk to him, to put down his gun, and to exit the vehicle so he could get help.**
- **Officer Nelson saw Fuentes place the handgun to his head with his right hand.**

Fuentes' Behavior

- **Fuentes responded to Officer Nelson a few times but became quiet and told the officers to make sure the media did not make him out to be a bad guy.**
- **Fuentes held the gun to his head for roughly a minute before returning it to his waist area while driving forward.**

Fuentes' Behavior

- **This occurred roughly 20 minutes after Fuentes fired the last shot.**
- **As Fuentes pulled his vehicle up the Officers at the scene became more concerned for their safety.**

Fuentes' Behavior (contin.)

- **All the officers concluded that Fuentes was now attempting to position his vehicle in a location where he could shoot at them.**
- **When Fuentes stopped his vehicle, Corporal Estrada could see Fuentes' left hand on the steering wheel and Fuentes' right bicep.**

Fuentes' Behavior (contin.)

- **It appeared Fuentes had his right arm extended toward them but, from Corporal Estrada's vantage point, a view of Fuentes' hand was blocked by the doorframe.**
- **Corporal Estrada, unsure what Fuentes was doing, remained in his position.**

Officer Carter's Gunfire

- **From Officer Carter's vantage point atop the carport he could see the handgun in Fuentes' right hand at a 45 degree angle.**
- **Fuentes began to raise the gun.**

Officer Carter's Voluntary Statement

- **Officer Carter didn't fire immediately, unsure of whether Fuentes was going to point the gun back at his own head.**
- **Officer Carter saw the gun muzzle go past the driver's window panel and point toward the officers.**

Officer Carter's Gunfire

- **When the handgun was pointing towards the officers, Carter fired 2 to 3 shots in rapid succession.**
- **Officer Carter did not see Fuentes move and thought he missed.**

Officer Carter's Gunfire (contin.)

- **Fuentes' vehicle was still moving forward slowly.**
- **Officer Carter thought Fuentes was still a threat, still attempting to shoot officers, and still holding his gun.**

Officer Carter's Gunfire (contin.)

- **Officer Carter fired 3 to 4 more shots.**
- **Officer Carter no longer saw the handgun and took a standing position.**
- **Officer Carter continued to watch Fuentes inside the vehicle until a team of other officers moved in to extract Fuentes.**

OCFA Response

- **At 8:58 p.m. OCFA personnel were notified by the police they were clear to enter the scene.**
- **Police officers were already administering first aid and checking Fuentes for a pulse.**
- **Fuentes was lying on his back outside of the vehicle wearing military fatigues.**
- **Fuentes did not have a pulse and was not breathing.**

OCFA Response

- **OFCA personnel began CPR.**
- **Fuentes was taken by ambulance to the Orange County Global Medical Center arriving at 9:16 p.m.**
- **At 9:30 p.m. the attending physician pronounced Fuentes deceased.**

Relevant Videos

- Approximately 25 minutes**
- Shots Fired By Fuentes: 15:09;
16:45; 17:49**
- Message by JD1: 17:57**
- Shots Fired by Officer Carter:
20:30**



Carson BWC

Autopsy: May 17, 2017

➤ **Injuries found:**

- **A bullet wound on the left arm traveled from left to right striking both lungs and the heart.**
- **A bullet wound on the lower back caused spine and spinal cord injury.**
- **A wound on the right side of the head consistent with a graze wound with no indication it caused damage to the brain or skull.**

➤ **Cause of death: Gunshot Wounds.**

The Law

California Penal Code Section 197:

- **Provides that the use of deadly force by any person is justifiable when used in self-defense or in defense of others.**

The Law (cont.)

Graham v. Connor (1989) 490 U.S. 386:

- **The determination of reasonableness of an officer's use of force “must embody allowance for the fact that police officers are often forced to make **split-second judgements** - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation.”**

OCD A's Analysis

➤ **Was Officer Carter's use of force on May 16, 2017, without sufficient legal justification?**

➤ **Did Officer Carter act unreasonably under the circumstances?**

Conclusion & Findings

- ❑ **Evidence does not support finding that Officer Carter's conduct was criminally culpable.**
- ❑ **Officer Carter was justified in believing Fuentes posed a significant threat of death or serious injury to others.**

Conclusion & Findings

- **Extensive efforts to carefully negotiate with Fuentes and de-escalate his behavior transpired for over an hour.**
- **After these efforts failed and Fuentes shot his gun 3 times inside his vehicle, Officer Carter saw Fuentes point his gun in the direction of exposed officers.**

Conclusion & Findings (cont.)

- **Officer Carter's Actions were reasonable under the circumstances because he fired his weapon only after **two events** occurred which further increased danger to negotiators:**
- **First**, Fuentes advanced his car to a position where officers were gravely exposed.
- **Second**, Fuentes pointed his gun in the direction of these officers.

Conclusion & Findings (cont.)

- **A Jury analyzing the facts would correctly conclude that Officer Carter did not commit a crime.**
- **Officer Carter carried out his duties as a peace officer in a justifiable and reasonable manner.**

Conclusion

- **No evidence to support finding of criminal culpability for Officer Carter.**
- **The OCDA is closing its inquiry into this incident.**



