

# Sacramento Police Department

## Use Of Force Report

### Incident Details

<b>Date Received</b>	<b>Date of Occurrence</b>	<b>Time of Occurrence</b>
03/04/2016	03/04/2016	15:46
<b>Record ID Number</b>	<b>Report Number</b>	<b>IA No</b>
17861	16-63600	UOF2016-022
<b>Date/Time Entered</b>	<b>Entered By</b>	
03/10/2016 16:26	Police Sergeant Randall Van Dusen	
<b>Sacramento PD Blue Team Assigned Investigator</b>	<b>IAPro Assigned Investigator</b>	
[Pending assignment]	AA Thuy Nguyen #6502	

### Incident Summary

On 03/04/16, at approximately 1517 hours, Officers Wacker and Hensley responded to [REDACTED] Lytle St regarding a 273.5T with the victim calling from a neighbors home. Both Officers were in full police uniform and driving marked police cars. The call stated the victim's boyfriend had physically assaulted her, threatened to stab her, and broke her phone. The victim named the suspect as Sergio Avalos(11/16/94). While enroute to the call, Officer Wacker ran warrants/records checks of Avalos and viewed a mugshot. Avalos had remarks "[REDACTED] GENERAL CAUTION ADVISED, VIOLENT" on his rms. It should be noted that the street where this incident took place was wet, it was raining and vehicle traffic was continuous and within close proximity to officers attempting to take Sergio Avalos into custody. Officer Wacker's ICC recorded muffled audio due to rain and a jacket covering the mic but the incident was out of camera view(234654.av).

Officer Wacker arrived on scene at approximately 1546 hrs and attempted to make contact with the victim away from the suspect residence. Officer Wacker observed that Officer Hensley was mapping close to the location. Upon driving w/b Amherst St, Officer Wacker observed three subjects standing at the n/e corner of the 18th St and Amherst St. He immediately recognized one as Sergio Avalos. The other two subject's were Avalos's ex-girlfriend([REDACTED]) and her child.

Officer Wacker activated his ICC and contacted Sergio. Officer Wacker conducted a cursory search of Avalos and attempted to detain him in handcuffs due to the DV allegations. Avalos refused to comply with verbal commands to turn around. Officer Wacker attempted to place Avalos's right wrist in a twist lock in order to gain his compliance. Sergio ignored verbal commands to comply and tightened his right hand into a fist and pulled away. Sergio's mother(Ana Avalos-Jiminez 7/26/75) approached Officer Wacker and Sergio and began to yell in Spanish. Officer Wacker did not know if Ana was telling Sergio to resist arrest or comply.

Officer Wacker advised Sergio to stop and put his hands behind his back several times. Avalos eventually agreed to walk to the back of the patrol car. Once at the back of the car, Officer Wacker again asked Avalos to relax, turn around and place his hands behind his back. Avalos continued to refuse and attempted to pull away. Officer Wacker attempted to keep Avalos pinned against the rear of his patrol car with his body weight. As Officer Hensley arrived on scene, Avalos lunged away from the patrol car as if attempting to flee. Officers Wacker and Hensley took Avalos to the ground in order to handcuff him. Avalos continued to pull his hands away from officers and not comply with commands to put his hands behind his back. Avalos continually kicked his legs and feet as well as used his hands to grab at the officers to avoid being handcuffed. Officers Hensley and Wacker were unable to release their hold of Sergio to access their batons or CEDs. Due to the close physical contact with the suspect, OC was not a viable option. Based on the amount of resistance Avalos was showing, Officer Hensley performed a carotid control hold on him. The carotid control hold was temporarily successful and Officer Wacker was able to obtain one handcuff on Avalos' right wrist.

As Officer Wacker was attempting to handcuff Sergio Avalos' left wrist, the suspect's brother, Rodolfo "Danny" Avalos(05/18/97) approached officers as if he was going to assist his brother in the fight. Rodolfo had his hand in his front pants pocket as he approached and ignored commands to stay back. Fearing that the approaching suspect had a weapon, Officer Hensley released Sergio Avalos from the carotid control hold and directed his efforts to control Rodolfo Avalos who was approximately 10 feet away from officers.

Once Officer Hensley released Sergio Avalos from the carotid control, he began to instantly pull his hands away from Officer Wacker roll back and forth from his back to his stomach and attempted to crawl towards the middle of the road. Officer Wacker continued to give Avalos commands to place his hands behind his back and he refused.

Officer Hensley ordered Rudolfo Avalos to the ground at gunpoint. Upon Rudolfo removing his hand from his pocket a cell phone fell out that was later observed on video being picked up by his mother. Officer Hensley then attempted to handcuff Rudolfo. While attempting to handcuff Rudolfo, Ana Avalos-Jiminez(mother of suspects) entered the street and approached Officer Hensley. He ordered her back to the sidewalk and she initially complied.

Rudolfo ignored commands to put his hands behind his back and attempted to get to a knee to stand up. Due to the close proximity to the

suspect and being unable to access force options on his duty belt, Officer Hensley used several hand strikes on Rudolfo in order to gain compliance with negative results.

Ana then entered the street again and approached Officer Hensley, who was still on top of Rudolfo attempting to handcuff him. She yelled at him in Spanish and was observed on surveillance video reaching her hand out towards Officer Hensley at least three times before reaching out to touch his left shoulder, causing him to push her hand away from him while ordering her back to the sidewalk again.

Due to being unable to get Rudolfo into handcuffs, Officer Hensley then attempted to stand up with the suspect and use body weight to control him and push him into the back seat of his nearby patrol car. As Officer Hensley attempted to open the back door of his patrol car, Rudolfo pulled away. Fearing that the unsearched suspect may be attempting to pull away to retrieve a weapon, Officer Hensley attempted to gain compliance with a knee strike. Rudolfo pulled his right hand away from Officer Hensley and delivered a closed fist punch to the left side of Officer Hensley's face. Officer Hensley lost control of Rudolfo, who then fled on foot into [REDACTED] Lytle St.

\*\*\*\*\*COPIES OF ATTACHED FILES AND BT REPORT TURNED OVER TO DOJ AS PART OF THE PHASE 2 COOPERATIVE AGREEMENT\*\*\*\*\* P. Freeman #7767

During this entire time, Officer Wacker was still attempting to gain control of Sergio's arms in order to handcuff him with negative results. Officer Wacker advised he was severely fatigued, out of breath and was losing the little control of Sergio Avalos that he had. Officer Wacker then performed multiple elbow strikes to the back of Sergio's head in order to gain compliance. After the multiple elbow strikes he was successful in gaining control of Sergio and handcuffed him. Officer Hensley quickly returned after losing sight of Rudolfo and assisted Officer Wacker with placing Sergio in the back seat of his patrol car.

I responded to the scene. Medic 7 was staging and transported Sergio to Kaiser South Hospital for after force care due to the carotid control hold and swelling/redness to the right side of his face. Officer Burnham went with Sergio.

A perimeter was established around the residence and after numerous PA warnings requesting his peaceful surrender, Rudolfo exited was taken into custody without further incident. Rudolfo was later booked into main jail for 69 PC and 243(b) PC. Sergio was later cleared for incarceration and booked into main jail for 69 PC, 148(a)(1) PC, 243(e)(1) PC, and 591.5 PC. Ana Avalos-Jiminez was still on scene and taken into custody without incident. She was later booked for 148(a)(1) PC and 405(b) PC.

Officers Hensley and Wacker had minor scrapes, scratches and abrasions to their hands and knees from the struggle but did not require immediate medical aid. CSI took photographs of the scene, suspect injuries, and officer injuries.

Officers on scene conducted a neighborhood canvas and obtained witness and suspect statements. Surveillance cameras were observed on the front of [REDACTED] Amherst St but there was no answer during the canvas. Officer Hills responded back to the location on 3/5/16(16-63782) and obtained a copy of the video from the homeowner that was booked into evidence. The video clearly showed the entire contact and altercation but is too large of a file to attach to this review. ICC footage from Officer Wacker's vehicle was pointed in a direction that captured the initial contact and then only muffled audio during the altercation. Due to the fact that Officer Hensley was in close proximity to the call location he did not respond code 3 and did not have time to activate his ICC when exiting his patrol vehicle to assist Officer Wacker.

I responded to Kaiser South Hospital and made contact with Sergio Avalos in the emergency room. I advised him of his charges and asked if he had any questions or concerns for me. He advised he did not.

I reviewed Officer Wacker's ICC and video of the incident obtained from [REDACTED] Amherst St (time stamp off by approx 8 mins). Approximately 5 minutes passes from the start of the struggle with Sergio before he is detained in a patrol car. Other than minor discrepancies in Officer Hensley's written report regarding a take down being used and which side of his face Suspect Rudolfo punched, I observed the video to be consistent with the officer's observations and statements. The minor report discrepancies did not change the appropriateness of the force applied and are understandable due to the chaotic scene.

Based on the circumstances surrounding this incident, I believe the force used on both Sergio and Rudolfo Avalos was appropriate and consistent with Sacramento Police Department Policy.

#### Training Issues:

I watched the surveillance video with Officers Wacker and Hensley. I pointed out to Officer Hensley the minor report discrepancies I observed and we discussed how chaotic the scene was with multiple suspects and Ana's involvement. We further discussed the risk vs reward of the foot pursuit of Rudolfo and the benefit of quickly returning to assist Officer Wacker with Sergio.

## Incident Location

### Addresses

[REDACTED] Lytle Street, Sacramento, CA, 95832

- Location of Occurrence: 5 - South

## Use of Force Details

Reason For Using Force	Service Being Rendered	More Than 1 Citizen Involved
DV	Calls For Service	Yes

<b>Weather Condition</b>	<b>Light Condition</b>	<b>Distance to Citizen</b>
Raining		1 feet to 3 feet
<b>Citizen Injured</b>	<b>Citizen Hospitalized</b>	<b>Citizen Arrested</b>
Yes	Yes	Yes
<b>Citizen Build</b>	<b>Citizen Height</b>	<b>Citizen Influence Assessment</b>
Med	5'7" to 5'9"	Alcohol
<b>Officer(s) Injured</b>	<b>Officer(s) Taken to Hospital</b>	
Yes	No	

## Reporting/Involved Citizen

### Rudolfo Danny Avalos

**Date of Birth:** 05/18/1997 **Race:** White/Hispanic/Mid-East/East Indian (W) **Ethnicity:** Hispanic (Race: W) **Gender:** Male

#### Addresses

[Redacted Address]

**Phone Numbers** [None Entered]

**Role:** [None Entered]

#### Type of Resistance Citizen Used Against Officer

- Other Noncompliance
- Physical Resistance
- Punch/Kick

#### Injuries Sustained By Citizen

Injury	Region	Injury Location
Visible Injury		
Complaint of Pain		

#### Charges Against Citizen

- 148(a) PC - Misdemeanor
- Assault on Officer

## Sergio Avalos

**Date of Birth:** 11/16/1994 **Race:** White/Hispanic/Mid-East/East Indian (W) **Ethnicity:** Hispanic (Race: W) **Gender:** Male

#### Addresses

[Redacted Address]

**Phone Numbers** [None Entered]

**Role:** [None Entered]

#### Type of Resistance Citizen Used Against Officer

- Punch/Kick
- Physical Resistance
- Other Noncompliance

#### Injuries Sustained By Citizen

Injury	Region	Injury Location
Medical Clearance Required		
Complaint of Pain		
Visible Injury		

**Charges Against Citizen**

- Domestic Violence - Misdemeanor
- Other Misdemeanor
- 148(a) PC - Misdemeanor
- Assault on Officer

**Incident Officers****Police Officer Jason Wacker****Assignment at time of incident:** Police Officer OOF/DIST 5--S/PATROL [None Entered]**Role:** [None Entered]**Policy Outcome:** Not yet entered**Force used by this Officer against Citizen**

- Takedowns - Force Effective: No
- Pugalistic Hand Strike - Force Effective: Yes
- Physical-Other - Force Effective: Yes

**Less lethal force used by this Officer against Citizen**

Force Used	Force Effective	Region	Point of Contact
Takedowns	No		
Pugalistic Hand Strike	Yes		
Physical-Other	Yes		

**Injuries Sustained By Officer**

Injury	Region	Injury Location
COP/Brusing		

**Police Officer Jacob Hensley****Assignment at time of incident:** Police Officer OOF/DIST 5--S/PATROL [None Entered]**Role:** [None Entered]**Policy Outcome:** Not yet entered**Force used by this Officer against Citizen**

- Carotid Control Hold - Force Effective: Yes
- Pugalistic Hand Strike - Force Effective: No
- Physical-Other - Force Effective: Yes
- Twist/Wrist Lock - Force Effective: No
- Takedowns - Force Effective: No

**Less lethal force used by this Officer against Citizen**

Force Used	Force Effective	Region	Point of Contact
Carotid Control Hold	Yes		
Pugalistic Hand Strike	No		
Physical-Other	Yes		

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Twist/Wrist Lock No

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Takedowns No

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### Injuries Sustained By Officer

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Injury	Region	Injury Location
COP/Brusing		

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## Citizen Witnesses

### Ana Avalos-Jiminez

Date of Birth: 07/26/1975 Race: Hispanic Ethnicity: Unknown Gender: Female

Role: [None Entered]

#### Addresses

[REDACTED]

[REDACTED]

Phone Numbers [None Entered]

[REDACTED]

Date of Birth: [REDACTED] Race: White Ethnicity: Unknown Gender: Female

Role: [None Entered]

#### Addresses

[REDACTED]

Phone Numbers [None Entered]

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## Tasks

No tasks to show

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## Running Sheet Entries

No running sheet entries to show

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## Attachments

No Attachments

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## Assignment History

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Date/Time Sent	From	To	Activity
05/10/2016 10:38	AA T Nguyen #6502		Released back to IAPro

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## Chain of Command History

Routing Number: 1

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From

Police  
Sergeant  
Randall Van  
Dusen

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**To** Police Lieutenant-Exempt Lisa Hinz

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**Cc:**

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**Date/Time Sent** 03/13/2016 18:40

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**Instructions From [ Police Sergeant Randall Van Dusen ] To [ Police Lieutenant-Exempt Lisa Hinz ]**

Hi Lt. There is a surveillance video of this entire fight that has been booked into evidence. The file is too large to attach to this blue team as its over 50KB. I will burn it to a DVD to interoffice mail to you to watch. The ICC was pointed in the wrong direction and doesnt show a whole lot at all. Thanks! Randy

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**Comments/Response From [ Police Lieutenant-Exempt Lisa Hinz ]**

In your summary you note that Officer Hensley hit the brother several times. He only makes reference to one punch in his observations? You make note that there were several hand strikes. Why is there a difference? Also, why wasn't I advised of all of the various UOF at the scene. I was only aware of the carotid. Who did the knee strike? Is it covered in the obs? Are all of these force options noted on the red borders?

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**Routing Number: 2**

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**From** Reserve Police Offi 09002 Lisa Hinz

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**To** Police Sergeant Randall Van Dusen

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**Cc:**

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**Date/Time Sent** 03/24/2016 19:55

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**Instructions From [ Reserve Police Offi 09002 Lisa Hinz ] To [ Police Sergeant Randall Van Dusen ]**

Please call me

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**Comments/Response From [ Police Sergeant Randall Van Dusen ]**

Hi Lt. Im resubmitting per our conversation. Suspects in this case go back to court for further proceedings on 4/20. I will contact the DA this week as well and advise them of what we talked about. Thanks! Randy

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**Routing Number: 3**

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**From** Police Sergeant Randall Van Dusen

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**To** Police Lieutenant-Exempt Lisa Hinz

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**Cc:**

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**Date/Time Sent** 04/03/2016 23:57

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**Instructions From [ Police Sergeant Randall Van Dusen ] To [ Police Lieutenant-Exempt Lisa Hinz ]**

Resubmitting per our conversation. Ill contact the DA this week as well and advise them of the things we discussed. Thank you! Randy

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**Comments/Response From [ Police Lieutenant-Exempt Lisa Hinz ]**

UOF was within Policy

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**Routing Number: 4**

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**From** Reserve Police Offi 09002 Lisa Hinz

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**To** Police Lieutenant-Exempt Robert McCloskey

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**Cc:**

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**Date/Time Sent** 04/21/2016 21:34

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**Instructions From [ Reserve Police Offi 09002 Lisa Hinz ] To [ Police Lieutenant-Exempt Robert McCloskey ]**

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Please review and forward to Captain Peletta.

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**Comments/Response From [ Police Lieutenant-Exempt Robert McCloskey ]**

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I concur with Lt Hinz's findings that the UOF was justified and within policy.

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**Routing Number: 5**

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**From** Police Captain Robert McCloskey

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**To** Police Captain David Peletta

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**Cc:**

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**Date/Time Sent** 04/22/2016 21:29

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**Instructions From [ Police Captain Robert McCloskey ] To [ Police Captain David Peletta ]**

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Captain, please provide input and forward to PSU when complete. Thanks!

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**Comments/Response From [ Police Captain David Peletta ]**

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Very good surveillance of the incident captured by a residential system. No issues with the amount of force used to overcome the suspects resistance.

**Report Number: 2016-63600**

Please note that the records provided in this release do not include records or portions of records that are exempt from disclosure pursuant to applicable law. Without limiting other arguments against disclosure that may exist, the following records or portions of records are specifically prohibited or exempted from disclosure:

Records or information, the disclosure of which would compromise the anonymity of complainants or witnesses (Cal. Pen. Code § 832.7(b)(5)(B));

Records or information, the disclosure of which would constitute an unwarranted invasion of personal privacy (Cal. Pen. Code § 6254(c); see also *City of San Jose v. Superior Court* (1999) 74 Cal.App.4<sup>th</sup> 1008);

Records or information, the disclosure of which would pose a significant danger to the physical safety of the peace officer, custodial officer, or another person (Cal. Pen. Code § 832.7(b)(5)(D));

Records or information, the disclosure of which would reveal personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information (Cal. Pen. Code § 832.7(b)(6)); and

Records or information wherein the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure (Cal. Gov. Code § 6255(a));

Sacramento Police Department  
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