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## A PARTNER IN *EVERY* SENSE

**When a K-9 is stabbed its handler opens fire. It's not the first time.**



*For Police Issues by Julius (Jay) Wachtel.* There's no question that the 9-1-1 call merited an urgent response. Actually there were two calls, whose timing overlapped. Fullerton (Calif.) police released a [comprehensive video account](#) of the May 27, 2020 incident that includes conversations between 9-1-1, callers and field units. Here are a few extracts:

### First call

FPD 9-1-1, police

Caller Um, yeah...um, my emergency is my stepdad hit my brother, and they're fighting right now...He has a knife!  
Hurry up!

FPD Who has the knife?

Caller The owner of the house...stepdad...  
Hector Hernandez...come fast...  
(gunshot and screaming in background)

Caller He pulled out a gun on me. He just tried shooting!

FPD Where is Hector right now? Is he still in the house or is he outside?

Caller No. He is out in the courtyard screaming...He's just drunk...he's drunk

FPD And as far as you know, nobody's been injured?

Caller No



### Second call

FPD 9-1-1 Fullerton police; what is your emergency?

Caller Hello, I think I heard gunshots...

FPD Where? Where are you? Where are you? (caller provides address)

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FPD We have officers on the way there...How many gunshots...?

Caller ...please get in here...How many gunshots? Four or five...

## **Dispatcher to units**

We can hear screaming in the background now...

R/P (reporting party) is now saying the subject is armed with a gun. And fired the gun...

R/P's advising that the subject went back inside the house...

And we also have neighbors calling confirming shots fired...

They're advising Hector is inside the res...and his 8-year old and a 13-year old are also inside.

Fullerton's video includes footage from the K-9 officer bodycam. As he drives up Mr. Hernandez exits the residence and positions himself by the front door. Multiple officers are present as the K-9 cop takes the lead. He promptly releases "Rotar," who initially runs the wrong way. After redirecting the pooch, the officer points his pistol at Mr. Hernandez and follows behind. As the dog leaps on Mr. Hernandez the officer orders him to "get on the ground!" (third image). Instantly something bad happens (Mr. Hernandez stabs the dog.) The officer yells "let me see your hands!" and fires his gun (fifth image.) As Mr. Hernandez screams in agony the officer announces, "he's got a knife!" (sixth image) and fires again.



Mr. Hernandez writhes in pain. Officers run up and drag "Rotar" away. In a later clip the K-9 cop tells a colleague "I think [the dog] has been stabbed." When asked if the K-9

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is “OK” he replies “I don’t know. He was stabbed and then he [Mr. Hernandez] started going after me.” Of that we’ve seen no video. But there *was* a knife (see top graphic) and the dog’s wound (right graphic) *was* grisly. Fortunately, he survived and retired. And while it turned out that Mr. Hernandez hadn’t been carrying a gun on his person, police found the pistol he had fired inside the home.



Alas, such things have happened before. [In February, 2020 Saginaw \(MI\) police were summoned to a home](#) where a mentally ill man held a housemate at knifepoint. Officers physically tangled with the assailant and freed his companion. But despite being stunned with a Taser, the knife-wielding man broke loose and retreated deep into the home. A K-9 was sent in to flush him out. But when the dog took him down, the evildoer stabbed him in the head. Knife in hand, the suspect started to rise. That’s when an officer shot him dead. Prosecutors ruled the killing “justified and consistent with preservation of self and others”:

Officer Adams was within reach of Blaisdell, Blaisdell remained in control of a large knife, he had just stabbed a police canine with the knife, and his movements indicated that he was attempting to get up from the ground. Officer Adams reported that he was in fear for his own safety; Officer Engelhart reported that he feared for Officer Adams’s life.

Still, the assailant’s mother sued, [and the city ultimately settled](#) for \$510,000.

Saginaw’s K-9 recovered and returned to the job. Alas, not K-9 “Aren.” In January 2016 [he was stabbed and killed by an angry, knife-wielding man](#) during a ferocious fight with officers in Wilksburg (PA). They, too, wound up shooting and killing the man, [and prosecutors deemed their actions justified](#). Family members [filed a Federal lawsuit](#). Although a trial judge tossed it out, an appellate court questioned the cops’ lethal response and reinstated the case, which is apparently still pending.

Back to Fullerton. On July 21, 2021, fourteen months after Mr. Hernandez’s death, [Orange County prosecutors issued](#) a highly detailed, sixteen page report. Here's an extract:

As Corporal Ferrell reached with his left hand towards Rotar to get Rotar off the bite, Corporal Ferrell physically reacted to seeing the knife...Corporal Ferrell jerked his body away from Rotar and Hernandez. This is when the first shot was fired by Corporal Ferrell. At the time of the shot, Corporal Ferrell was less than one foot away from Hernandez and within arms’ reach of Hernandez [thus] close enough to be stabbed...The BWC shows Corporal Ferrell yelled, “He’s got a

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knife!” Corporal Ferrell was still within...arm’s reach of Hernandez when he fired the second shot...

Prosecutors arrived at essentially the same conclusion as their colleagues in Michigan and Pennsylvania:

Hernandez’ conduct captured on BWC would prevent the prosecution from proving beyond a reasonable doubt that Corporal Ferrell was not justified in believing he was in imminent fear of suffering great bodily injury and/or death at the time he discharged his service weapon.

[Mr. Hernandez’s family was outraged](#). Their lawyer, Garo Mardirossian, who represents them in a lawsuit, argued that Mr. Hernandez never posed a threat to the officer. Instead, he was just trying “to protect himself from being mauled by a dog”:

He’s just got his hands up the whole time, then they release the dog...A 2-inch or 3-inch pocket knife in your pocket is not illegal. And even then, he did not touch that pocket knife and pull it until after the dog was mauling him. And you have a right to grab whatever you can...to stop excessive, illegal use of force against you...

Bill Brown, a friend of Mr. Hernandez and member of the “Justice for Hector Hernandez coalition” argued that the K-9 officer only fired because of what was



happening to his dog:

“I mean he just got totally reckless because it was like he just got tunnel vision. He focused on, ‘Oh, my God, he’s hurting my dog, I’m gonna stop him now ...’ That’s exactly what it seems like happened — he lost all control of his training and reasonable thinking and just decided, I need to do this.”

Mr. Brown’s assessment isn’t unreasonable. After all, if someone is stabbing your pet, and you have a gun in hand, what might you impulsively do? Yet police had been called because Mr. Hernandez was acting crazy and firing a gun. Every officer on scene must have worried that he was still “packing.” Canine handlers are especially exposed to harm. [That’s why the IACP urges](#) that they be accompanied by a “cover officer”:

...the cover officer is usually responsible for providing cover while the handler devotes his or her concentration to the activity of the canine...Cover officers are essential if the suspect is located because the handler alone cannot safely secure

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both the canine and suspect or manage the canine while conducting a search of the suspect...(p. 12)

Fullerton's K-9 handler seemed eager to seize the opportunity to collar the man. Had he waited Mr. Hernandez might have gone back in the house, endangering its occupants and making his capture far more risky and problematic. So he essentially rushed in with just his canine partner. That was inherently dangerous, so he kept his pistol trained on Mr. Hernandez. Such tactics cut both ways. As we mentioned in "[Speed Kills](#)", examples abound of lethal errors committed by cops in a hurry. Officer personalities and skill sets also vary. Cops who are "easily rattled, risk-intolerant, impulsive or aggressive" are use-of force disasters waiting to happen.

However, we're just speculating. Fullerton PD's [published rules for canine deployment](#) don't mention the use of cover officers. We also know nothing about this K-9 cop. Whether things might have turned out more peaceably in another agency or with a different dog handler is impossible to say. What *can* be said is that when assessed from the perspective of [Graham v. Connor's](#) "reasonable officer," Mr. Hernandez's behavior clearly set the stage for a tragic ending. Perhaps a poor outcome was inevitable; perhaps not. But sometimes you really, *really* can't simply blame it on the cops.