



**ERNIE SALDIVAR
OFFICER-INVOLVED DEATH
PUBLIC REPORT**

Case Type: OFFICER INVOLVED SHOOTING

RPD Case No. P18-044194
Riverside County Sheriff's Case No. JV18-0670133

THURSDAY, MARCH 08, 2018

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Date of Incident: March 08, 2018 – Approximately 1630 Hours

Location: 9931 Willowbrook Street, Jurupa Valley, Riverside County, CA

Decedent: Ernie Saldivar M 08/06/1986 (31-years)

Involved Officer(s): Officer Evan Wright #1453
Officer Abel Soria #1567

I. Preamble:

The finding by the Community Police Review Commission (“Commission”) as stated in this report is based solely on the information presented to the Commission by the Riverside Police Department (“RPD”) criminal investigation case files, and follow-up investigative report submitted by CPRC Independent Investigator, Mike Bumcrot, of “Mike Bumcrot Consulting,” Norco, California.

II. Finding:

On June 24, 2020, by a vote of 7 to 0 (1 vacancy and 1 absence), the Commission found that the officer’s actions were consistent with RPD policy (Section 300 – Use of Force Policy), and circumstances determined through the Commission’s review and investigation.

Smith	Evans	Huerta	DeBrier	Berrellez	Levine	Teichert	Hirales	Vacant
✓	✓	✓	✓	✓	✓	✓	Absent	

III. Standard of Proof for Finding:

In coming to a finding, the Commission applied a standard of proof known as the “Preponderance of Evidence.” Preponderance generally means “more likely than not,” or may be considered as just the amount necessary to tip the scale. The Commission need not have certainty in their findings, nor do they need to support their finding “beyond a reasonable doubt.” The Preponderance of Evidence standard of proof is the same standard applied in most civil court proceedings.

IV. Incident Summary:

On March 8, 2018, Riverside Police Officer Evan Wright was preparing to begin his shift when Riverside Police gang team member, Detective Adcox, who asked Officer Wright for assistance, approached him. Detective Adcox advised that he was looking for a known Eastside Riva gang member, Ernie Saldivar, who was wanted for an attempted murder,

involving a handgun, which had occurred in 2017, and he also had a warrant for a parole violation and was a parolee at large.

Detective Adcox further advised that he had received information that Mr. Saldivar was staying at 9931 Willowbrook Road, in the county area of Jurupa Valley, and he may be armed with a handgun. Officer Wright was aware Mr. Saldivar was a fugitive and had been present on at least five occasions when Metro/ SWAT had been involved in efforts to locate and arrest him.

Officer Wright briefed his Metro/SWAT team members and it was decided to set up surveillance on the location, in an attempt to arrest Mr. Saldivar. Officers Evan Wright, Abel Soria, and Sancho Lopez responded to the location in an unmarked police vehicle and parked near the residence. Officers Jeffrey Pap and Henry Park responded in a marked Riverside Police vehicle and parked in the vicinity. These officers were to be used if Mr. Saldivar drove away and they would make a traffic stop. Officer Robert Monreal drove to the scene in an unmarked vehicle and was to be used as a backup, if needed. It should be noted that all officers were wearing load- bearing vests with POLICE on the right front, a cloth badge on the left front, and POLICE across the back.

Upon arrival at the scene, the officers saw that the overhead garage door was open. After approximately 20 minutes, Officer Wright saw two males and a female walking in and out of the garage and into the residence. With the aid of binoculars, Officer Wright believed one of the males was Mr. Saldivar based upon a tattoo across the front of the neck of one of the males.

While Officer Monreal took point, the officers in the van drove to meet with Officers Park and Pap. They established a plan to approach the garage and make personal contact, which was approved by Officer Park, the supervisor on scene. All officers drove their vehicles to the location and as Officer Pap walked to the front door, all other officers walked towards the garage, led by Officer Wright and followed by Officer Soria who was designated less lethal, armed with a 40mm.

The officers identified themselves and a male and female, whose names were redacted from the crime report, were detained without incident. Mr. Saldivar began to move towards the interior garage door and he was ordered to stop and show his hands. Instead, he reached for his waistband or pockets and began to run towards the door leading to the interior of the residence. Fearing that Saldivar was arming himself with a weapon, Officer Wright fired two shots at him. Once inside the house, Saldivar fell to the ground, face first, but continued reaching towards his waist area. Saldivar began to turn his body towards Officer Wright who then fired several more gunshots at Saldivar, causing him to stop moving. The officers administered first aid until paramedics arrived.

Officer Wright stated that based on Mr. Saldivar's criminal history, and his actions at the time he was contacted by the police, he believed Saldivar was arming himself and was going to assault him or his team members. Officer Soria added that as Saldivar was running into the house, he continually reached towards his pocket area as if trying to retrieve something. Officer Soria believed he was reaching for a gun and followed Saldivar into the residence, shouting for him to stop. Saldivar did not comply and

continued to reach towards his waist area and looked directly at Officer Soria. Fearing Mr. Saldivar was trying to arm himself and would harm one of the officers, he fired two shots at him.

Continuing further in to the residence, Saldivar again turned and faced Officer Soria while reaching in to his pocket. Officer Soria then fired 5-6 more shots at Saldivar who then fell to the ground. After Mr. Saldivar had been shot, Officer Monreal approached him and rolled him onto his left side in a “recovery position.” He searched Saldivar and found a .380 pistol one of his front pants pocket. The weapon appeared to be tangled up in a pocket of a second pair of shorts Saldivar was wearing. Officers Monreal and Pap then cleared the weapon and placed it in a safe position to await detectives.

V. CPRC Follow-Up:

The Commission requested a cover to cover review of the Criminal Casebook by CPRC Independent Investigator Mike Bumcrot of Bumcrot Consulting, located in Norco, California.

Mr. Bumcrot is a nationally recognized expert in homicide and Officer Involved Death cases. His resume is available for review. The purpose of this review is for Mr. Bumcrot to provide the CPRC with his opinions and conclusions on the entire criminal investigation conducted by members of the Riverside County Sheriff’s Department based upon his experience and expertise. Mr. Bumcrot felt that the investigation conducted by the Riverside County Sheriff’s Department was thorough and all evidence collected and preserved was completed accordingly and within best practices of homicide investigations.

VI. Evidence and Methodology:

The relevant evidence in this case evaluation consisted of a complete review of the Riverside County Sheriff’s Criminal Casebook as well as supplemental reports prepared by members of RPD. To include statements from witnesses, statements from the officers involved in the shooting, California Fire and American Medical Response. In addition, a Deputy Coroner investigation and autopsy report, along with police reports and photographs, forensic examination results and a report by the independent CPRC investigator.

VII. Applicable RPD Policy(s); Penal Codes and Case Law:

RPD – Policy Manual, Policy 300

USE OF FORCE

Policy 300.3, Use of Force

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time...

Policy 300.3.2, Use of Force Factors

(a) Immediacy and severity of the threat to officers and others; (b) conduct of the

individual being confronted; (e) suspect's mental state or capacity; (f) proximity to weapons; (k) potential injury to officers, suspects and others; (l) whether person appears to be resisting, evading, or attacking; (m) risk and reasonable foreseeable consequences of escape; (q) any other exigent circumstances

Policy 300.4 – Use of Deadly Force

300.4 DEADLY FORCE APPLICATIONS

If an objectively reasonable officer would consider it safe and feasible to do so under the totality of the circumstances, officers should evaluate the use of other reasonably available resources and techniques when determining whether to use deadly force. The use of deadly force is only justified in the following circumstances (Penal Code § 835a): (a) An officer may use deadly force to protect him/herself or others from what he/she reasonably believes is an imminent threat of death or serious bodily injury to the officer or another person. (b) An officer may use deadly force to apprehend a fleeing person for any felony that threatened or resulted in death or serious bodily injury, if the officer reasonably believes that the person will cause death or serious bodily injury to another unless immediately apprehended. Where feasible, the officer shall, prior to the use of force, make reasonable efforts to identify themselves as a peace officer and to warn that deadly force may be used, unless the officer has objectively reasonable grounds to believe the person is aware of those facts.

Officers shall not use deadly force against a person based on the danger that person poses to him/ herself, if an objectively reasonable officer would believe the person does not pose an imminent threat of death or serious bodily injury to the officer or to another person (Penal Code § 835a). An "imminent" threat of death or serious bodily injury exists when, based on the totality of the circumstances, a reasonable officer in the same situation would believe that a person has the present ability, opportunity, and apparent intent to immediately cause death or serious bodily injury to the officer or another person. An officer's subjective fear of future harm alone is insufficient as an imminent threat. An imminent threat is one that from appearances is reasonably believed to require instant attention.

Other Applicable RPD Policy(s): (Refer to RPD Policy Manual)

307 Investigation of officer Involved Shootings and Incidents Where a Death or Serious likelihood of Death Results

California Penal Code § 835a states:

"Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an

arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.”

People v. Turner, 2 Cal.App.3d 632 (1969), the right of police officer to assure his own safety during the course of an investigation is not limited to disarming the person immediately before him. The officer may do anything reasonably necessary to neutralize the threat of physical harm.

Graham v. Connor, 490 U.S. 396 (1989), considered the reasonableness of a police officer’s use of force, and instructed that the reasonableness must be judged from the perspective of a reasonable officer on scene.

VIII. Rationale for Finding – Within Policy:

Upon review, analysis and deliberations of this incident, the Commission concluded that the use of deadly force by the officers involved was within the RPD Policy on Use of Force/Deadly Force as well as within the Penal Code laws in the State of California and case law under the Graham v. Conner court decision (490 U.S 396 1989).

On site surveillance further positively identified that the suspect was on the property. Uniformed officers approached the suspect and identified themselves. The officers responded accordingly when Saldivar appeared to reach for his firearm, after having been ordered to stop and show his hands. The Commission felt it important to rationalize that the suspect was afforded ample opportunity to de-escalate, but instead chose to engage. Subsequent questions to investigators during open session satisfied Commissioners that officers had a clear field of vision to observe Saldivar’s actions after he had been afforded ample opportunity to respond to orders.

RPD had previous information from a Confidential Informant (CI) that suspect Saldivar was armed before executing the warrant for his arrest. Suspect at one point reached for his pocket or area of where gun was uncovered when officers were attempting to make the arrest. Suspect was believed to have committed a public offense, attempted murder.

IX. Recommendations:

None.

X. Closing:

The Commission offers its empathy to the community members, police officers, and City employees who were impacted by the outcome of this incident, as any loss of life is tragic, regardless of the circumstances.

APPENDIX

Mike Bumcrot Consulting Report of Investigation

Section A

RPD Policy 300 / Policy 300.3, Use of Force; **Policy 300.3.2**, Use of Force Factors; **Policy 300.4**; **Policy 307** Investigation of officer Involved Shootings and Incidents Where a Death or Serious likelihood of Death Results

Section B