

# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** July 8, 2020

**SUBJECT:** Officer Involved Shooting Death of Ernie Saldivar, which occurred on March 8, 2018, at 1735 hrs.

**CASE:** Riverside Sheriff's Department File #P18-0670133

**LOCATION:** 9931 Willowbrook Road, Jurupa Valley

On July 2, 2020, I was asked by Riverside Assistant City Manager Brandi Becker to review the circumstances surrounding the Officer Involved Shooting death of Ernie Saldivar, by members of the Riverside Police Department Metro/SWT team. Because the incident occurred in the jurisdiction of the Riverside Sheriff's Department, who investigated the incident, I was not asked to provide my expert opinion on the manner in which the shooting was investigated. But, I must say, the entire investigation was thorough and complete and exceeded police standards and practices. I received police reports, photographs, audiotapes and other documents contained in the presentation by the Riverside Police Department to the Riverside Community Police Review Commission. I also reviewed legal and medical issues. To assist me in understanding all of the documentation, I had previously responded to the location and referred many times to the excellent crime scene sketches. After my review of this incident, it is my expert opinion that Officers Evan Wright and Abel Soria, acted in lawful self-defense and in defense of each other when they fired their duty weapons at Ernie Saldivar. See Conclusion Section.



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The following analysis is based on reports prepared by the Riverside Sheriff's Department, statements of Officers Wright and Soria, as well as civilian and police witnesses who provided statements.

## FACTUAL ANALYSIS

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 5 occasions when Metro/ SWT had been involved in efforts to locate and arrest him.

Officer Wright briefed his Metro/SWT 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 undercover van, and parked nearby, watching 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 undercover Honda and was to be used as a backup, as 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, it was noted that the overhead garage door was open. After about 20 minutes, Officer Wright, saw two males and a female walking in and out of the garage and in to 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.



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While Officer Monreal took point, the officers in the van drove to meet with Officers Park and Pap. A plan was decided on to 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, 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 house. Fearing he was arming himself with a weapon, Officer Wright fired two shots. Once inside the house, Mr. Saldivar fell to the ground, face first, but continued reaching towards his waist area. Mr. Saldivar began to turn his body towards Officer Wright who then fired several more gunshots at Mr. Saldivar, causing him to stop moving. Aid was then administered 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 Mr. Saldivar was arming himself and was going to assault him or his team members.

Officer Soria added that as Mr. Saldivar was running in to 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 Mr. Saldivar inside the residence, shouting for him to stop. Mr. Saldivar 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, Officer Soria fired 2 shots at him. Continuing further in to the residence, Mr. Saldivar again turned and faced Officer Soria while reaching in to his pocket. Officer Soria then fired 5-6 more shots and Mr. Saldivar 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 then searched him and found a .380 pistol in a front pocket. The weapon appeared to be tangled up in a pocket of a second pair of shorts Mr. Saldivar was wearing. Officers Monreal and Pap then cleared the weapon and placed it in a safe position to await detectives. Refer to the below scene sketch.



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File No.: JV18-067-0133  
 Date: March 08, 2018  
 Crime: AOD- Officer Involved Shooting  
 Location: 9931 Willowbrook Road, Junupa Valley  
 Officer: Investigator Manjarrez #3662  
 Drawn by: FT II Whaley #N5937  
 Riverside Sheriff's Forensic Services

Evidence:  
 1- Hat  
 2- Cell phone  
 3- Cell phone  
 4- Keys  
 5- Beer can  
 6- Beer can  
 7- Beer can  
 8- Beer can  
 9- Beer can  
 10- Expanded casing  
 11- Expanded casing  
 12- Cell phone with charger  
 13- Jacket  
 14- Cell phone  
 15- Glass pipe  
 16- Unknown substance  
 17- Expanded casing  
 18- Expanded casing  
 19- Expanded casing  
 20- Expanded casing  
 21- Expanded casing  
 22- Expanded casing  
 23- Expanded casing  
 24- Expanded casing  
 25- Expanded casing  
 26- Projectile  
 27- Copper jacking with possible blood  
 29- Possible blood  
 30- Projectile, not measured  
 31- Handgun

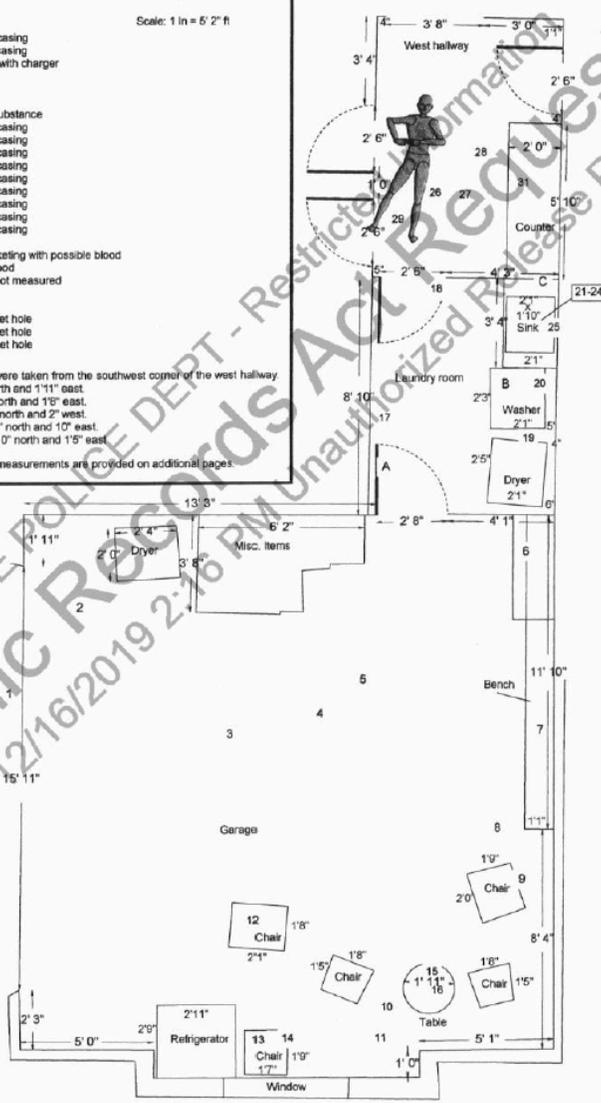
A- Possible bullet hole  
 B- Possible bullet hole  
 C- Possible bullet hole

Body:  
 Measurements were taken from the southwest corner of the west hallway  
 Head- 5'10" north and 1'11" east  
 Left foot- 1'4" north and 1'8" east  
 Right foot- 1'7" north and 2" east  
 Right hand- 5'2" north and 10" east  
 Mid-section- 4'10" north and 1'5" east

\* Evidence and measurements are provided on additional pages.



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At a post mortem examination, it was determined that Mr. Saldivar had multiple gunshot entry wounds:

Gunshot wound to left shoulder

Gunshot wound to center of chest

Gunshot wound to right lateral side

Gunshot wound to right hip

Gunshot wound to mid-back, above a tattoo

Gunshot wound to right back, next to tattoo

He also had numerous entry/exit gunshot wounds:

Gunshot wound to chest with exit in right shoulder

Gunshot wound to left back with exit to left upper abdomen

Gunshot wound to left hand, entry to palm, exit to top of left hand

Gunshot wound to right outer forearm, exit to right inner forearm

The pathologist found injuries to lungs, heart, and liver. He also noted that the injuries were unsurvivable.

## EXPERT QUALIFICATIONS

### Experience

1968-2018

Los Angeles Sheriff Department

### Deputy Sheriff/Detective

- 50+ years on Sheriff Department.
- 43+ years as a Detective.
- 38+ years assigned to Homicide Bureau, investigated several thousand murders and suspicious deaths, over 100 Officer Involved Shootings, and 10 murdered Police Officer cases.



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- Taught “High Profile Murder Investigations”, “Crime Scene Management”, and “Officer Involved Shooting Investigations” for the Robert Presley Institute of Criminal Investigation, police academies, advanced training classes, supervisor training, college classes, homicide school, and in service training.
- Selected in 1995 as California Deputy Sheriff of the year by the California Organization of Police and Sheriffs (COPS) for the investigation, arrest, and conviction of a suspect for the murders of 2 local policemen.
- In my final Performance Evaluation, prior to my retirement in 2002, Command Staff evaluated my performance as outstanding and I received the following recognition: “... his protégées struggle to keep up with this legend of the Homicide Bureau. He truly is a master of his craft.”

“His stated goal is to be one of the best Homicide Detectives at the Bureau and he has certainly achieved that aspiration. He works tirelessly at his vocation, providing knowledge and insight to all of those who work with or around him. Many inexperienced investigators have approached me and expressed awe of his ability to sort through the myriad of details at a crime scene, isolate the ones worthy of consideration to the case at hand then discard those that obfuscate the issues.”

“In the opening paragraph I made mention that Detective Bumcrot has become a legend of the Homicide Bureau. This is not merely a complementary statement, it is a fact. His name has spread far and wide within the law enforcement and related communities. He is constantly called upon to lecture to a variety of groups about homicide related topics.”

Regarding Officer Involved Shootings, “He handles each case with the political delicacy, yet bulldog tenacity, that is



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necessary in these types of incidents. The crime scenes at events such as these are always chaotic, yet Detective Bumcrot's controlled approach and authoritative demeanor has a calming effect on those present, allowing him to bring order to bear and providing a sense of security to those involved in the operation."

"In conclusion, Detective Bumcrot is the epitome of what a homicide detective should be. He not only sets high standards for himself, he demands that all of those around him achieve success and carry on a tradition of excellence..."

- After retirement in 2002, I worked with LASD Homicide Bureau on a consulting contract to make recommendations regarding the investigation and prosecution of complex homicide cases; provided active support during large scale, complex, highly publicized cases; provided training in homicide and officer involved shooting investigations; and reviewed unsolved homicide cases. During these cold case reviews, I was responsible for reviewing over 4,000 unsolved homicide cases to determine which investigations had DNA or latent print evidence that, due to recent advanced technology, may assist in solving the case. This resulted in the closure of many cases, some several decades old. In 2014, I was tasked with writing the investigative guidelines for officer involved shootings for the LASD Homicide Bureau. In 2018, I retired completely from LASD Homicide Bureau.

## 2002-Present

- Currently on staff with the Police Policy Studies Council, which was established, to formulate innovative solutions to the most troubling and controversial problems that have



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continued to plague the law enforcement community. PPSC offers training and forensic level consultation.

- Currently working with Riverside Police Review Commission to investigate Officer Involved Deaths.
- Consulted with Police Agencies throughout the nation on Officer Involved Shootings investigations as well as homicide and suspicious deaths.
- Continuing to teach “Crime Scene Management”, “High Profile Murder Investigations”, and “Officer Involved Shooting Investigations” at homicide school, police academies and in-service training as a guest speaker.
- Alumni of the New York State Police International Homicide School.
- Active member of the California Homicide Investigators Association.
- Recipient of the LASD Medal of Distinguished Service.

## INVESTIGATION AND REVIEW

The Riverside Sheriff’s Department, the Riverside County District Attorney’s Office, and the Riverside County Medical Examiner’s Office conducted the investigation into the officer involved shooting death of Ernie Saldivar. I reviewed all of the reports and photographs submitted to the Community Police Review Commission and researched both legal and medical issues.

## LEGAL ANALYSIS

California law provides that the use of deadly force in self-defense or in defense of others is justifiable if the person claiming the right of self-defense or the defense of others honestly believes that he or others were in imminent danger of great bodily injury or death, and a reasonable person in the same circumstances would also deem it



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necessary to use deadly force in order to protect themselves or others from the deadly peril. Cal. Penal Code 197; People v Humphrey (1996) 13 Cal. 4<sup>th</sup> 1073, 1082; CALCRIM No. 505

The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight...The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. Graham v Connor (1989) 490 U.S. 386, 396-397.

In Graham, the United States Supreme Court held that the reasonableness of the force used “requires careful attention to the facts and circumstances of each particular case.” “Thus we must avoid substituting our personal notions of proper police procedures for the instantaneous decision of the officer at the scene. We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes “reasonable” action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” Smith v Freland (6<sup>th</sup> Cir. 1992) 954 F.2d 343, 347

In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 3470. If the person’s beliefs were reasonable, the danger does not need to have actually existed. Id.

## CONCLUSION

The evidence examined in this case reveals that Ernie Saldivar was wanted for attempted murder and was a parolee at large. He was also armed with a .380 handgun, which is another felony, ex-felon with a gun.



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Riverside Police Officer Evan Wright was given information from Riverside Police gang detective Brian Adcox that Ernie Saldivar, a wanted felon, was believed to be staying at the location and may be armed. Officer Wright and his fellow Metro/SWT members responded to the location and set up surveillance, in an attempt to verify Mr. Saldivar's presence. When Mr. Saldivar was observed sitting in the garage with another male and a female, a plan was devised to make contact with him. Each officer was assigned a task, which included Officer Soria arming himself with a less lethal device. As officers entered the garage, they identified themselves and the male and female immediately complied with their commands. Mr. Saldivar chose to not only run from the officers, he attempted to pull a .380 handgun from beneath his clothing. If not for the fact that the weapon hung up in his clothing, there is little doubt that Mr. Saldivar would have attempted to shoot at the officers.

The actions of Ernie Saldivar and the fact that he was attempting to arm himself, reasonably created a fear of imminent death or serious bodily injury. Once Officers Wright and Soria perceived that Mr. Saldivar posed a lethal threat, their response with deadly force was justified.



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