

# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** January 2, 2013

**CASE:** Riverside Police Department File #P12003517

**SUBJECT:** Officer Involved Shooting Death of David Ledezma which occurred on January 7, 2012

**LOCATION:** 10745 Cypress Ave., Riverside

On December 20, 2012, I received a written request from Frank Hauptmann, Manager of the Community Police Review Commission, to review the circumstances surrounding the Officer Involved Shooting death of David Ledezma. I was also asked to provide my expert opinion in a written report on the manner in which the case was investigated by the Riverside Police Department.

I reviewed hundreds of pages of police reports, photographs, and other documents contained in the presentation by the Riverside Police Department to the Riverside Police Review Commission. I also researched legal issues and drove to the scene and talked with the Ledezma family to better understand the incident.

### **CASE SYNOPSIS**

On January 7, 2012, at 4:10 PM, Riverside Police Officers Jeff Putnam and Ramon Espinosa were assigned to assist Officer Paul Miranda and Police Explorer Martin Martinez regarding a family disturbance, possible domestic violence call at the location.

Officer Miranda arrived first and contacted Rebecca Ledezma whose hair was messed up and her nose was bleeding. Rebecca said that her husband David had punched her



P.O. Box 5025  
Norco, CA 92860  
USA

PHONE (951) 733-2062  
E-MAIL [mbumcrot@sbcglobal.net](mailto:mbumcrot@sbcglobal.net)

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in the face and pulled her hair. Rebecca pointed to David, down a long driveway, removing items from the trunk of a car.

When assisting officers arrived, they all began to walk towards David. They had asked him to walk to them, however, he refused. He was characterized as angry and aggressive by the officers. David had several tools in his hands and was ordered to drop the items. He reached in his pants pocket and withdrew a folding knife, opening it and placing it to his throat. He threatened to kill himself and stated, "Fuck you. Just shoot me". Officers Miranda and Espinoza drew their handguns and Officer Putnam pulled out his taser. The officers were within 20 feet of David and would later state that they were afraid that he could charge at them with the knife.

After several commands to drop the knife, David threw it down and picked up a metal pipe. He then threw the pipe at the officers, in a "tomahawk" fashion. Officer Putnam fired his taser at David, however, only one dart made contact as the second dart sailed over his head, causing the weapon to be ineffective.

David then picked up another pipe, raised it over his head, and advanced towards the officers. There are conflicting reports as to whether the second pipe was actually thrown, however, all of the officers feared being injured or killed by the blunt force objects and the three officers fired a total of eighteen rounds at David, striking him in the chest once and legs three times.

Subsequent investigation revealed that on the day of the incident, David and Rebecca Ledezma had attended a memorial car wash where David consumed about twelve beers. A friend had told Rebecca that David was being unfaithful to her and on the drive home, they argued. Rebecca also said David struck her several times in the face and head, causing her nose to bleed. When she attempted to call police for help on her cell phone, David took it from her. She then tried to roll her window down to scream for help but David used the window controller to lock the windows. David drove fast and unsafe



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and when they arrived home, she saw her niece, Yvonne Delacruz, and asked her to call the police.

When the police arrived, she heard David shout "What are you going to do about it". She was told to remain by the front door as the officers walked towards the back. She then heard gunshots but didn't see the shooting.

Rebecca said that David drank several beers a day and was an alcoholic. She also admitted to domestic violence problems but added that this was the worst she had ever seen David act.

Yvonne Delacruz said that she was at the location when the Ledezma's returned home. She saw them drive "very fast" in the driveway and saw Rebecca bleeding from the nose. Yvonne was asked to call the Police and while she was on the phone, she heard glass breaking and David yelling. When officers arrived, she looked towards David who was holding a knife. She saw David throw something at the officers from 5 - 7 feet away and the officers were yelling at him. David then picked up a metal pole and "chucked" it toward the officers. It was her opinion that the 2 - 3 foot metal pole was thrown with the intent to strike the officers. David then bent down to pick up another item and she turned away and heard a taser followed by about 15 gunshots. Yvonne noted that the police commands got louder and more intense.

Yvette Ledesma, daughter of David and Rebecca said she was at the location when her parents drove fast into the driveway. David got out of the car and told her "You better talk to your mom before she thinks about calling the cops". Yvette said her parents drink a lot and fight when they're drunk, 2 - 3 times per week.

She saw the police approach her Dad and order him to take his hands from his pockets. She saw him remove a knife from his pocket, which he opened, and put to his neck. He then threw down the knife and picked up a plastic "stick", and began swinging it. He was then shot.



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Neighbors were interviewed and most of them only heard shots but some described loud arguing going on all day at the Ledezma residence. Two neighbors actually saw David throw what was described as a metal pole, as well as “items” at police prior to hearing gunshots.

## **EXPERT QUALIFICATIONS**

I was employed as a peace officer for the Los Angeles Sheriff’s Department for 34 years. I worked as a jail deputy, 18 months as a patrol officer, and four years assigned to the Special Enforcement Bureau (SWAT team). My last 27 years on the department, I was assigned to the Detective Division, including over 22 years assigned to the Homicide Bureau. I investigated over 450 homicides and suspicious deaths and over 100 Officer Involved Shootings, including the murders of ten police officers.

In 1994, I assisted in writing the LASD Homicide Bureau Investigative Manual. I was also selected to be a member of the Joint LASD/LAPD Crime Lab Development Committee as well as the JET Committee to develop Homicide Bureau job standards and selection criteria. In 1995, I was selected as California’s Deputy Sheriff of the year by the California Organization of Police and Sheriffs (COPS) for the investigation, arrest, and conviction of a suspect in the murders of two local policemen.

For over 15 years, I have taught “High Profile Murder Investigations”, “Homicide 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. I am currently on staff with the Police Policy Studies Council where I teach and consult nationally on Officer Involved Shooting, homicide, and suspicious death investigations. I am currently the investigator for the Riverside Police Review Commission. Although I retired from LASD in 2002, I was immediately signed to a contract to train newly assigned homicide detectives. In 2006, I was also assigned to the LASD Cold Case



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team where I have reviewed over one thousand unsolved murders and specifically work the unsolved DNA and latent print cases.

## **INVESTIGATION AND REVIEW**

The investigation into the Officer Involved Shooting death of David Ledezma was conducted by the Riverside Police Department and the Riverside County District Attorney's Office. I reviewed all the reports submitted to the Community Police Review Commission and researched deadly force legal issues.

## **CONCLUSION**

On the day of this incident, Riverside Police Officers Putnam, Espinosa, and Miranda were called to the location to answer a call for help from Rebecca Ledezma. It was noted that Rebecca had a bloody nose, had been crying, and appeared to have been beaten. She told responding officers that her husband, David, had struck her several times in the face and head. The officers had probable cause to speak with David regarding the domestic violence allegations. When they called David to walk over to them, he refused. He cursed at the officers and would not follow their commands. Officer Putnam would later describe him as "angry and aggressive from beginning to end". Officer Miranda would later describe him as 'pissed off and upset".

When the officers approached David, he was unloading the trunk of a vehicle, throwing items, mostly tools, to the ground. When told to drop everything from his hands, David pulled a locking blade knife from his pocket, opened it, and placed the blade to his neck, stating "Fuck you. Just shoot me". During my review, I saw a picture of this knife and noted it was sufficient to injure or kill a person.

After several commands to drop the knife, David tossed it to the ground but immediately picked up a metal pipe. Officers Espinosa and Miranda drew their pistols and Officer Putnam drew his taser. This is completely proper for an officer to draw a less than lethal weapon when it is obvious that another officer has the ability to use lethal force. Officer



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Putnam activated his taser in an attempt to diffuse the situation but for some reason, one of the two darts missed Mr. Ledezma, rendering the taser ineffective. David then picked up a second pipe and either held it over his head in a threatening manner or actually threw it at the officers.

Officer Miranda would later say that he turned on his tape recorder because things didn't really feel right. He said that he was "absolutely" scared and feared the metal pole would do serious damage to one of the officers. Officer Putnam stated that he was "scared". Officer Espinosa said that he feared David would hurt or kill one of them and was scared. Due to these fears, all three officers fired a total of eighteen shots at Mr. Ledesma, killing him. It should be pointed out that all three of the experienced officers observed a threat and reacted accordingly.

Something else that must be considered is the history of David Ledezma. His criminal history listed in Tab 1 reveals fifteen arrests for crimes from attempted murder in 1978 to a violation of probation in 2010. In between, he was arrested for many things, including six times for domestic violence.

David held his future in his own hands. After the police were called to his house, he was very experienced in what would happen to him. He could've left the scene or he could have submitted to authority and probably have been arrested. David chose to confront the police. When ordered to drop the tools from his hands, he could have thrown small hand tools at the officers. Not fearing for their lives, officers probably would have rushed David and taken him to the ground. BUT he chose to arm himself with a possible deadly weapon, thus bringing on the officers deadly response.

The fact that Rebecca told officers that David had drank about twelve beers on the day of the incident, it would be interesting to determine David's blood alcohol level at the time of his death but the Coroner's Report was redacted and I was unable to answer that question.



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Also, witness Yvonne Delacruz stated that David had changed since he discovered a year ago that he was dying of liver disease. At Mr. Ledezma's autopsy, it was determined that his liver was enlarged and unhealthy which would leave the body unable to properly clot blood when injured.

Both State and Federal Courts have been clear on the use of deadly force by police officers. The California Criminal Jury instructions state that the use of deadly force in self defense or in defense of another is justifiable if the person claiming the right actually and reasonably believed (1) that he or the person he was defending was in imminent danger of being killed or suffering great bodily injury, (2) that the immediate use of force was necessary to defend against that danger and (3) that he used no more force that was reasonably necessary to defend against that danger.

David Ledesma's actions placed all three officers in reasonable fear for their safety and caused them to respond with deadly force.

In *People v. Collins*, the Court ruled "where the peril is swift and imminent and the necessity of action immediate, the law does not weigh into nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to some other means to secure his safety".

In *Martinez v. Los Angeles County*, the Court ruled an officer may reasonably use deadly force when he confronts a suspect whose actions indicate intent to attack.

In *People v. Toledo*, the Court stated the right of self defense is the same whether the danger is real or apparent,

In *People v. Randle* and *People v. Mercer*, California law permits the use of deadly force in self defense or defense of others if it reasonably appears that the person claiming the right actually and reasonably believed that he or others were in imminent danger of great bodily injury or death.



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In *People v. Williams*, *People v. Glover*, and *People v. Ortiz*, the Court ruled the use of deadly force is permitted in self defense or in defense of others if it reasonably appears to the person claiming the right actually and reasonably believed that he or others were in imminent danger.

I find that the actions of David Ledesma, at the time of this incident, reasonably created a fear of imminent death or serious bodily injury to the officers. Once they perceived that Mr. Ledezma posed an apparent lethal threat, their response with deadly force was justified.

It is also my opinion that the investigation into the Officer Involved Shooting death of Mr. Ledezma was completed in a fair and impartial manner and met POST standards of practice.



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