

# MIKE BUMCROT CONSULTING

## REPORT OF INVESTIGATION

**DATE:** November 14, 2014

**SUBJECT:** Officer Involved Shooting Death of Rashad Jarrett Hopes, which occurred on June 11, 2013 at 2259 hours

**CASE:** Riverside Police Department File #P13083040, CPRC #13-020

**LOCATION:** 3476 Van Buren Boulevard (Chevron Gas Station), Riverside

On November 5, 2014, I was asked by Frank Hauptmann, Manager of the Community Police Review Commission, to review the circumstances surrounding the officer involved shooting death of Rashad Hopes by Riverside Police Department Patrol Officers Eric Hibbard and Cedric Disla. I was also asked to provide my expert opinion in a written report on the manner in which detectives of the Riverside Police Department investigated this case.

I reviewed several hundred pages of police reports, photographs, recordings and other documents contained in the presentation by detectives to the Police Review Commission. I also researched legal issues and responded to the location to better understand the police reports and took photographs, some of which are incorporated in this report.

It is my conclusion that both Officers Hibbard and Disla acted in lawful self defense and defense of others at the time they fired their weapons at Mr. Hope, who was pointing a revolver at them.



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The following analysis is based upon investigative reports, analyzed evidence reports, audio recordings, video recordings and statements taken during the investigation.

## FACTUAL ANALYSIS

On June 11, 2013, just before 2300, Rae Perry was driving with her child, west bound on the 91 Freeway from Adams Street, when her car was struck from behind. This collision caused Ms. Perry's car to spin out, coming to rest facing east in the west bound lanes. The vehicle that struck Ms. Perry was a 2000 Chevrolet Metro, driven by Clifton Chappel. The sole passenger in Mr. Chapple's vehicle was Rashad Hopes. In an attempt to flee the scene of the traffic collision, Mr. Chapple sped west and exited the next off ramp, Van Buren Boulevard.

As the Chevrolet sped up the off ramp, see photo below, it failed to stop at the traffic signal at the end of the ramp and turned right (north). The vehicle was unable to make the turn and struck the raised center divider and was unable to proceed.



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A very short time later, see picture below, Riverside Police Officer Eric Garcia was on routine patrol on Van Buren Boulevard at the 91 Freeway when he observed a vehicle partially on the center divider blocking lanes. See photo below taken from Chevron station parking lot.



Officer Garcia radioed his desk that he was stopped to investigate a traffic accident and contacted the driver, Curtis Chappel. He was also aware of a male walking away from the vehicle, towards a Chevron gas station across the street.

Riverside Police dispatchers advised Officer Garcia that they had received 911 calls that the passenger in Mr. Chapple's vehicle was observed holding a revolver and placed it in his front pocket as he walked towards the Chevron station.



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Additional police units responded under the supervision of Sgt. Robert Tipre, who asked his dispatch to make a telephone call to the business and ask all occupants to exit the building to avoid a hostage situation.

Two employees came out of the location and advised that no one else was believed to be inside, but they had just observed a male walking outside towards the rear of the business.

Sgt. Tipre split his team up, telling Officers Cleary, Disla and Hibbard, along with his K-9 partner Billy, to remain in front of the building, see photo below. Sgt. Tipre took 3 officers with him to attempt to contact the possible suspect (Mr. Hopes) behind the business.



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Sgt. Tiptre team cleared the north side of the building but when they turned onto the west side (rear) of the building, they saw Mr. Hopes standing on a walkway. Several commands were shouted at Mr. Hopes to get down and show his hands but he refused to comply. The contact team advised all officers on scene that they had made contact and were holding a possible suspect at gunpoint. Officer Hibbard along with his K-9 Billy, began to run towards Sgt. Tiptre's location to assist in contacting Mr. Hopes when Sgt. Tiptre shouted that the suspect had ran around the building and was headed toward the front, see photo below.



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Officer Hibbard and Billy turned back and ran towards the front where they rejoined Officers Cleary and Disla. The officers positioned in front of the business saw Mr. Hopes running along the side of the building, towards them. Mr. Hopes was holding a handgun and pointing it in their direction.

Fearing for his life, Officer Hibbard fired his handgun at Mr. Hopes. Believing that the gunfire was coming from Mr. Hopes' weapon Officer Disla fired his patrol rifle at Mr. Hopes, who fell to the ground, see photo below.



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All of the officers took cover behind parked cars and ordered Mr. Hopes to move away from his handgun. When there was no response, K-9 Billy was released to drag Mr. Hopes away from his weapon. Medical aid was then rendered to Mr. Hopes but he was pronounced dead at the scene from a gunshot wound to the head. When interviewed by detectives, Officer Hibbard stated that Mr. Hopes raised his gun towards him so quickly that there was no time to give any commands. He said that he held his dog with his left hand and began firing his weapon as Mr. Hopes turned and began to run away, still holding his revolver. He said he continued to shoot out of fear that Mr. Hopes was a danger to the officers and anyone else he came in contact with.

Officer Disla told detectives that when he saw Mr. Hopes running towards him, he (Hopes) was pointing a handgun in the direction of Officer Hibbard. Officer Disla said he raised his patrol rifle into a shooting position when he heard a gunshot that he thought came from Mr. Hopes' weapon. Officer Disla then began firing until Mr. Hopes fell.

## WITNESSES

Joseph Barrio observed Mr. Chapple's car straddling the center divider on Van Buren Boulevard, smoke coming from under the hood. He saw the driver get out and walk to the rear of his vehicle. He saw the passenger (Hopes) stumble out of the car and fall to the ground. When he got up, he was holding a handgun in his right hand, which he placed in the right front pocket of his shorts. He then called 911.

Carol Lopez witnessed the hit and run on the west bound 91 Freeway and she exited at Van Buren Boulevard. While stopped at the signal at the end of the off ramp, she saw a small, red vehicle that may have been involved in the hit and run, drive past her on the ramp and run the red traffic signal as it turned north onto Van Buren Boulevard. The small, red car drove atop the center divider and struck a sign. She saw two males get out of the vehicle and begin to stumble around before running north on Van Buren. She saw that the passenger was a black male, carrying a handgun in his right hand. She then called 911.



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Clifton Chapple was uncooperative and continued to change his story. He admitted to the hit and run on the 91 Freeway. He stated that he drove off the freeway because he thought the vehicle he had struck was following him. He said he lost control of his vehicle because his car would not shift. He first denied that he had a passenger in his car but when confronted with witness statements, admitted that he had given someone a ride that he knows only as "Bro" and didn't know he had a gun. Detectives noted that Mr. Chapple had soiled his pants and was more concerned about that than his friend being dead.

Officer Garcia remained at the scene of the traffic accident throughout the incident. He was approximately 100 yards away from the Chevron station. He heard Sgt. Tiple broadcast that the suspect was moving towards the front of the location. He looked in that direction and observed the same male he had seen earlier walking away from the crash site, walking towards three police officers. He could see that the suspect had something in his hand. Although he didn't see a gun, he believed the suspect was holding a gun by the way he was holding it. The suspect brought his right hand up and out towards the officers. He heard gunshots and thought the suspect had fired on officers. He then heard 3 – 5 shots in quick succession.

Sgt. Keenan Lambert was assisting Officer Garcia at the scene of the traffic accident. He heard officers shouting commands and saw Mr. Hopes raise his right hand, pointing it at officers. Although he couldn't see anything in Mr. Hopes' hand, he believed it was a handgun based on the way he was pointing his hand at the officers. He then heard multiple gunshots.

Officer Joseph Cleary, who was in front of the location along with Officers Hibbard and Disla said that when Mr. Hopes began walking towards the officers, he saw him pointing a handgun in front of him towards Officer Hibbard. Several officers shouted, "drop the gun" with no compliance. He heard gunshots and raised his weapon to fire but feared striking other officers between him and his target.



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## EVIDENCE

Charting of Officer Hibbard's weapon revealed that he fired a total of 10 rounds.  
Charting of Officer Disla's patrol rifle revealed that he fired a total of 5 rounds.

Charting of Mr. Hopes' revolver revealed that it was loaded with 6 expended casings. Examination by Department of Justice Criminalists revealed that the weapon was in working order and all of the empty casings had multiple firing pin strikes, evidence of the trigger being pulled multiple times, although the gun was empty. It should also be noted that his revolver was reported stolen in January 1992, during a home burglary in Georgia.

## 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



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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 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 Rashad Hopes 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. The District Attorney found there was no criminal liability.

## **LEGAL ANALYSIS**

California law permits the use of deadly force in self-defense if it reasonable appears to the person claiming the right of self-defense that he actually and reasonably believed he was in imminent danger of great bodily injury or death. The belief in the need to defend oneself must be both actual and reasonable.

“The rule is well established that one who, without fault, is placed under circumstances sufficient to excite the fears of a reasonable man that another designs to commit a felony or some great bodily injury and to afford grounds for a reasonable belief of imminent danger, may act upon those fears alone and may slay his assailant and be justified by appearances.” People v. Mercer (1962) 210 Cal.App.2<sup>nd</sup> 153, 161

“Where the peril is swift and imminent and the necessity for action immediate, the law does not weigh in too nice scales the conduct of the assailed and say he shall not be justified in killing because he might have resorted to other means to secure his safety.” People v. Collins (1961) 189 Cal.App.2<sup>nd</sup> 575



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The test of whether the officer's actions were objectively reasonable is "highly deferential to the police officer's need to protect himself and others." *Mundz v. City of Union City* (2004) 120 Cal.App. 4<sup>th</sup> 1077, 1102

The Fourth Amendment reasonable test is, "An objective one: the question is whether the officer's actions are objectively reasonable in light of the facts and circumstances confronting them." *Graham v. Conner* (1989) 490 U.S. 396.

## CONCLUSION

The evidence examined in this investigation reveals that Rashad Hopes was a passenger in a vehicle that was involved in a hit and run traffic accident that luckily caused no injuries. Mr. Hope and his driver, Clifton Chapple, fled from the scene only to be involved in a single car accident. Mr. Hopes' armed himself with a .38 revolver and once again, fled the scene, this time on foot. When several Riverside Police Officers arrived on the scene, Mr. Hopes attempted to evade them. Due to excellent tactics by Sgt. Tipre, Mr. Hopes was located and ordered to show his hands and lay on the ground. His response once again, was to ignore officer's commands and flee once again. When confronted again, officers ordered him to drop his gun but his response was to aim his revolver at the officers, resulting in his death.

The actions of Rashad Hopes and the fact that he pointed his weapon at police officers reasonably created a fear of imminent death or serious bodily injury. Once Officers Disla and Hibbard perceived that Mr. Hopes posed an apparent lethal threat their response with deadly force was justified.

It should not go unnoticed that, although Mr. Hopes revolver was technically out of ammunition, the fact that each empty casing had multiple firing pin strikes is evidence that he continually pulled the trigger in the belief that he may have a live round left in the weapon.

Something else that cannot be ignored is the fact that Clifton Chapple, driver of Mr. Hopes' vehicle, was arrested for drunk driving and was found to be carrying marijuana.



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Mr. Hopes Coroner's toxicology report indicates that he had marijuana in his system and his blood alcohol level was between .33 – .39 in different parts of his body, four times the legal limit.

I find that the investigation into the officer involved shooting death of Rashad Hopes was completed in a fair and impartial manner and met or exceeded POST Standards of Practice.



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