

Review of the Los Angeles County Sheriff's Department's Investigation into the Homicide of Ruben Salazar

A Special Report by the
Los Angeles County Office of Independent Review
February 22, 2011



Introduction

On August 29, 1970, Ruben Salazar died after being struck in the head by a tear gas canister fired by a Los Angeles County Sheriff's deputy. Mr. Salazar, a *Los Angeles Times* columnist and news director for KMEX-TV, was one of the most prominent Hispanic reporters at the time of his death. At least in part because of a well-publicized dispute with then-Los Angeles Police Department Chief Ed Davis regarding Mr. Salazar's reporting on allegations of police abuses in the Hispanic community, some suspected that the killing may have been intentional, aimed at silencing Mr. Salazar.

On the day of his death, Mr. Salazar was attending the National Chicano Moratorium and March in East Los Angeles, organized to protest the disproportionate number of Hispanic soldiers killed in the Vietnam War. Violence broke out during the March and subsequent rally, and the Sheriff's Department called in additional deputies to address the rioting and looting, and to assist the approximately 100 deputies, Reserve deputies, and Training Academy cadets initially deployed to provide security during the event. In the midst of the ensuing chaos, deputies received a report of a man with a gun entering the Silver Dollar Café. Shortly before that report, Mr. Salazar had gone into the café with a colleague and two acquaintances. Accounts vary regarding the responding deputies' actions, but at least eight Sheriff's Department personnel responded to the Silver Dollar Café, and two – an acting sergeant and a sergeant – independently fired tear gas projectiles into the bar in an attempt to clear it out. The evidence suggests it was the first of these projectiles that struck Mr. Salazar in the head, killing him instantly.

The Sheriff's Department's Homicide Bureau conducted an investigation into the shooting, and the Coroner's Office convened a publicly televised inquest in September, 1970. Following the inquest, District Attorney Evelle Younger issued a statement in which he declined to file a criminal complaint against the involved deputy, finding that there was no evidence of malice (required for a murder charge) and insufficient evidence to establish beyond a reasonable doubt that the deputy's conduct was criminally negligent (required for an involuntary manslaughter charge). The District Attorney further stated that he was not in a position to moralize, examine training, or determine the validity of the allegations made in civil litigation.

Following the District Attorney's decision, the Sheriff's Department considered the matter closed. Sheriff Peter Pitchess issued a statement that there was "absolutely no misconduct" on the part of the deputies involved and asserted deputies responded properly in the midst of a riotous situation. No further internal investigation or review was conducted by the Department. After reviewing the Sheriff's Homicide investigative reports and the inquest transcripts, the federal Office of the United States Attorney and the United States Department of Justice, Civil Rights Division decided not to conduct a federal grand jury investigation into the matter and

closed their case. The Salazar family filed a lawsuit against the County and Sheriff's Department. That case was settled for \$700,000 before it went to trial.

The Los Angeles County Sheriff's Department ("LASD") would handle its investigation and review of this incident much differently today than it did in 1970. In addition to the Homicide investigation conducted and forwarded to the District Attorney for review of potential criminal charges, under current protocol, in every instance when a deputy fires his or her weapon or uses force that results in death or serious injury, the Department's Internal Affairs Bureau conducts a review of the incident and presents its finding to a panel of Commanders referred to as the Executive Force Review Committee. That panel determines whether the level of force used was justified and, as importantly, evaluates the entire incident to determine whether the involved deputies violated any Department policies, performed at a level below the Department's expectations, or used sound tactics. In cases in which tactical decision making falls below Department expectations, the Committee recommends either discipline and/or retraining for the involved personnel. Additionally, the Committee can and does make recommendations for department-wide training, policy revisions, and equipment reviews depending on what is learned during the deadly force reviews.

Certainly through the prism of current best police practices, it cannot be disputed that the deputies who responded to the Silver Dollar Café on August 29, 1970 employed poor tactics and made mistakes that resulted in Mr. Salazar's death. That being said, the evidence gathered during the Homicide investigation provides no evidence that Mr. Salazar was either targeted on the date of the incident or intentionally killed by the deputy who fired the fatal tear gas projectile.

Scope of Review

Within the past year, the Sheriff's Department has received multiple Public Records Act requests seeking access to the investigative files related to Mr. Salazar's death. The County and the Department denied those requests for legal reasons. The issue arose most recently as surviving family members, the media and public marked the fortieth anniversary of Mr. Salazar's death. Before making a decision about whether to release the documents publicly, the Sheriff requested that OIR take possession of the documents, review them, and prepare this report regarding their contents.

We have reviewed the eight boxes of documents that have been maintained by LASD's Homicide Bureau regarding Mr. Salazar's death. The majority of these documents pertain to the Moratorium that created the backdrop for but do not directly relate to the events involving the Silver Dollar Café. Consequently, our review does not focus on these documents but rather on the Homicide investigation and all of the witness statements provided to detectives. We do not

intend this report to be a summary of the entire Sheriff's Department record in this case, nor is it an exhaustive review of all of the events that transpired on August 29, 1970. Rather, this report is a summary account of the documentary evidence of the factors that led to Mr. Salazar's death with commentary and conclusions about the performance of Department members on that day made through the prism of current police practices.

To the degree we reach conclusions about tactics and other decision-making, we are mindful that policing in 1970 was vastly different than policing is today. Technological advances have provided today's officers with better communication options (such as multiple-frequency handheld radios), safer equipment (such as bulletproof vests), and quicker access to data, allowing them to more easily and safely respond tactically to quickly-evolving incidents. Law enforcement has also evolved in the way it trains for and responds to critical situations, including changes in ways in which tear gas is deployed, presenting safer alternatives both to the officer and the public. Officer training has vastly improved, stressing tactics and officer safety and exposing officers to realistic scenarios in training settings before they encounter them in the field. We are also mindful of the unique circumstances presented to the responding deputies on August 29, 1970 – a riotous situation in which they were responding to burning buildings and looting while they were being assailed with rocks and bottles. We also, of course, have little knowledge of what Departmental expectations were in 1970 with regard to how deputies should respond to this incident.

For these reasons, to the degree that we view the decision making of the deputies through the precepts of today's best policing practices, we do so not to criticize the actions of the deputies who were operating under a different set of expectations, equipment, and training, but rather to demonstrate how far policing has come and how, should a similar incident occur today, it would be examined and reviewed. For those former peace officers who well-served the Department during this era, we are hopeful that our comments on performance examined through today's lens will be received in the spirit in which it is given.

Description of Documents

Of the eight boxes that comprise the Sheriff Department's file in this case, two pertain to the Moratorium March. This includes permit requests and memoranda regarding the Department's planning for the event. It is clear from a review of these materials that the Sheriff's Department grossly underestimated the potential for violence that occurred on August 29, 1970. This could have deleteriously impacted the deployment and other tactical planning for that day, leaving LASD with too few resources to effectively deal with the situation. In addition, it includes reports prepared after the March detailing, among other things, the participation by militant

groups in the riot and background information on those thought to be responsible for inciting violence.

Two other boxes contain witness folders, in which all the statements and testimony given and reports written by the 61 witnesses in the case are compiled. All of these reports and witness statements are contained elsewhere in the investigative materials. Another box contains photographic evidence and reel-to-reel tapes of witness interviews. One box contains the transcript of the 16-day Coroner's inquest.

A seventh box mainly consists of materials pertaining to the investigations of other riot-related incidents, including the death of a 15-year old boy as a result of burns sustained following the explosion of a trash bin, a deputy-involved shooting resulting in the death of the suspect who allegedly drove his vehicle directly at deputies, and the report of an assault and attempted murder of a deputy by rioters in Laguna Park. This box also contains verification regarding documents and other evidence provided to the United States Attorney General and United States Attorney's Office as part of the federal government's inquiry into Mr. Salazar's death.

The Homicide investigation file is contained in one box which includes all of the reports written by Homicide detectives and those prepared by involved or witness deputies, as well as the Coroner's autopsy report and summaries of the inquest proceedings.

In general, the documents are voluminous but not particularly well-organized. They contain many duplicates, incomplete parts of documents, mislabeled and unlabeled folders, and handwritten notes in a form that made thoroughly reviewing without disturbing or re-organizing the documents a difficult and time-consuming task.

The Moratorium March and Surrounding Chaos

The Congress of Mexican-American Unity planned the August 29, 1970 Moratorium to begin with a parade from Belvedere Park on Third Street in East Los Angeles, down Atlantic Boulevard to Whittier Boulevard to Laguna Park (now named Ruben F. Salazar Park), where organizers planned to hold a rally protesting the Vietnam War and the disproportionate number of Hispanic casualties. Witnesses described the presence of more radical groups inserting themselves into the march and promoting violence. The day started to descend into chaos as the parade moved down Atlantic Boulevard and grew to occupy the entire boulevard rather than just the two lanes as approved on the permit. As deputies assigned to fixed posts along the parade route tried to keep the roadway clear, some marchers allegedly began spitting and throwing bottles at the deputies.

One flashpoint was a liquor store along the parade route near Laguna Park where, according to reports we reviewed, people began stealing beverages. In response, the owners locked the doors, trapping some inside, and called the Sheriff's Department. Responding deputies clashed with demonstrators, and the violence spread. All along Whittier Boulevard, protesters started fires, broke windows, and looted buildings. The event turned into a full-scale riot and deputies eventually cleared Laguna Park by force.

In all, 44 buildings were looted; 17 buildings incurred major damage and 172 buildings incurred minor damage; six buildings were damaged by fires worth an estimated \$561,000 in losses; 95 County vehicles were damaged, along with 15 vehicles from other agencies; 75 deputies were injured; three firefighters were hit and injured by rocks and bottles. It is not clear how many civilians were injured, but two civilians other than Mr. Salazar were killed – a 15-year old boy who was burned in the explosion of a trash bin, and a man who was shot by deputies as he allegedly tried to run over them with his vehicle. There were also many accounts of brutality and unnecessary force used by deputies handling the crowd and clearing the park. If the Department made any effort to investigate these allegations or hold any deputies accountable for using excessive force, it is not reflected in the documents we reviewed.

In the immediate vicinity of the Silver Dollar Café, at 4945 East Whittier Boulevard, two buildings were burned, at least two buildings were looted, and several others incurred minor damage. The scene outside the café was total chaos. Investigative photographs of the locations corroborate the damage reported to buildings and police vehicles.

Events at the Silver Dollar Café

Mr. Salazar was at the March with a KMEX reporter and two other companions. At the end of the March, as violence broke out in Laguna Park, the four of them walked back up Whittier Boulevard to LaVerne Avenue, where they stopped to observe a large fire burning at a furniture store across the street from the Silver Dollar Café. The group decided to enter the café to use the restroom and get something to drink. Mr. Salazar and his KMEX colleague took seats at the bar near the front entrance to the café while the other two went outside to make phone calls.

Several groups of deputies were dispatched to Whittier Boulevard and LaVerne Avenue in the area near the café to deal with a crowd gathering there. People were smashing windows, looting nearby businesses, and throwing rocks and bottles at deputies. An acting sergeant on scene, Deputy Thomas Wilson,¹ deployed tear gas canisters to move the crowd back off of Whittier. As

¹ Consistent with state law mandates, OIR's general practice is to not disclose the identity of any individual member of the Sheriff's Department in our reports. This report is unique, however, in that the events at issue happened prior to the enactment of current peace officer privacy statutes, occurred more than 40 years ago, none of the involved

the deputies moved back onto Whittier from LaVerne, one deputy was told by an individual in the street who was directing traffic and wearing a red vest² that he had seen two men with guns (a rifle and a handgun) enter the Silver Dollar. At around 4:30 p.m., that deputy initiated a radio broadcast relaying this information.³ The deputy who had received the information about armed persons entering the Silver Dollar also notified Deputy Wilson of that information.

Detectives later located the individual who had provided the information to the deputies. He remained adamant that he saw individuals with guns, including one with a rifle, going into the Silver Dollar, and provided a detailed account during his testimony at the Coroner's inquest. Several civilian witnesses overheard this individual, identified by his red vest, reporting to the deputy that armed persons were inside the Silver Dollar.

Witness accounts of what happened next are inconsistent and sometimes at odds with others. Given the number of witnesses, the limitations of eyewitnesses, and the chaos surrounding the entire incident, this is understandable and to be expected. Indeed, we would look suspiciously at an investigative report of an incident such as this in which the witness statements were all consistent, neatly aligned and seemingly choreographed. Moreover, to the Homicide Bureau's credit, most of the witnesses were interviewed on tape and their statements were then transcribed.

According to the deputies' accounts, Deputy Wilson and four other deputies positioned themselves outside the doorway of the Silver Dollar and yelled commands for people to throw out their weapons and come out of the bar. Numerous witnesses from neighboring businesses and firefighters reported hearing deputies ordering the people in the bar to come out, though it is not clear whether they heard commands given by the deputies with Wilson or those given later by Sergeant Laughlin. With perhaps one exception, witnesses inside the bar reported they did not hear any such commands. Based on the chaos unfolding on Whittier Boulevard, it could well be that deputies gave commands but that those inside the bar did not hear them.

Several people described being outside the bar when deputies ordered them to get inside shortly before the shooting. Some people inside the bar reported seeing several men come into the bar shortly before the shooting. No one inside saw anyone with a gun enter the bar. According to one deputy stationed outside the Silver Dollar, civilians on the outside of the building were urging those inside to shoot the deputies.

personnel are currently still working in law enforcement, and the names of those involved are part of the public record, were widely reported in the media at the time, and are easily accessed via the internet today.

² This individual was later identified and testified to his observations. During the subsequent litigation, the Department learned he had once been an LAPD Reserve Officer, but had been terminated from that position following his arrest for disturbing the peace.

³ The existence and substance of the radio call was corroborated by checking the radio logs and transmissions that day and is included in the boxes of documents.

Deputy Wilson took a position on the right side of the doorway, which at the time was only covered by a curtain, crouched down and looked under the curtain into the bar, where he could see people moving about. He then moved across the doorway, simultaneously firing one tear gas canister into the bar. He stated he believed this action was necessary because no one had responded to deputies' commands to come out of the bar. He said he intended to fire the missile high so that it would strike the ceiling and bounce to the rear of the bar, driving persons out the front entrance. He loaded a second round and also fired this one into the bar. The first round was known as a "Flite-Rite" projectile and was designed to penetrate windows, doors, and other light structures in situations where suspects were barricaded behind or within a structure. Because they have fins and a weighted nose, they were intended to be fired with some accuracy at a target. They were designed with a high muzzle velocity to enable them to penetrate structures. It was for this reason that they were not intended to be fired at persons. The second round was a "Spedeheat" projectile, sometimes referred to as a "tumbler" because it is designed to turn end-over-end to minimize the chance that the nose will strike anyone or penetrate anything. It travels more slowly and emits gas in flight.

In his interview with Homicide detectives following the shooting, Deputy Wilson said both the rounds fired were red. In fact, the only red cartridge found was the Flite-Rite determined to have killed Mr. Salazar. The type of "Spedeheat" round Deputy Wilson fired was blue.⁴ Deputy Wilson testified at the inquest⁵ that, at the time he first fired into the Silver Dollar, he was not sure which type of canister was loaded in his gun. Just prior to responding to the Silver Dollar, Deputy Wilson was controlling the crowd at Whittier and La Verne and had fired at least two rounds of tear gas projectiles, which he referred to as either "duster" or "tumbler" rounds. He loaded another round while still on the street maintaining a crowd control position. He did not check his weapon after leaving Whittier and La Verne to respond to the reported threat at the Silver Dollar, but he believed it contained another of the duster or tumbler rounds. While at the time he did not believe he was firing a Flite-Rite into the bar, he nonetheless maintained during his inquest testimony that it did not really matter which projectile he used because the important thing was to quickly get gas into the building. He further testified that he did not learn until several days after the incident that he had fired a Flite-Rite, when Homicide investigators informed him of their determination. Until that time, he believed he had fired two duster rounds

⁴ The color of the canister indicates which type of gas it contains and is not related to the type of projectile. The blue projectiles contained C.S. gas, which in 1970 was a newer type of more potent yet less toxic gas. The red projectiles carried C.N. gas. The Department's tear gas training expert testified at the Coroner's inquest that most of the Department's inventory was the red C.N. gas but that it was gradually being replaced with the blue C.S. gas canisters.

⁵ Deputy Wilson testified voluntarily at the inquest, despite the fact he was facing a possibility of criminal prosecution and had a Fifth Amendment right not to do so.

into the bar. Despite the fact he did not fire it intentionally, Deputy Wilson defended his use of the Flite-Rite as the most appropriate projectile for the job.

Based on the forensic evidence, the Coroner concluded that the first round fired by Deputy Wilson was the Flite-Rite that struck Mr. Salazar in the head, killing him instantly. While one witness inside the bar described hearing a sound like a gunshot and then communicating with Mr. Salazar and not seeing him drop until after the second gunshot sound, the other witnesses in the Silver Dollar reported seeing Mr. Salazar fall immediately after the first shot. Whether it was fired first or second, it is apparent that the Flite-Rite round fired by Deputy Wilson was the fatal round. The remaining patrons all exited the bar through the rear as or immediately after Deputy Wilson fired his two rounds.

One witness inside the bar indicated that prior to the shooting, he saw the muzzle of a rifle poke through the curtain covering the doorway. He said he yelled that he believed that the deputy was about to fire and a shot immediately rang out. The witness said he then ran out the back.

After firing the second round, Deputy Wilson recognized there may have been no deputies covering the rear of the location. Deputy Wilson then moved to the rear of the bar himself and realized people from the bar had exited from a back door. He apprehended two men who were standing near a car in the back parking lot, one of whom had an automatic pistol and claimed to be the owner. The other man was carrying ammunition for the pistol. One of the deputies accompanying Deputy Wilson stated he knew the man with the gun and believed him to be the owner of the bar. It was later discovered, however, that this individual was not, in fact, the owner of the bar. Deputy Wilson kept the gun but did not get any identification from the men before he released them. He never determined conclusively whether those men had, in fact, ever been inside the bar, though he stated he believed they had been because he noticed their eyes were red and watery, indicating exposure to tear gas. Deputy Wilson then returned to the front of the building and turned his attention again to controlling the crowd. He never entered the bar but said he assumed someone else had cleared the interior.

As Deputy Wilson and the others moved to the rear of the location, Sergeant Robert Laughlin arrived on scene with three other deputies, responding to the radio call reporting men with guns entering the Silver Dollar. He did not communicate with Deputy Wilson or anyone else already at the scene, but began to broadcast over his vehicle's public address system orders for those inside the bar to throw out their weapons and come out. When no one emerged, Sergeant Laughlin fired a total of three Flite-Rite projectiles from a position of concealment behind the door of his radio car, approximately 70 feet from the entrance to the bar. The first round struck the doorframe and did not enter the bar, but the two subsequent rounds did enter.

Within several minutes after firing these rounds, Sergeant Laughlin heard a “Code 4” come out, meaning that the location had been secured. He considered sending a search team into the location, but it was dark inside and he stated no one with him had a flashlight. In addition, there were only two gas masks on scene, and Sergeant Laughlin decided the visibility out of these masks was so poor and the gas inside the building so thick that a search would be ineffective. He then received an emergency assistance request near LaVerne Avenue and left the Silver Dollar to respond to the request.

Shortly after the incident, the actual owner of the bar came to the scene. He reported to deputies he had a rifle inside the bar that he wanted to secure. Deputies allowed him to enter. The owner said he moved in and out quickly because the gas was still very thick. He then handed the rifle over to the deputies, who documented the collection of the rifle. He said he saw no one inside the bar.⁶

LASD’s Post-Shooting Response

A colleague of Mr. Salazar who was in the Silver Dollar at the time of the shooting stated that he repeatedly and immediately informed deputies on scene that Mr. Salazar was injured and still inside the bar. He said his pleas were ignored by deputies.⁷ The investigation did not learn the identification of any deputy who this individual may have talked to, but this was due in part to the fact that the Homicide investigation was not focused on the issue.

At approximately 5:30 p.m., a Sheriff’s Information Bureau sergeant responded to the Silver Dollar Café in response to reports called in from KMEX that Mr. Salazar was in the bar. He saw that the location was secured and assumed the handling deputies had cleared the location, so he left.

Deputy Wilson stated he remained in the area of Whittier and LaVerne performing crowd control functions, and then returned to the Silver Dollar later in the evening, around 7:30 p.m., at which point two deputies approached him to report that a citizen told them there was someone injured in the bar. In his interview with Homicide, Deputy Wilson said he did not believe he had enough deputies to safely enter the bar, so he told the deputies to tell the citizen to go in and bring the injured person out. One responding deputy reported that the Department did not initially send

⁶ Presumably but not definitively, this rifle and the gun discovered outside the back entrance to the Silver Dollar were not the weapons allegedly observed by the civilian who reported seeing two men carrying guns into the bar.

⁷ Documents show that an ambulance was dispatched to LaVerne and Whittier at 4:40. It arrived at 5:03, but left at 5:09 without picking anyone up after the driver stated he spoke with a deputy who had no knowledge of a request for an ambulance. It is not clear who called for this ambulance or why, but it is possible it was intended for Mr. Salazar and that deputies failed to coordinate with the responding paramedics. The timing of this seems early for it to have been called for Mr. Salazar, but because the Homicide investigation did not establish a precise time line, it is impossible to determine with any certainty.

personnel into the bar and asked the citizen to go in because of fear that it was a “set up.” Deputy Wilson then received information that the person inside the bar was seriously injured, perhaps even dead. Deputy Wilson stated he then put out an emergency broadcast for a unit with a gas mask to respond and requested an ambulance.⁸

Deputy Wilson reported that deputies did respond with gas masks and he believed they entered the bar, but Wilson could not identify these deputies by name. At approximately 7:45 p.m., Special Enforcement Bureau (“SEB”) personnel – two sergeants and a deputy – responded to the Silver Dollar pursuant to a request for a unit with gas masks to search the location (presumably Wilson’s request). When they arrived, they reported that there were no other Sheriff’s Department personnel in the immediate area and that the door to the bar was locked. They forced the door open and located Mr. Salazar inside. They immediately notified Homicide.

The Sheriff’s Information Bureau sergeant who had earlier been to the scene reported that at around 7:00 p.m., he heard SEB had found a deceased person at the Silver Dollar and returned to identify Mr. Salazar, who he knew personally.

The KMEX manager indicated he had made numerous phone calls throughout the evening to the Sheriff’s Department to inform them that Mr. Salazar was inside the bar and to get confirmation about Mr. Salazar’s condition. He stated the Department was not responsive to his concerns.

Homicide Investigation and LASD Review

As soon as SEB located Mr. Salazar inside the Silver Dollar and confirmed he was dead, personnel notified the Homicide Bureau, whose investigators promptly took control of the scene. Detectives interviewed all the witnesses they could identify, took measures to identify and locate witnesses who did not come forward voluntarily, and made extensive use of a Department criminalist to sort through and interpret the forensic evidence.

Some witnesses refused to identify themselves to LASD officials but contacted KMEX. Detectives cooperated with KMEX officials and the Salazar family’s lawyer to gain access to these witnesses and conducted interviews at the attorney’s office.⁹ Several other witnesses who initially gave statements to Homicide, including the individual in the red vest who alerted deputies that armed men had entered the Silver Dollar, later expressed concerns about testifying because of threats they received. The Department provided protection to those individuals to

⁸ The Department’s administrative control file indicated that at 7:30 p.m., the Department was notified that there was a person “injured” inside the bar.

⁹ Homicide detectives were apparently frustrated by the presence of the attorneys when interviewing the witnesses. One homicide note candidly indicates that during the interview, controversial points could not be explored with the witnesses because of the polite “question and answer” atmosphere and because the attorneys would lead the witnesses.

ensure their cooperation during the Coroner's inquest. Even so, several witnesses declined protection and refused to testify before the inquest.

The Homicide investigation did not show signs of bias. The interview transcripts we reviewed, while not always optimally thorough, did not contain leading questions or reveal a particular agenda being promoted by detectives. As illustrative of this orientation, the investigative report contains one notation about a witness who called the handling detective three weeks after the incident and while the inquest was ongoing. The witness stated he was inside the bar and heard deputies give warnings prior to firing the gas projectiles. Detectives questioned his account, and then the witness stated he would be anywhere detectives wanted him to be and say anything they wanted him to say if it would assist the Department. To their credit, detectives documented this contact and, obviously, did not use the witness in their investigation.

The failure to focus on any aspects of the incident beyond the immediate question of how Mr. Salazar died and the lack of any subsequent internal review by the Department, however, left many questions unanswered and opened the door for decades of speculation about what the Department may have been trying to hide. Detectives asked few questions relating to the most obvious and pressing tactical issues presented – why deputies did not contain the rear of the location before firing gas into the bar; why deputies using tear gas were not equipped with gas masks to prevent contaminating themselves and to then be able, if need be, to enter the location after the introduction of the gas; why responding units failed to communicate with each other; and why deputies did not clear the location after firing the gas to check for any injured persons or suspects who may have remained inside. Detectives also asked no questions about the more sinister theory being expounded, namely, that Mr. Salazar was targeted. As a result, responding deputies were not asked if they knew or had heard of Mr. Salazar, whether they knew he had been observing the March earlier, whether they had been assigned to follow him, and whether they knew he was inside the Silver Dollar at the time of the incident.

Because the incident was not subjected to any sort of internal administrative review, issues regarding the hasty and poorly coordinated deployment of gas, the decision to deploy the Flite-Rite missile, and the lack of coordination after the gas was deployed were not internally scrutinized and no one was held accountable for performance that did not meet Department expectations. That outcome was not unusual or unexpected, following the standards of the day. It is unclear whether detectives were aware of community concerns that Mr. Salazar may have been targeted in the immediate aftermath of the incident, and, in any event, Homicide's role was limited to investigating the death of Mr. Salazar and not the tactical issues surrounding it.

If a similar incident occurred today, the internal review following the Homicide investigation would fully explore each of these issues from an administrative perspective, and the fact that the

prosecutor declined to file charges would not be seen as absolving the Department from exploring each decision more thoroughly. A wider and deeper investigation into the circumstances surrounding Mr. Salazar's death undoubtedly would have revealed more facts, better answered lingering questions relating to this incident, and likely would have held persons accountable for poor performance through the disciplinary process.

Another issue that was not a focus of the Homicide investigation was the confusion and lack of coordination and communication regarding the length of time it took to recover Mr. Salazar's body from the Silver Dollar. Certainly, there was plenty of "ball dropping" with regard to this part of the episode, resulting in a several hour delay before anyone attended to Mr. Salazar. Yet the Homicide investigation made little discernable effort to identify which deputy or deputies received the report from Mr. Salazar's colleague about Mr. Salazar still being inside the bar. Neither was the investigation focused on other poor assessments and decision making that led to the delay in locating Mr. Salazar. Further, unlike with the protocols of today, no one in the Department was ever held administratively accountable for the poor response of personnel to concerns that there was someone injured inside the bar.¹⁰

These issues, arguably, were not central to Homicide's mission, and were apparently not vital, in the eyes of the District Attorney, to the decision whether to file criminal charges. Some of these issues were tangentially addressed during the inquest, but not typically answered to full satisfaction. For members of the public, a number of important questions remained when the Sheriff, the Coroner, the District Attorney, and the United States Department of Justice closed their files on Mr. Salazar's death.

Tactical Issues and Training Issues

Failure to Coordinate Tactical Response

When Deputy Wilson heard reports of men with guns having gone into the Silver Dollar Café, he moved quickly to clear the bar. It seems he did not communicate much with assisting deputies, and took no time to coordinate any kind of tactical response to the situation – including the positioning of deputies at the rear of the bar. He stated during his inquest testimony that he did not believe he had enough deputies to safely cover both the front and the rear of the location. His primary concern was keeping himself and others safe in the face of a hostile crowd on the street in front of the bar. He said he was less concerned with actually apprehending any suspects. Under principles of current day policing, this was a tactical blunder. The only real point in clearing the location was to locate the men with guns, including a rifle, who reportedly

¹⁰ For example, last year a lieutenant was disciplined for the failure to coordinate a tactical response to timely provide aid to an injured individual subsequent to a deputy-involved shooting. The Training Bureau also responded by developing a scenario intended to address the issue.

went into the bar. Those individuals may have posed a greater threat to deputies and others barricaded inside a building with potential hostages. But having these guns on the street during a riot also would have created a danger that deputies should have viewed as a priority.

The failure to cover the rear of the bar also presented challenges to the ensuing investigation because Homicide detectives had little information as to who actually was in the bar when the gas was introduced. Because the back exit was not secured, it is quite possible that some witnesses who subsequently claimed they had been in the bar at the time were not actually there, and some who were in the bar were never identified or interviewed.

If Deputy Wilson believed he had insufficient resources to address the situation properly, he should have used the radio to request additional units.¹¹ Had he done so, he would have learned that Sergeant Laughlin was minutes away. The two should have coordinated a plan to address the threat in the Silver Dollar. Instead, Wilson fired gas into the bar and then moved to the rear as Laughlin approached. Laughlin, unaware that anyone else had responded to the weapons report or made any attempt to clear the bar, fired more gas into the bar and then left the location without ever speaking to Deputy Wilson.

At the rear of the bar, Deputy Wilson detained two men standing near a vehicle. He did not confirm that they had been inside the Silver Dollar, but noted their eyes were red and watering, suggesting they had been in the bar at the time the tear gas was introduced. One of the men stated he was the owner and that he had a gun in his pocket. The other man had a box of ammunition for the automatic pistol. An assisting deputy then approached and told Deputy Wilson he knew the man with the gun, suggesting he was in fact the owner of the bar. While he did secure the gun and ammunition, Deputy Wilson released both men without asking for identification.

Neither Deputy Wilson nor Sergeant Laughlin took responsibility for clearing the inside of the Silver Dollar to ensure that no injured persons, suspects, or guns remained. In his statement to Homicide, Deputy Wilson stated he did not go into the bar because he and the other deputies needed to attend to the crowd moving up Whittier Boulevard which was interfering with the firefighters working there and because he assumed that the other deputy he saw firing gas into the bar (Sergeant Laughlin) had checked the interior.¹² In his inquest testimony, Wilson added

¹¹ We are mindful of the fact that, in 1970, patrol deputies did not carry handheld radios, and the only means they had to communicate with dispatch was in a patrol car. In addition, they had only one radio frequency, so that, in order to communicate with another car, deputies would have to request the assistance of dispatch before. Today, every deputy is equipped with a handheld radio fastened to their uniform, there are a multitude of frequencies available for use, and deputies can talk directly to each other over the radio.

¹² The fact that Deputy Wilson observed a second volley of gas being introduced into the location by Sergeant Laughlin and yet apparently did not notify him that he had also introduced gas into the bar is yet another example of

that he did not believe anyone would be able to withstand the effects of the tear gas and remain in the building,¹³ and he had no reason to believe anyone was dead or injured inside. This was a faulty assumption that could have had dire consequences had Mr. Salazar not been instantly killed by the first tear gas missile.

Sergeant Laughlin stated he did not go into the location because, even though he and one other deputy with him had gas masks, they were a type with small lenses that allowed for poor visibility. Because no one had a flashlight, he decided it would be unwise to enter the bar. He also took into account the report that someone had been apprehended with a gun when he decided to respond to another assistance call rather than take any further action at the Silver Dollar.

This and other equipment issues certainly played a role in the Department's failure to locate Mr. Salazar's body for over two hours. Looking through today's lens, it is difficult to believe that the LASD would have issued deputies tear gas guns and the authority to use them, but not issue or require them to carry gas masks. Deputy Wilson's failure to clear the interior of the Silver Dollar is understandable because he did not have the proper equipment to do so. What is not so understandable is his decision to deploy gas into the structure knowing full well that he did not have the proper equipment to enter the building if necessary. Sergeant Laughlin had a mask, but claimed it was insufficient because of poor visibility and neither he nor any of the deputies with him had a flashlight. Despite these equipment deficiencies, neither Wilson nor Laughlin saw or understood the importance of clearing the location they had just flushed with tear gas, pointing to even greater deficiencies in strategic planning, tactical training and decision making under today's policing standards. While we recognize the chaotic, riotous situation presented many challenges to the Department that its deputies may not have been sufficiently trained to diffuse, there is no complete justification for the tactical deficiencies that were employed.

Reports that Deputies Ordered People into the Silver Dollar Prior to the Shooting

One of the most puzzling aspects of this incident stems from the numerous reports that deputies ordered several people on the street to go into the Silver Dollar Café just prior to the deputies' use of tear gas to clear the building. One of the men with Mr. Salazar that day reported that he tried to leave the bar to watch the events unfolding outside but was ordered by a deputy with a shotgun to go back in. It would have been completely illogical for Deputy Wilson or any of the other deputies responding to reports of men with guns in the bar to encourage anyone to go into

the extremely poor coordination and communication by the on-scene units. This shortcoming is exacerbated by the fact that the two Departmental protagonists noted here were acting in a supervisory capacity.

¹³ Several deputies stationed outside of the Silver Dollar claimed to have been overcome by the fumes of the tear gas after it was deployed.

the bar at the same time they were intending to clear it. No deputies admit giving such commands, but none were pressed for an explanation of these reports. It is possible that other deputies, unaware of the account of the men with guns entering the bar, had encouraged people to get into the bar and off of the street as part of a crowd control effort. But no deputies ever came forward to acknowledge having done so, and photographic evidence published by the media shows unarmed men near the doorway of the bar as a deputy who appears to be holding a tear gas gun approaches. The documents we reviewed do not resolve this mystery.

Training Issues

At the inquest, the parties spent considerable time examining LASD training on the use of tear gas and tear gas weapons. With regard to the tactical coordination issues discussed above, there is no discussion in any of the materials as to whether or not deputy personnel performed in accordance with their training. By today's standards, the failure to communicate, contain the bar, and then clear it would not meet the Department's expectations.

The Department's expert on tear gas and firearms, Deputy Robert Hawkins, testified at the inquest about LASD training on tear gas and tear gas munitions. Deputy Hawkins was an instructor at the LASD Academy who also trained numerous other police agencies in Southern California. He gave lengthy descriptions of the various types of tear gas projectiles and their uses. He opined that the Flite-Rite used by Deputy Wilson was the appropriate projectile for the job of clearing the Silver Dollar Café.

From a training standpoint, the critical distinction was whether Deputy Wilson was firing into a crowd or a barricade. The Department training was clear that Flite-Rites were to be used to drive out barricaded suspects but were never to be fired into a crowd. Deputy Hawkins testified that it would never be acceptable practice to fire a Flite-Rite directly at someone. All of the personnel who were asked to address the question – Wilson, Laughlin, and Hawkins – stated they believed the armed gunmen reported to be inside the bar presented a barricaded suspect situation. In that situation, the expert concluded that aiming a Flite-Rite for the back of the room was the best way to get the gas in and the suspects out. While it may be true that those inside the Silver Dollar were "barricaded," this logic focuses too much on semantics and not enough on practicalities. The reason the Flite-Rite was to be deployed against barricaded suspects is that it could penetrate doors and windows. Without any structure beyond the curtain to slow the projectile's velocity and absorb its impact, firing the round into the Silver Dollar was equivalent to firing it at a crowd, contrary to the manufacturer's warnings and Department training.

The obvious follow-up question about whether it was appropriate to fire into a darkened building through a door blocked by nothing more than a curtain was never asked. Deputy Hawkins did

state he would want to know what was behind the curtain. All the witnesses accepted as true Deputy Wilson's statement that he intended to fire the Flite-Rite high, aiming for the ceiling, expecting it to bounce to the rear of the bar. Deputy Hawkins offered two possible explanations for why the projectile did not go high, but instead struck Mr. Salazar. First, he noted that the Flite-Rite does not right itself immediately after leaving the weapon but may take as much as a hundred yards to stabilize if it does not penetrate a structure. It will not tumble like the Spedeheat, but because it is fired from a short-barreled rifle, it leaves the weapon with little guidance and has a "definite pitch and yawl." By this very explanation, Deputy Hawkins undermined his own conclusion about the appropriateness of firing the Flite-Rite into a darkened bar through nothing more than a curtain, as one cannot accurately anticipate the projectile's flight path. The better assessment of Deputy Wilson's actions was that he used the wrong projectile under the circumstances presented, resulting in tragic consequences.

Deputy Hawkins also opined, in response to a question from the Hearing Officer, that the curtain over the doorway could have deflected the flight of the projectile. The day before Deputy Hawkins (the last witness to testify) gave this opinion to the inquest jury, the LASD criminalist performed some tests to determine to what extent a curtain like the one at the Silver Dollar would deflect the path of a Flite-Rite. He found that any deflection of the projectile by the curtain fabric was insignificant. His findings were not documented until much later, when County Counsel's office asked him to prepare a memo for purposes of litigation. The findings that contravened Deputy Hawkins' theory were not presented during the inquest.

None of the subtleties of how the Flite-Rite projectiles fly or how the weapons handled could have been known to Deputy Wilson or Sergeant Laughlin because, before August 29, 1970, they had never actually fired those projectiles. Deputy Hawkins testified that during tear gas training, the class only observed a demonstration of the weapon being fired because the Flite-Rite projectile cost more than 10 dollars each, a prohibitive expense at the time.¹⁴ Sheriff Pitchess ordered the Flite-Rite projectiles to be removed from LASD stations after this incident.

Alleged Surveillance of Mr. Salazar and other Intelligence Concerns

Much of the public's concern about Mr. Salazar's death – at the time and continuing today – has been around the theory that he was killed intentionally, not accidentally or negligently. The theory centers on Mr. Salazar's frequent criticism of law enforcement and his concern that he may become the subject of a police set-up in an effort to discredit him. He told officials with the U.S. Commission on Civil Rights in the weeks before his death that he was being tailed because his coverage of police brutality had angered law enforcement officials. When he died at the

¹⁴ Efforts by the media to obtain the Department's manual on the use of tear gas projectiles were refused, reportedly because the manufacturer indicated the materials were confidential.

hands of police shortly thereafter, it was understandably difficult for his family, friends, and supporters to accept that Mr. Salazar might have simply been in the wrong place at the wrong time.¹⁵

It was not an era of openness and public transparency. The Sheriff's Department had no choice but to admit the facts of the shooting but otherwise circled the wagons around its deputies, offered few explanations and no apologies. That posture fueled the skeptics.

The Department's investigation did not give any credence to the intentional killing theory and so did not ask some of the questions that might have quelled some of the suspicion. For example, did Deputy Wilson have any knowledge of who Ruben Salazar was? If he had known Mr. Salazar was in the bar, would that have meant anything to him? Were any government agents, LASD or otherwise, following Mr. Salazar on the day of his death?

If Mr. Salazar was under surveillance, either the LASD did not know, or did not maintain any record of its knowledge. Because the Homicide investigation was not scoped to address this concern, it becomes difficult 40 years later to address whether the alternative theory has any credence whatsoever. There is nothing in the documents we reviewed, however, to suggest anyone was following Mr. Salazar or that this was a targeted killing. In fact, the series of tactical errors detailed in this report rather definitively point to a hashed up operation in a sea of chaos that resulted in the tragic death of Mr. Salazar rather than a deftly designed assassination.

There was one bit of intelligence information-gathering we found – a handwritten note dated July 22 [no year] indicating that a sergeant in "Intelligence" called to request a copy of the complete press credential on Mr. Salazar because it "appears that [liar]¹⁶ Ruben is spreading bad rumors about us in ELA." Mr. Salazar's press pass application is with this note, and there is no evidence to suggest anything came of the request to review the application. There is no evidence of any effort by the Department to remove Mr. Salazar's press pass. As with so many of the documents in the files we reviewed, this information is not stored in any organized way but is simply stuck amidst other unrelated documents.

After Mr. Salazar's death, the Department searched for any criminal history, along with the records of his companions that day, information routinely gathered as part of the Department's protocols after every deputy-involved shooting or death. There is a supplementary report dated six days after his death noting that Mr. Salazar's car was parked at the KMEX lot and another car

¹⁵ In addition, one witness reported that on the day of the March, Mr. Salazar "joked" about "who would be had" that day.

¹⁶ This is a handwritten note that appears to say "liar" but could conceivably instead say "dear." Neither is a particularly favorable interpretation.

is parked at his home. The import of this report is not at all clear, though it may have been in response to media reports that the car had been found at the East Los Angeles Sheriff's station.

The files contain a series of requests made by the County Attorney defending the civil lawsuit. These requests for documents and investigative follow up occurred well after the conclusion of the inquest, declination by the District Attorney, and the closing of the Homicide investigation. One of these requests from the County Attorney included a request to learn more about Mr. Salazar's family background and alleged expulsion from Mexico. There is no substantive follow up on this request from the Department located in the files.

The Department's files on Mr. Salazar also contain a large amount of material on the Moratorium March that was the backdrop for Mr. Salazar's death, as well as literature and intelligence files on those thought to have been instigators of violence that day, including the Brown Berets¹⁷ and a group associated with Angela Davis. This does not appear to be part of the Homicide Bureau's file, and it is unclear who compiled this information or for what purpose.

Conversation with Former Deputy

In addition to reviewing the eight boxes of materials retained by the Homicide Bureau, OIR had the opportunity to talk with former Deputy Wilson, the deputy who fired the Flite-Rite missile that killed Mr. Salazar. The primary import of that discussion was to question the former deputy about areas of inquiry that were not addressed by the Homicide investigation. As detailed elsewhere, the 1970 investigation was not designed to assess whether, as some suspected, the LASD had targeted, followed, and intentionally killed Mr. Salazar because of his criticism of police tactics. As a result, former Deputy Wilson was not asked whether on the date of the incident he knew or had heard of Mr. Salazar, nor whether he had been ordered to target him or follow him on the date of the incident.

In 2011, over 40 years later, those questions were posed by OIR to former Deputy Wilson. He indicated in no uncertain terms that until after the incident occurred, he had absolutely no knowledge of who Mr. Salazar was or what he looked like. His account of the incident is consistent with the statements and testimony he gave 40 years ago. One interesting fact that gained more significance when related by former Deputy Wilson was that on the date of the incident, his permanent unit of assignment was Montrose (now Crescenta Valley) Station, but when reports of the riot began to surface he volunteered to assist East Los Angeles Station. Upon arrival, he immediately began the process of crowd control. This apparent last minute

¹⁷ A group first organized by young Mexican-Americans in East L.A. in the late 1960's, initially with a focus on community organizing against police brutality and for educational equality. It grew into a national organization with a broader focus on Latino equality.

assignment of Deputy Wilson to assist in crowd control does not support the theory suggested above that he had been specially chosen to target, follow, and kill Mr. Salazar.

Another interesting fact not illuminated in the 1970 investigation was former Deputy Wilson's response when he first learned someone had died in the Silver Dollar. Consistent with what he told Homicide, he returned to the bar at some point more than an hour after he had fired the tear gas. At that point, he was approached by a man who said there was an injured person inside the Silver Dollar. Deputy Wilson initially believed the injured person was in the alley behind the Silver Dollar.¹⁸ The man was instructed to pull the injured person out so that first aid could be rendered. Shortly thereafter, the man reappeared and shouted "Muerto! Muerto!" which Wilson interpreted to mean the man was dead. It was at that point he realized a dead man was inside the Silver Dollar. Former Deputy Wilson said his immediate thought upon hearing this was that the man with the gun in the back of the Silver Dollar had killed someone in the bar and he anguished at the idea that he had let that man go. It was not until hours later that the former deputy was informed the man identified as Ruben Salazar had been killed inside the bar as a result of being struck by the Flite-Rite missile he had deployed.

Conclusion

Ruben Salazar was a powerful advocate for the Latino community who became an icon for journalists and for those interested in advancing the cause of civil rights through exposure of injustices. His untimely and tragic death by means of a tear gas projectile fired by a Sheriff's deputy led to a diminishment of trust between some in the Latino community and the Sheriff's Department. We have detailed in this report how the lack of transparency by the Sheriff's Department in 1970 and a number of questions left unanswered by the Homicide investigation continue to cause some to challenge the official results and question why those involved were never prosecuted for their roles in Mr. Salazar's death. To the degree the eight boxes of documents retained by the Homicide Bureau shed additional light on Mr. Salazar's death over 40 years ago, this report is intended to provide a narrative of those materials. However, the insight provided by these documents is lacking in that the Homicide investigation did not attempt to directly address the questions that linger – namely, the suspicion by some that Mr. Salazar was targeted that day by law enforcement. Moreover, because the scope of the Department's investigation and subsequent inquest was limited to reviewing whether a crime had been committed, a more exacting review of tactical flaws, poor decision making, and other potential performance deficiencies did not occur. With those limitations, we are hopeful that this account of the materials that do exist will provide a fuller account of the events that day; an account that is long overdue.

¹⁸ During the 1970 investigation, Deputy Wilson stated that a deputy was contacted in the alley behind the bar about an injured man inside the bar. It is not surprising to have two different statements taken forty years apart.