

TUCSON POLICE DEPARTMENT

CRITICAL INCIDENT REVIEW BOARD

**AVENIDA VEGA /
CALLE BETELGEUX**

MARCH 14, 2017

**OFFICER INVOLVED VEHICLE
COLLISION - SIGNIFICANT INJURY**

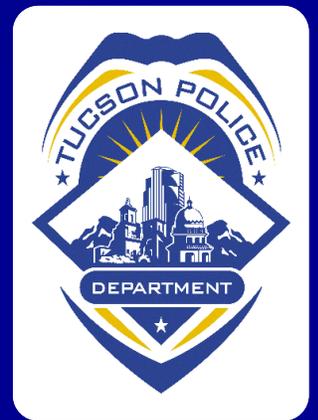


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EXECUTIVE SUMMARY

INVESTIGATIVE CASE INFORMATION

CIRB Number: 17-0148
TPD Case Number: 1703-14-0630
Date of Incident: March 14, 2017
Location of Incident: Avenida Vega/Calle Betelgeux

Methodology

The Tucson Police Department (TPD) Critical Incident Review Board (CIRB) convened to review this incident with a focus on department policy, tactics, supervision, equipment, use of force, decision-making, and training. CIRB evaluation included the following modes of inquiry: document and video review, review of interviews conducted by the Traffic Investigations Unit, the Homicide Investigations Unit, and the Office of Professional Standards (OPS), as well as CIRB questioning of certain involved members.

The Traffic Investigations Unit, Homicide Investigations Unit, and OPS investigations, along with testimony taken during CIRB proceedings, established the facts under review. CIRB elected to take testimony from only specified individuals in order to elicit clarifying information or obtain further explanation of details developed in the underlying investigation.

Once CIRB testimony and fact gathering was complete, the group's members deliberated with the goal of reaching consensus in their findings and recommendations. Consensus does not necessarily mean complete agreement among members on every issue, but it does mean general agreement. Each member of the CIRB listened thoughtfully to the perspective of other board members, giving fair consideration to differing points of view. Ultimately, this report represents the collective judgment of the board.

Introduction

On the evening of March 14, 2017, officers from Operations Division East (ODE) Community Response Team (CRT) were conducting a surveillance operation at a suspected drug sales house located in the 2900 block of South Kolb Road. A motorcycle, later determined to be driven by Mr. Henry Birdsong, pulled into the carport at the house, made contact with a male subject in the carport, and then left after a very short amount of time. Mr. Birdsong's actions raised the suspicions of the CRT, as they matched those regularly associated with narcotic sales activity. Having observed a possible drug sale, officers attempted to stop Mr. Birdsong who then fled on the motorcycle, speeding northbound on Kolb Road from Golf Links Road.

After unsuccessful attempts to locate the motorcycle in the area of Kolb Road and 22nd Street, CRT Officer Rivera, driving an unmarked white minivan, located a motorcycle moving southbound on Avenida Vega approaching Calle Betelgeux. Officer Rivera drove into the southbound lane of Avenida Vega, pulled in front of the motorcycle and stopped, placing the vehicle in park. Within seconds of this maneuver the motorcycle struck Officer Rivera's minivan throwing Mr. Birdsong from the motorcycle into a nearby electrical pole. Paramedics transported Mr. Birdsong to Banner University Medical Center where he was treated for non-life threatening injuries.

Issues Identified and Examined by CIRB

CIRB examined the following issues:

- Proper decision-making and tactics, as well as potential deficiencies in training and policy
- Overall supervision of the incident, including both before and after the collision
- General supervision by Sergeant Zaugra
- Transmission of radio communications on both the ODE frequency and the ODE CRT frequency
- The utilization of unmarked vehicles
- Officers' actions with regard to the attempted stop and pursuit of Mr. Birdsong
- Officer Rivera's decision to engage in a roadblock style tactic

Findings

CIRB reached the following findings:

There were deficiencies in tactics, decision-making, policy, and supervision.

The decision to attempt to take the motorcyclist into custody in the roadway was a poor decision. Officers train to conduct traffic stops in a safe location typically off the roadway. Attempting to contact Mr. Birdsong in the middle of the intersection placed the suspect, the officers, and other citizens on the roadway in danger.

CIRB recommends the Community Response Team Manual be revised to include clear operating procedures, particularly as related to the use of unmarked vehicles.

CIRB found deficiencies in motorcycle traffic stop training.

There was a lack of clear direction and a lack of an operational plan.

Sergeant Zaugra's lack of direction after Mr. Birdsong fled on the motorcycle was a poor practice and created an environment for driving above the speed of the normal traffic flow. The board determined the attempt to stop the fleeing motorcycle and subsequent department driving did not rise to the level of a pursuit.

Sergeant Zaugra failed to maintain control over the responding units.

There was a culture of dysfunction in the squad. Officers had concerns with Sergeant Zaugra's supervision of the CRT Unit.

Officer Rivera created a roadblock in an attempt to stop the fleeing motorcycle and ultimately caused a collision.

This tactic was determined to be out of policy.

CIRB REPORT

CASE OVERVIEW

On the evening of March 14, 2017, officers from the Operations Division East (ODE) Community Response Team (CRT) conducted surveillance on a house located in the 2900 block of South Kolb Road. Based on an anonymous tip and previous calls for service, they believed the home was involved in narcotics sales. The officers utilized several unmarked vehicles, as well as two marked patrol cars, to conduct the surveillance operation. A motorcycle, later determined to be ridden by Mr. Henry Birdsong, stopped at the house and was only there for a very short amount of time while he spoke with a male subject in the carport; this is consistent with narcotic sales activity. The motorcycle then left the location northbound on Kolb Road.

CRT Officer Rodriguez drove a marked patrol car equipped with a Mobile Video Recorder (MVR). He maneuvered behind the motorcycle when Mr. Birdsong stopped at a red light at Golf Links Road and Kolb Road. Officer Rodriguez conducted an inquiry of the motorcycle license plate revealing the license plate was stolen. He mistakenly announced over the radio that the motorcycle was stolen. Based on the suspected narcotics sales activity and the belief the motorcycle was stolen, Sergeant Zaugra then directed a takedown¹ of Mr. Birdsong in the street. Sergeant Zaugra directed over the radio "right now, grab him, get him, get him, and get him." As Officer Rodriguez activated his emergency overhead lights and gave a blast of his siren, Sergeant Zaugra (in plain clothes and not wearing a tactical vest) approached the motorcycle on foot. Other CRT officers began to approach the motorcycle, both on foot and in vehicles.

Based on the MVR video from Officer Rodriguez's patrol car, Mr. Birdsong appeared to notice Sergeant Zaugra and other officers approaching him from behind. He sped away northbound on Kolb Road as the traffic light turned green. The marked units briefly followed with their emergency lights on, but shortly after clearing the intersection of Golf Links Road and Kolb Road shut down their lights when the motorcycle was no longer in sight.

All officers, in both marked and unmarked units, drove north on Kolb Road in the same direction as Mr. Birdsong until they lost sight of the motorcycle between Golf Links Road and 22nd Street. Uncertain of where he fled, the officers began searching the general area of Kolb Road and 22nd Street and requested assistance from the department helicopter.

As the search was underway, the police dispatcher and Officer Rodriguez clarified over the radio that only the license plate, not the motorcycle, was returning as stolen. Officer Meador

¹ A takedown is a tactical maneuver utilized by law enforcement to arrest suspects. Vehicle/Motorcycle takedowns are maneuvers that utilize speed and the element of surprise to immobilize suspect vehicles with the intent to limit the occurrence of vehicle pursuits.

announced that he might have seen the motorcycle turn into the McDonald's parking lot on the southwest corner of Kolb Road and 22nd Street.

Officer Rivera, driving north on Avenida Vega, believed he had located the motorcycle southbound on Avenida Vega approaching Calle Betelgeux. He drove into the southbound lane of Avenida Vega, pulled in front of the motorcycle, stopped and placed his unmarked van in park. Almost immediately following this maneuver, the motorcycle struck Officer Rivera's van throwing the rider off the motorcycle and into a nearby electrical pole. Officer Rivera announced the collision over the radio and asked for emergency paramedic response.

The motorcycle was confirmed as being the same motorcycle and rider that sped away from the officers at Golf Links Road and Kolb Road. The motorcycle rider, identified as Henry Birdsong, was transported to Banner University Medical Center.

INVOLVED PARTIES

Field Response

Officer Ryan Jones #49853

- Operations Division East, Community Response Team
- Plainclothes, driving an unmarked, blue, VW Touareg
- Tenure: 10 years
- 2 years, 1 month tenure in ODE CRT
- Specialized Training: Basic Undercover Narcotics School, 2015, Patrol Rifle, Shotgun, Flex Baton, Taser

Officer Derek Meador #52896

- Operations Division East, Community Response Team
- Plainclothes, driving an unmarked, dark grey, Toyota Corolla
- Not at Kolb and Golf Links when motorcycle fled, but was on "the eye"/main surveillance unit in the 2900 block of North Kolb
- Tenure: 5 years, 5+ months
- 1 year, 6+ months tenure in ODE CRT
- Specialized Training: Crisis Intervention Training (CIT), Patrol Rifle, Taser

Lead Police Officer (LPO) Nathaniel Foster #50738

- Operations Division East, Community Response Team
- Uniformed, driving marked patrol vehicle #0794
- Not at Kolb/Golf Links when motorcycle fled
- Tenure: 9 years, 4+ months
- 4 years, 1+ month tenure in ODE CRT
- Specialized Training: CIT, Taser

Officer Rafael Rodriguez #51584

- Operations Division East, Community Response Team
- Uniformed, driving marked patrol vehicle #0941, equipped with a Mobile Video Recorder (MVR)
- Tenure: 5 years, 4+ months
- 6+ months in ODE CRT
- Specialized Training: Specialized Patrol Officer Response Training (SPORT), Patrol Rifle, Shotgun, Flex Baton, Taser

Officer Joseph Rivera #53348

- Operations Division East Community Response Team
- Plainclothes, driving unmarked, white, minivan involved in collision with Mr. Birdsong
- Tenure: 4 years, 7+ months
- 1 year, 1+ month tenure in ODE CRT
- Specialized Training: Specialized Patrol Officer Response Training (SPORT), CIT, Shotgun, Flex Baton, Taser

Sergeant Jonathan Zaugra #39302

- Operations Division East, Community Response Team
- Supervisor
- Plainclothes, driving an unmarked, black, Dodge truck
- 19yrs, 3+ months tenure
- 5+ years time in rank
- 2 years, 10+ months tenure in ODE CRT
- Specialized Training: Specialized Patrol Officer Response Training (SPORT), Patrol Rifle, Shotgun, Flex Baton, PepperBall, Taser, Tactical Flight Officer, Field Training Sergeant

Investigative Response

Sergeant Michael Dietsch #33026

- Traffic Investigations Unit
- Supervisor

Detective Natalie Pike #43126

- Traffic Investigations Unit
- Detective

Sergeant Marco Borboa #26742

- Homicide Investigations Unit
- Supervisor

Detective Frank Hanson #40737

- Homicide Investigations Unit
- Detective

Detective Josh Cheek #41238

- Homicide Investigations Unit
- Detective

Lieutenant Justin Lane #44176

- Office of Professional Standards
- Commander

Sergeant Dallas Hearn #33030

- Office of Professional Standards
- Supervisor

Community Member

Mr. Henry Christopher Birdsong 05/10/1988

- Motorcycle operator
- Operated a 2012 black & white Yamaha FZ6R motorcycle
- Injured

Officer Rafael Rodriguez #51584

Officer Rodriguez was interviewed by CIRB, addressing **tactics, decision-making, policy and supervision.**

CIRB's clarifying questions sought to determine:

- If Officer Rodriguez had a plan when he initially pulled up behind the motorcycle;
- Why Officer Rodriguez activated his emergency lights after pulling up behind the motorcycle;
- Why Officer Rodriguez turned off his Mobile Vehicle Recorder (MVR);
- Officer Rodriguez' training regarding vehicle and motorcycle takedowns;
- Whether Officer Rodriguez received appropriate direction from Sergeant Zaugra;
- Concerns with Sergeant Zaugra's supervision.

Investigative Statement and CIRB Testimony

CIRB asked Officer Rodriguez to describe his thought process when he pulled up behind the motorcycle. Officer Rodriguez explained that he intended to follow Mr. Birdsong and initiate a traffic stop in the event he committed a traffic violation. While stopped at the light he conducted a records check of the motorcycle's license plate via his Mobile Tactical Computer (MTC) and received notification the license plate was stolen. Officer Rodriguez indicated he initially misread the notification and believed the motorcycle was stolen. At that time he relayed the motorcycle was stolen over the radio via the frequency designated for use by the ODE CRT, at which time Sergeant Zaugra gave the direction to "grab him."

Officer Rodriguez believed Sergeant Zaugra intended for the officers to "grab" Mr. Birdsong off of the motorcycle, but he was not comfortable with that direction. Officer Rodriguez activated his overhead lights to conduct a traffic stop, exited his vehicle and approached the motorcycle. It was at this time that Mr. Birdsong turned to look behind him and fled northbound on Kolb Road.

Officer Rodriguez drove northbound on Kolb Road, reaching a speed of approximately 50 mph before slowing. He understood that Mr. Birdsong was suspected of a property crime and knew department policy prohibited pursuing those suspected of property crimes. Officer Rodriguez shut down his emergency equipment while unmarked units attempted to locate the motorcycle.

Officer Rodriguez' vehicle was equipped with a Mobile Vehicle Recorder (MVR) system, which automatically activated when he turned on his overhead lights. CIRB reviewed the MVR video and noted the recording stopped while Officer Rodriguez drove northbound on Kolb Road. Ending the recording at this point would have required a manual stop of the equipment. CIRB asked Officer Rodriguez why he stopped the MVR recording, and he explained it was his standard practice to

stop the MVR recording upon completion of a traffic stop. He also believed that once the motorcycle was no longer visible, further recording was unnecessary.

Officer Rodriguez stated he received training regarding general traffic stops, but not vehicle takedowns. He was concerned the motorcycle could be involved in a collision if the motorcycle rider decided to flee. He explained the direction given to the squad regarding fleeing vehicles was to cease operation of all emergency equipment, do not pursue, and resume normal driving.

Officer Rodriguez told CIRB he had been a member of the ODE CRT and under the supervision of Sergeant Zaugra for approximately 6-7 months at the time of this incident. He candidly explained that this particular operation took place without a specific plan and without overall direction concerning the objective or contingencies.

Officer Rodriguez described a lack of direction on operations from Sergeant Zaugra, though he acknowledged he never addressed this issue. Officer Rodriguez recognized there should have been a briefing prior to this operation in order to ensure all unit members knew the target, the operational plan, and each individual member's role.

Officer Rodriguez described a squad environment characterized by poor communication; a problem he believed had been brought to Sergeant Zaugra's attention more than once. Despite his concerns that the dysfunctional communication could endanger officers or others, Officer Rodriguez failed to advise the divisional command staff because he feared that would amount to "digging [his] own grave."

According to Officer Rodriguez, Sergeant Zaugra created a culture where unit members were reluctant to provide feedback to him or to place themselves in the "spotlight." He believed dissent could lead to a loss of autonomy or removal from CRT. While Officer Rodriguez testified Sergeant Zaugra never outwardly retaliated against any unit member for providing constructive criticism, he remained unwilling to speak out based on a general discomfort with Sergeant Zaugra.

CIRB questioned Officer Rodriguez regarding the general supervision practices of Sergeant Zaugra. Officer Rodriguez testified that Sergeant Zaugra chose not to hold members of the unit accountable, leaving the level of performance entirely dependent on the individual unit member's work ethic. To that point, Officer Rodriguez emphasized that a significant amount of the unit activity relied on member initiated actions and target² identification.

Analysis

Did Officer Rodriguez have a plan when he initially pulled up behind the motorcycle?

² Target refers to a person who is the focus of a criminal investigation and believed to be involved in criminal activity or a location where criminal activity is believed to be occurring.

CIRB determined Officer Rodriguez planned to conduct a traffic stop after the motorcycle cleared the intersection. When Sergeant Zaugra exited his vehicle and approached the motorcycle with the intent to detain Mr. Birdsong, this altered his plan. The motorcycle fled when they attempted to contact him.

Why did Officer Rodriguez activate his emergency lights after pulling up behind the motorcycle?

Officer Rodriguez testified to CIRB he intended to conduct a traffic stop on the motorcycle. The CIRB finds, based on testimony and video evidence, that Officer Rodriguez activating his emergency lights at the intersection of Kolb Road and Golf Links Road was consistent with Officer Rodriguez' testimony regarding his intent to conduct a traffic stop.

Why did Officer Rodriguez turn off his MVR?

Officer Rodriguez testified to CIRB he turned off his vehicle's MVR after the motorcycle fled and was no longer visible. He indicated it is standard practice to stop the MVR recording upon completion of a traffic stop and after he lost visual contact with the motorcycle, he saw no reason for the MVR to stay on.

CIRB determined the ending of the MVR recording is standard practice and Officer Rodriguez' actions did not violate department policy.

What was Officer Rodriguez' training regarding vehicle and motorcycle takedowns?

CIRB determined Officer Rodriguez received training regarding standard traffic stops, but never received training specific to vehicle or motorcycle takedowns. Training regarding vehicle takedowns is not currently provided to CRT units and is reserved for use by tactical units such as the Special Weapons and Tactics Unit.

Did Officer Rodriguez receive appropriate direction from Sergeant Zaugra?

CIRB determined that Sergeant Zaugra allowed unit members to identify their own targets and gave minimal direction for the development of operational plans. No operational plan was created for this deployment. When the unit engaged in this operation, Sergeant Zaugra failed to make personnel assignments.

Did Officer Rodriguez have concerns with Sergeant Zaugra's actions and response to incidents of this nature; and if so, how were those concerns addressed?

CIRB determined that Officer Rodriguez did have concerns regarding Sergeant Zaugra's supervision, but never took steps to address those concerns with Sergeant Zaugra or other members of his chain of command.

Findings and Recommendations

CIRB determined while Sergeant Zaugra failed to appropriately supervise the ODE CRT unit, Officer Rodriguez also failed to ask clarifying questions, voice concern, take any active role in addressing squad issues, or report to the chain of command. CIRB finds all officers, no matter their tenure, have an obligation to take action or report concerns when they believe the safety of officers or members of the community are compromised. This can be accomplished by speaking with their direct supervisor, a peer, a trusted supervisor, or a member of the command staff. CIRB also finds while tactical operations plans are not required for deployments such as this incident, the completion of one would have provided clarification for unit members on roles and responsibilities during the CRT deployment.

Sustained General Order Violations

CIRB finds no sustained General Order violations regarding Officer Rodriguez.

Officer Joseph Rivera #53348

Officer Rivera was interviewed by CIRB, addressing **tactics** and **decision-making**, with a specific focus on the collision.

CIRB's clarifying questions sought to determine:

- What information Officer Rivera relayed to Sergeant Zaugra when he briefed him at the collision scene;
- Whether Officer Rivera attempted to provide medical aid to Mr. Birdsong;
- Officer Rivera's training regarding vehicle and motorcycle takedowns;
- Officer Rivera's experience regarding fleeing motorcycles from areas of reported criminal activity;
- Officer Rivera's tactical plan when he observed the fleeing motorcycle.

Investigative Statement and CIRB Testimony

Officer Rivera gave CIRB a detailed explanation of his conversation with Sergeant Zaugra following the collision. He told Sergeant Zaugra that while traveling north, he saw a motorcycle traveling southbound on Avenida Vega. While Officer Rivera told OPS he did not recognize the motorcycle or the motorcycle rider, due to the close proximity and timing of the area the motorcycle was last observed, he assumed it was the outstanding motorcycle. Officer Rivera drove his vehicle into the southbound lane of Avenida Vega where he stopped and placed it in park. Officer Rivera intended to "park [his] vehicle to block [the motorcycle's] path." He told OPS when the motorcycle rider continued to accelerate, he thought that he would ride onto the sidewalk (it should be noted the sidewalk curbs are sloped, not the traditional square type).

The motorcycle and rider kept traveling in the southbound lane despite the presence of Officer Rivera's vehicle. The motorcycle struck Officer Rivera's van, which threw Mr. Birdsong from the motorcycle into a nearby electrical pole. Officer Rivera realized that Mr. Birdsong was in pain and immediately called for paramedics. He visually examined Mr. Birdsong for any bleeding or compound fractures in need of immediate treatment, but found none. Officer Rivera testified that communication with Mr. Birdsong would have been impossible at this point because he was screaming.

Officer Rivera recounted that when Sergeant Zaugra arrived at the scene he gave him direction to move Mr. Birdsong. Officer Foster, who had arrived around the same time, advised Officer Rivera to leave him in place in the event he had non-visible injuries. Mr. Birdsong was left in place until paramedics transported him to the hospital.

According to Officer Rivera, Sergeant Zaugra did not provide any additional direction or take incident command. Responding officers took their own positions to secure the scene and block the necessary intersections.

CIRB asked Officer Rivera if he had any feedback regarding supervision of the incident. He testified that Sergeant Zaugra gave no direction to stop following the motorcycle, which left him with the impression he could continue to follow.

Officer Rivera believed that officers in unmarked cars were expected to attempt to maintain visual contact of any fleeing vehicle and further described a practice of continuing to follow these fleeing vehicles to “catch the bad guy at the end.” This expectation and practice set the tone for all past operations he had been involved in and was ingrained in the unit culture.

CIRB questioned Officer Rivera regarding general unit practices and supervision by Sergeant Zaugra. Officer Rivera testified members of the unit rarely received feedback from Sergeant Zaugra. While debriefs of operations did occur, they were rare and only involved a retelling of what occurred rather than a critical review intended to identify problems or areas for improvement. Officer Rivera testified any critical feedback shared within the unit took place between unit members and not typically in the presence of Sergeant Zaugra.

CIRB questioned Officer Rivera regarding any training he received concerning vehicle and motorcycle takedowns. He testified he had no training related to traffic stops specifically of motorcycles, but had received SPORT training that included undercover buys, mobile surveillance, and vehicle surveillance.

Officer Rivera was questioned regarding his experience with motorcycles leaving suspected narcotics houses. He testified if a vehicle or a motorcycle was seen leaving a suspected narcotics location, an attempt would be made to conduct a traffic stop, however “if it flees, then...the motorcycle flees.”

CIRB further questioned Officer Rivera about his tactical plan to address the fleeing motorcycle in this case. He testified that when he chose to stop his vehicle in the roadway on Avenida Vega, he believed he was setting a containment position to get the motorcycle to stop and he did not believe he was going to cause a collision. He also explained that he had observed a similar tactic in the past that did not result in a collision.

Officer Rivera went on to describe a time when Sergeant Zaugra utilized an unmarked police car in a parking lot to block a suspect vehicle (not a motorcycle) associated with the theft of a tailgate. This led Officer Rivera to believe this blocking technique was not only an accepted unit practice, but also approved by his supervisor.

Officer Rivera acknowledged to CIRB, if he were ever in a similar situation, he would not take the approach he used in this matter. When asked what he would do differently, he said his decision-making process would be to call the situation out over the radio, pull over to the side of the road

to allow the motorcycle to pass by, and make a U-turn to follow the motorcycle. He went on to say if the motorcycle rider continued to flee, he would let it go and not pursue. This tactic is standard practice when vehicle pursuits are terminated and is outlined in *General Order 3641.1*, the Vehicle Pursuit Policy.

CIRB questioned Officer Rivera concerning his training from a more general perspective. Officer Rivera recommended additional training regarding the department's pursuit policy. He further testified that he did not have time to review policy, to have a good working knowledge and does not recall ever "studying" *General Orders*. When questioned further, Officer Rivera testified there was no misunderstanding of department policy that led to this incident and during times when policy was previously unclear, he posed a question to a supervisor who reviewed *General Orders* to obtain the policy clarification and engaged in a discussion regarding the policy.

Analysis

What information did Officer Rivera relay to Sergeant Zaugra when he briefed him at the collision scene?

CIRB determined Officer Rivera appropriately relayed accurate information to Sergeant Zaugra regarding his actions, the collision, and the events leading up to the collision.

Did Officer Rivera attempt to provide medical aid to Mr. Birdsong?

CIRB finds that Officer Rivera should have attempted to communicate with Mr. Birdsong in order to determine the nature of his injuries. Although Officer Rivera's visual examination revealed no obvious trauma that he could have treated, he should have recognized the need to keep him immobilized until paramedics arrived.

What was Officer Rivera's training regarding vehicle and motorcycle takedowns?

Officer Rivera received SPORT training and training regarding standard traffic stops. He had not received any training regarding vehicle or motorcycle takedowns. The academy does not provide instruction regarding vehicle takedowns during basic training beyond high-risk vehicle stop training. Vehicle and motorcycle takedowns utilized for the specified purpose of apprehensions are not consistent with training provided to CRT. These tactics are reserved only for use by specialized tactical units such as the Special Weapons and Tactics Unit.

What was Officer Rivera's tactical plan when he observed the motorcycle?

CIRB determined Officer Rivera utilized an unauthorized roadblock tactic in an attempt to stop and apprehend Mr. Birdsong. During his OPS interview, while Officer Rivera stated it was not his intent to deploy lethal force against Mr. Birdsong, he recognized the roadblock tactic he deployed could be considered lethal force and he was unable to provide the justification for such force.

Findings and Recommendations

CIRB determined Officer Rivera violated *General Orders* 2524.2 and 2891 when he used his vehicle to engage in a roadblock tactic. CIRB understands Officer Rivera's desire to prevent Mr. Birdsong's flight from the officers attempting to detain him, but finds the use of this tactic was inconsistent with department policy and counter to established training. CIRB recognizes that Mr. Birdsong's actions contributed to the collision; however, Officer Rivera's poor tactical decision-making was a significant factor in the outcome.

CIRB also finds that Officer Rivera failed to appreciate the potential seriousness of Mr. Birdsong's injuries. Although directed by Sergeant Zaugra, he should have independently recognized that Mr. Birdsong should not have been moved prior to the arrival of paramedics.

CIRB determined Officer Rivera was not working in an environment where he was being coached or mentored, which is not only critical when personnel are placed in new assignments, but remains important throughout the duration. He also lacked a basic expected understanding of *General Orders*.

Officer Rivera failed to take personal ownership of his job knowledge. At the time of formal CIRB review, Officer Rivera had been on imposed leave for a period of approximately 4-5 months. During that time, it did not appear that he had taken the opportunity to review or re-familiarize himself with *General Orders*.

Sustained General Order Violations

CIRB finds Officer Rivera violated *General Orders* 1330.2, 1330.3, 2060, 2524.2 and 2891.

Sergeant Jonathan Zaugra #39302

Sergeant Zaugra was interviewed by CIRB, addressing **tactics, decision-making, policy and training**, with a specific focus on **supervision**.

CIRB's clarifying questions sought to determine:

- Sergeant Zaugra's general and operation specific unit expectations and how they were communicated to unit members;
- Sergeant Zaugra's level of training as well as the training of each member of the unit;
- Whether debriefings of incidents were conducted;
- Sergeant Zaugra's understanding of the pursuit policy and his expectations of his unit regarding the pursuit of vehicles;
- Sergeant Zaugra's tactical plan regarding the stop and apprehension of the motorcycle;
- Sergeant Zaugra's actions and directions at the collision scene.

Investigative Statement and CIRB Testimony

CIRB questioned Sergeant Zaugra about the general expectations he had communicated to his unit. He explained that he wanted members to identify specific targets for the unit to investigate. The unit frequently received 88-Crime tips and Sergeant Zaugra expected the members of his unit to review the tips and determine if any merited initiating an investigation. Sergeant Zaugra also testified that he expected the members of his unit to be flexible and responsive to changing priorities, differing assignments, and varying work hours.

CIRB also questioned Sergeant Zaugra regarding his performance expectations for the individual members of his unit. Sergeant Zaugra testified that he expected each member to perform the tasks associated with their particular assignment. This included the deployment of two uniformed officers in marked patrol vehicles to conduct traffic stops, records checks, and other intelligence gathering. Other members of the unit would typically be in a non-uniform capacity, driving unmarked vehicles, and would be responsible for identifying investigative targets. If there were no specific targets identified for a shift, Sergeant Zaugra tasked the unit to conduct "directed patrol" in a particular sector within the division³ using a combination of marked and unmarked units.

Sergeant Zaugra provided testimony about his level of training and the members of his unit. He testified he had participated in the SPORT school on more than one occasion. He also believed that members of his unit had attended SPORT and a 70-hour advanced undercover training course hosted by the Counter Narcotic Alliance (CNA). Additional unit training included sessions with K9

³ Each patrol division is divided into sectors, which are geographical areas of operation within which officers patrol.

officers and informal collaborative training with other Community Response Teams. When first arriving to the unit, officers would ride with a senior member to learn the job tasks specific to CRT.

With regard to his training on fleeing vehicles, Sergeant Zaugra explained he was taught to provide specific information regarding the vehicle over the radio, such as the license plate and last known direction. He was also taught to request additional resources, such as the Air Support Unit (ASU), in order to attempt to locate the vehicle. He testified he has not received training specific to conducting traffic stops on motorcycles. CIRB noted that Sergeant Zaugra was an Emergency Vehicle Operations Instructor and a High Risk Stop Instructor at the time of this incident.

CIRB questioned Sergeant Zaugra regarding briefings, both pre and post operation. He explained that he regularly conducted pre-operation briefings, but rarely led formal debriefings. Instead, they would meet to discuss recent operations and identify areas for improvement without assigning blame. These discussions often concerned operations during which a target vehicle was lost.

CIRB questioned Sergeant Zaugra about how he expected his unit to react to vehicles leaving suspected drug houses. Sergeant Zaugra explained that members of his unit understand they are prohibited from engaging in a pursuit while operating an unmarked vehicle, but are expected to passively follow or surveil a fleeing vehicle while awaiting additional resources, such as the Air Unit, or while waiting for the vehicle to stop at a static location. He also testified the members of his unit were expected to do so with due regard for safety and with the understanding they are ultimately responsible for their actions.

CIRB asked Sergeant Zaugra whether he had an expectation for his unit members to violate traffic laws, such as driving over a curb, or running a red light, in order to maintain visual contact with a target vehicle. Sergeant Zaugra testified that if members of his unit were to take any actions of that nature, he expected that they be conducted in a safe manner.

Sergeant Zaugra stated he never gave direction that a vehicle associated with a property crime should be pursued “at all costs” nor did he have an expectation that a fleeing vehicle should be blocked. When questioned about having blocked a vehicle during an investigation involving a stolen tailgate, Sergeant Zaugra testified his actions in that incident were not intentional, but rather the result of positioning, lack of visibility around a corner, and a split-second decision. Sergeant Zaugra could not recall whether he led a debriefing with the members of the unit to explain his actions.

CIRB questioned Sergeant Zaugra regarding the working environment he established for his unit. Sergeant Zaugra stated he believed he had an open door policy and if members of the unit had concerns, they could discuss those issues with him. If he developed a concern with a particular officer, he would address it with the officer privately. Sergeant Zaugra testified when issues arose requiring clarification and discussion, he consulted with peer Community Response Team supervisors as well as the legal advisor to ensure he provided appropriate direction.

Sergeant Zaugra testified he did not direct the units following the motorcycle to stop, cease following, and turn around because he did not believe the vehicles were pursuing the motorcycle but rather, were covertly following the vehicle in order to maintain visual contact. Sergeant Zaugra testified in his experience, motorcycles that flee usually continue knowing law enforcement is not able to pursue them. He further testified when vehicles turn into a shopping center, or a neighborhood, they are usually seeking a location to flee on foot. When the motorcycle turned into the McDonald's shopping center located at Kolb Road and 22nd Street, he believed the rider was exhibiting similar behavior.

Regarding the circumstances leading to the collision between Officer Rivera and Mr. Birdsong, CIRB asked Sergeant Zaugra about his decision to conduct a traffic stop at the intersection of Kolb Road and Golf Links Road. Sergeant Zaugra testified he initially hoped to follow the motorcycle to see where it "landed." However, when he saw Officer Rodriguez pull up behind the motorcycle at the red light in a marked patrol vehicle, he became concerned Mr. Birdsong would see the marked patrol vehicle and flee. Based on this concern, Sergeant Zaugra gave his team direction to "get him."

CIRB then questioned Sergeant Zaugra regarding whether he had concerns with plainclothes officers approaching the motorcyclist given the location and conditions. Sergeant Zaugra testified he had concerns and because of them, he did not exit his vehicle and approach Mr. Birdsong. He further testified he was not wearing his tactical vest and was wearing plainclothes and therefore only intended to supervise Officer Rodriguez as he attempted to take the subject into custody. He stated he would provide assistance if needed, however, he did not intend to be a primary contact officer.

CIRB asked Sergeant Zaugra a series of questions regarding the collision scene and his actions upon arriving at Avenida Vega and Calle Betelgeux. Sergeant Zaugra testified he first contacted Officer Rivera and asked what occurred. Officer Rivera told him the direction he had been traveling as well as the direction the motorcycle had been traveling. Based on Officer Rivera's description and his assessment of the scene, Sergeant Zaugra believed Officer Rivera had pulled his unmarked vehicle in front of the motorcycle. Given the gravity of the situation, Sergeant Zaugra called his lieutenant and asked him to come to the scene.

Sergeant Zaugra noticed that Mr. Birdsong was handcuffed and he did not observe any obvious injuries. He heard Mr. Birdsong moaning and he would not answer any questions. Sergeant Zaugra ordered officers to secure the scene and gave direction to secure Mr. Birdsong in a patrol vehicle. Another officer on scene told Sergeant Zaugra not to move Mr. Birdsong until paramedics arrived. Because paramedics were already enroute, Sergeant Zaugra decided not to follow through with the direction to move Mr. Birdsong.

Sergeant Zaugra recognized in hindsight that he and his team had better options for attempting to conduct a traffic stop on Mr. Birdsong in terms of both location and tactics. Additionally, he acknowledged he could have given specific direction to Officer Rodriguez to take a covert position

in his marked unit that would allow the unmarked units to follow the motorcycle until it stopped. This plan would have given officers a greater chance of safely apprehending Mr. Birdsong.

CIRB provided Sergeant Zaugra with an opportunity to offer comments. Sergeant Zaugra noted there is currently training regarding conducting traffic stops on tractor trailers, pick-up trucks, and other high profile vehicles, but nothing specific to motorcycles. When asked for his thoughts on his supervision of the incident Sergeant Zaugra candidly admitted he had failed as a supervisor. He explained that he never expected the collision to occur and did not know why Officer Rivera made the decision to use the roadblock tactic.

Analysis

What were Sergeant Zaugra's general and operation specific squad expectations and how were they communicated to his squad members?

CIRB determined that although Sergeant Zaugra had some loosely developed general and squad specific expectations, he failed to adequately communicate those expectations to the squad.

CIRB determined Sergeant Zaugra chose not to require formal written operation plans for tactical operations. Additionally, he rarely led formal briefings and routinely left tactical assignments to be determined on an ad hoc basis via the radio. This contributed to the unit's lack of situational awareness of operational direction or specific expectations.

What were the specific expectations of unit members operating unmarked vehicles?

CIRB determined, based on testimony from multiple members, that Sergeant Zaugra fostered a unit culture where following fleeing vehicles in unmarked units regularly occurred. Sergeant Zaugra admitted to following and unintentionally blocking a suspect vehicle in an unmarked car. Rather than debriefing with the members of his unit to discuss better tactics, Sergeant Zaugra allowed the behavior to be repeated and lost an opportunity to learn from a mistake.

Did the members of the ODE CRT have the required department training for their assignment?

CIRB determined Sergeant Zaugra and the other members of the unit received the minimal training required. However, it was apparent to the board that Sergeant Zaugra believed the officers within his unit received sufficient training after completing SPORT training and he rarely sought additional training opportunities.

Were incident debriefings conducted and, if so, how often did they occur?

CIRB determined debriefings did not regularly occur and when they did occur, were very informal and lacked critical discussion. The board believes Sergeant Zaugra missed opportunities to provide critical feedback to his unit as well as to coach and mentor them.

What is Sergeant Zaugra's understanding of a pursuit and what are his expectations regarding the pursuit of vehicles?

CIRB determined Sergeant Zaugra has an appropriate understanding of a pursuit and of the department's pursuit policy. He testified to the board that he believed the members of his unit understood the pursuit policy including unmarked vehicles are not permitted to engage in pursuits. Officers in unmarked units are expected to follow vehicles during the course of their duties with due regard.

What was Sergeant Zaugra's tactical plan regarding the stop and apprehension of the motorcycle?

CIRB determined Sergeant Zaugra neither developed nor communicated a tactical plan.

Why did Sergeant Zaugra allow the members of his unit to continue to follow the fleeing motorcycle?

Sergeant Zaugra believed the motorcyclist would eventually flee on foot and hoped to maintain visual contact until that time. He felt Mr. Birdsong could be more easily apprehended once on foot.

What were Sergeant Zaugra's actions and directions at the collision scene?

Sergeant Zaugra received a briefing from Officer Rivera, immediately recognized the significance of the actions taken by Officer Rivera, and notified his lieutenant. He ordered officers to secure the scene and though he initially directed Officer Rivera to move Mr. Birdsong, he changed that direction after receiving input from another officer.

Findings and Recommendations

CIRB finds the decision to attempt a detention of Mr. Birdsong as he sat on his motorcycle at the intersection of Kolb Road and Golf Links Road was tactically flawed, inconsistent with department training, and unsafe. Sergeant Zaugra failed to establish a tactical plan and provide direction to his officers. This led his officers to take unnecessary risks and utilize unsound tactics. Sergeant Zaugra was not wearing his tactical vest and did not identify himself as a law enforcement officer. He failed to communicate a tactical plan to the other unit members or provide any direction prior to taking action. During his testimony, Sergeant Zaugra admitted in hindsight he would have waited for the vehicle to turn to allow the uniformed officer to select a better location in which to attempt a traffic stop.

Both in the context of this critical incident and from a general perspective, CIRB determined Sergeant Zaugra failed to appropriately supervise his unit. He both modeled and reinforced poor behavior and failed to provide sufficient structure to keep his officers working within appropriate operational guidelines. There was an overall lack of operational planning and follow up, and no indication of any critical debriefings. CIRB finds while tactical operation plans are not required for

CRT deployments such as this incident, the completion of these provides clarification for unit members on roles and responsibilities during the CRT deployments. Sergeant Zaugra also failed to take advantage of teaching moments to help guide the officers in his unit and improve their ability to make independent critical decisions. CIRB believes regular debriefs and thorough reviews are a critical component to learning and creating a successful policing environment.

CIRB would like to remind members to be cautious when actively following vehicles that flee while operating unmarked units. There is a fine line between passive following and a de facto pursuit. Furthermore, under these circumstances, it is of the utmost importance to have active supervision while conducting operations of this nature to ensure the control of operational momentum.

CIRB commends Sergeant Zaugra for his self-critique and acknowledging there were better alternatives to the actions taken during this incident. Sergeant Zaugra appeared genuinely contrite, took ownership of his poor decisions, and provided the board with examples of other tactics that could have been utilized to achieve a better outcome.

Sustained General Order Violations

CIRB finds Sergeant Zaugra violated *General Orders* 1143.6 and 1330.2.

GENERAL RECOMMENDATIONS AND FINDINGS

Policy

During the pendency of this CIRB, members of the Training Division established a working group to review and update the Department's Community Response Team Manual and Unmarked Driving Manual. The working group included members of the Counter Narcotics Alliance, Special Investigations Section, and other Community Response Teams within the department. Members were selected because of specific expertise in undercover operations as well as the use and operation of unmarked vehicles during the course of police operations.

The group focused on updating and clearly defining Community Response Team operating guidelines. This includes updates to the unit selection and personnel transition process, and recommendations for a structured transition for command level members responsible for the oversight of CRT units. The revised manuals provide greater direction to specific units operating unmarked vehicles.

CIRB was initially unclear as to whether the ODE CRT members' actions rose to the level of a pursuit per department policy. While CIRB ultimately determined there was no pursuit of the fleeing motorcycle, the first 60-90 seconds after the motorcycle rider fled lacked critical supervisory engagement. In this case, there was a lack of supervision and no clear direction was provided by Sergeant Zaugra. From the time a suspect flees a traffic stop, there is a critical assessment that has to occur for all personnel involved in the traffic stop and the department actions that follow. CIRB determined the actions and decisions after the motorcycle fled contributed to the events that followed.

CIRB discussed the use of the MVR. The board had concerns regarding the fact Officer Rodriguez turned off the MVR immediately following the motorcycle fleeing the attempted traffic stop at Kolb Road and Golf Links Road. However, Officer Rodriguez testified to CIRB it was standard practice to stop the MVR recording upon completion of a traffic stop. After he no longer had visual contact with the motorcycle, he no longer saw a reason for the MVR to stay on. CIRB determined the current MVR policy is clear and adequate.

During testimony, CIRB heard from members who had been placed on imposed leave for an extended period of time. Members testified they felt isolated from the agency during this time and felt communication from department members, including members of their direct chain of command to be lacking. CIRB recognized this to be an area of concern. The practice of placing department members on imposed leave is an evolving and case-by-case practice. During these types of department actions, CIRB recognized the importance of continued and frequent communication with impacted members to ensure they are treated as valued members of the

agency. The value of our employees cannot be understated and is critical to maintaining positive morale and overall agency productivity. While the department's Behavior Sciences Unit (BSU) conduct frequent and regular check-ins with affected members, it is also recommended the affected members' chains of command maintain frequent and regular contact with personnel on imposed leave to ensure status updates are provided and the opportunity to answer inquiries from the member is also provided.

Prior to the publishing of this report, bureau level command staff took steps to ensure all department command staff maintain regular contact with all members within their chain of command currently on imposed leave.

Additionally, it was determined BSU has defined policies in place to ensure regular and frequent contact with department members currently on imposed leave.

Equipment

The only equipment deficiency identified through testimony concerned the condition of the vehicles in the department's unmarked vehicle fleet. CIRB determined there are established procedures in place to address vehicle repairs and replacement. The department has received funding to replace a large number of unmarked vehicles within the fleet through Tucson Delivers, the recently passed sales tax.

Training

One area of concern identified by CIRB involved the lack of operational debriefings within the ODE CRT unit. Debriefings are a critical after-action component of any tactical operation. It allows all involved members to reflect and discuss mistakes made during the course of the operation in order to identify equipment, training deficiencies and improve tactics. CIRB strongly encourages ALL department members at ALL ranks to make time for and conduct debriefings and after action reviews to facilitate department growth.

The other training deficiency noted during CIRB testimony was the lack of training regarding traffic stops of motorcycles. CIRB recommends that the training academy include a discussion regarding motorcycles in the basic training curriculum for traffic stops, to include addressing non-compliant riders.

Use of Force

Use of force was a focal point of this CIRB review. Officer Rivera's use of his unmarked vehicle to conduct a roadblock on a motorcycle equated to a use of deadly force. Officer Rivera's testimony to OPS and to CIRB confirmed his intention to conduct a roadblock in order to prevent Mr. Birdsong from further flight, but it was not to deploy deadly force.

Per *General Order 2524.2*, police vehicles may be used to prevent flight of a vehicle, but “only in situations that warrant the use of deadly force.” Per *General Order 2060*, “Deadly force is authorized when an officer reasonably perceives an imminent threat of serious physical injury or death to the officer or another person.” Mr. Birdsong was suspected of committing a property crime at the time of his apprehension.

CIRB finds Officer Rivera’s use of force, in the form of a roadblock, was **Not Justified, Out of Policy**.

Supervision

Supervision was also a focal point of this CIRB review. CIRB determined the culture of the ODE CRT was dysfunctional. Sergeant Zaugra did not create a framework in which members of the unit received support to perform their job while staying within operational guidelines. The members of the unit lacked direction and had poor behavior modeled by their direct supervisor. The lack of structure through inconsistent written operations plans or IAPs and debriefings, or after-action reviews, allowed the dysfunctional activity to continue. The failure to identify and utilize normal operational missteps during ODE CRT deployments as a development tool further supported dysfunction within the unit.

CIRB noted there is a level of ownership for the Operations Division East command staff, led at the time by Captain Joe Puglia, to ensure ODE CRT activities being employed by Sergeant Zaugra were within department policy and chain of command expectations. In his OPS interview, Captain Puglia noted when he was assigned to ODE, Sergeant Zaugra was in place as the CRT supervisor. During his assignment to the division, and the time leading up to this incident, five different lieutenants had oversight of CRT.

Captain Puglia stated that concerns about Sergeant Zaugra’s ability to appropriately run CRT, beyond the scope of normal operating challenges were not brought to his attention through the lieutenants who oversaw the CRT squad, or the members of the squad prior to this incident. He did note, after this incident, members of the squad provided perspective about how to improve squad performance, to include supervisor critique, which has been noted within this CIRB report.

In closing, CIRB emphasizes all department members are responsible for creating a healthy working environment. Personnel have an obligation to speak out when they have identified a problem within a squad, or within the course of their duties, that is negatively affecting the department. If any member feels their safety is being compromised, they should immediately address the situation and bring it to the attention of their respective chain of command when it is appropriate to do so.

CIRB DIRECTION and ACTION ITEMS

The findings and recommendations of the CIRB will be reviewed for appropriate action as directed by Chief Magnus. Recommendations affecting equipment, training, and policy will be forwarded to the appropriate units and the academy for action. Implementation will be monitored and tracked by the Audit and Best Practices Unit.

CIRB determined updates were needed for both the Community Response Team Manual and the Unmarked Driving Manual. One of the benefits of the CIRB review process is the inclusion of diverse personnel representing various aspects of the department. This allows for real time changes to department training curricula from information gathered during the CIRB review processes as well as the ability to begin work on identified policy deficiencies prior to awaiting the official release of the final CIRB report. To that end, it was determined early during the CIRB review process that updates needed to be made to both manuals listed above. Those updates have been ongoing and are being released as a part of this CIRB report.

The updated Unmarked Driving Manual was published department-wide in December of 2017, prior to the publishing of this report.

Lieutenant Jennifer Pegnato, Basic Training Commander, is responsible for ensuring training updates to the Basic Training curriculum.

The CIRB finds Officer Rivera violated *General Orders* 1330.2, 1330.3, 2060, 2524.2 and 2891.

The CIRB finds Sergeant Zaugra violated *General Orders* 1143.6 and 1330.2.

These violations will be reviewed as directed by Chief Magnus for the appropriate application of the Discipline Guide.

CIRB MEMBERS

Chairperson, Deputy Chief Chad Kasmar

Scribe, Lieutenant Jennifer Pegnato

Member, Lieutenant Michelle Pickrom

Member, Lieutenant Alisa Cunningham

Member, Lieutenant Ray Mechtel

Member, Lieutenant Colin King

Peer Sergeant, Sergeant Christopher Crowell

Peer Officer, Officer Daniel Buckley

Communications Supervisor, Ms. Ana Corcoran

City Attorney, Ms. Julianne Hughes

City Attorney, Ms. Rebecca Cassen

Legal Advisor, Ms. Lisa Judge

Independent Police Auditor, Ms. Liana Perez

Independent Police Auditor, Mr. Mitchell Kagen

Community Member, Ms. Margo Susco

Non-Voting Observers

TPOA Grievance Chair, Officer Don Jorgenson

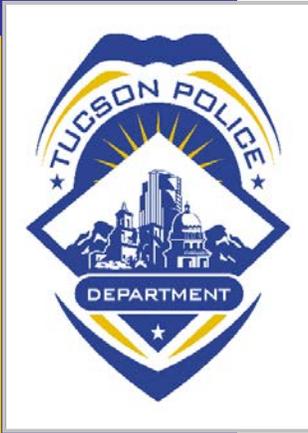
Office of Professional Standards, Lieutenant Justin Lane

Office of Professional Standards, Sergeant Dallas Hearn

APPENDICES

- Appendix A – Community Response Team Manual
- Appendix B – Unmarked Vehicle Driving Manual

Appendix A



*Ready to Protect,
Proud to Serve*

TUCSON POLICE DEPARTMENT

OPERATIONS BUREAU

COMMUNITY RESPONSE TEAM

BRAVO UNIT MANUAL

Updated July 1, 2018 DC. Kasmar

*Tucson Police Department
Chris Magnus, Chief of Police
270 South Stone Avenue
Tucson, Arizona 85701-1917*

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CRT MISSION

The Community Response Team (CRT/Bravo Unit) is a tactical patrol division resource. CRT teams will work divisional problems and identified crime trends or complaints. CRT will have the ability to be deployed to work problems where conventional patrol techniques would be impractical or unlikely to succeed.

The Community Response Team, at the direction of individual Patrol Commanders, will use proactive strategies and techniques to mitigate neighborhood problems, target habitual offenders and assist patrol in efforts to reduce crime throughout the division. CRT will have the ability to work these issues by means of surveillance, plain clothes operations, and in a traditional uniform capacity.

OPERATIONAL DIRECTION GUIDELINES

CRT/BRAVO UNIT

The CRT/Bravo Unit was created to allow patrol officers, under the day-to-day direction of a patrol sergeant, to work as a tactical group in a patrol division. CRT will be assigned tasks that are not feasible to be worked by patrol or other non-patrol entities and will undertake initiatives that will support community policing and problem solving endeavors. The unit may:

- Utilize patrol officers in uniform and plainclothes to deal with problems within their respective division
- Communicate with other units and sections (i.e. CNA, SIS/SCIU, etc.) that conduct undercover operations or activities within the CRTs' area of responsibilities. Contact is expected to ensure communication is viable and to avoid duplication
- Communicate with all other Bravo sergeants and units during a normal workweek. The interaction will enhance cooperation between the four CRT units
- Conduct daily briefings to identify divisional targets and locations
- Review sector information and tips received from patrol. They will work with sector officers and attend neighborhood meetings to support sector officers' strategies to mitigate neighborhood concerns, problems, and criminal activity

Additional expectations of the CRT Unit are:

- Maintaining a serviceable uniform on-site (sub-station) for deployment into the field
- Obtaining approval for any deviation from appropriate personal standards of dress and grooming from the Division Commander (or acting)

- Responding to any patrol divisions request for assistance, to include: crime scene management, calls for service, unusual occurrence, or other unscheduled activity
- Responding to non-FSB (or patrol) needs for assistance (in most incidents the request will be via the CRT's chain of command)
- Developing rapport with patrol officers and working to identify and mitigate sector problems

SUPERVISOR RESPONSIBILITIES

CRT Supervisors have the following duties and responsibilities:

- Oversee daily activities of the unit
- Create/maintain a working environment conducive to professional excellence and teamwork
- Work as a liaison between the unit, the County Attorney, the City Prosecutor, and the Divisional Command Staff, regarding investigative direction and activity levels
- Handle the monetary fund for the investigative function of the unit. Complete monthly documentation of expenses incurred by the unit in the furtherance of these investigations
- Coordinate with the Divisional Command Staff (i.e. assigned Lieutenant) as to the type of activity the unit should be targeting, and solicit input from peer sergeants
- Assist in the presentation of on-going education, for unit officers, as to the proper case investigation preparations required by the courts for prosecution (i.e. prostitution, narcotics, gang statutes, etc.)
- Supervise and critique officers' activity/performance in this unit (in plainclothes as well as in a uniform capacity), including report writing and safety practices (evaluate performance)
- Supervise this unit in accordance to Tucson Police Department General Orders
- Issue and maintain control of CRT assigned equipment for unit and officer use
- Assist in coordinating a working relationship between the CRT Unit and any investigative unit which will ultimately be responsible for follow-up on investigations performed by CRT officers
- Notification of Communications as to CRT activity locations, if appropriate (i.e., surveillance, busts, emergency tone requests and locations)
- Ensure officers transition from dedicated PCWIN CRT channel to patrol frequency during any major or critical incident
- Accurately document all tactical planning through the use of TPD/ICS operations plan. Also coordinate with special units and other affected patrol divisions when necessary

- Attend regular divisional crime trends/strategy meetings and develop targets with input from the divisional chain of command
- Assure monthly activity report is completed
- Participate in the selection process of CRT officers, with Command Staff
- Ensure that CRT's activities and targets are communicated to divisional officers, as appropriate
- Ensure at least one uniformed officer, in a marked patrol car, is deployed for every shift in which plain clothes operations are being conducted
- Conduct mandatory operational briefs with all members participating in plain clothes operations. Supervisor shall also be present during any plain clothes buys or enforcement action

OFFICER RESPONSIBILITIES

CRT officers have the following duties and responsibilities:

- Wear bulletproof vest **and** high visibility police vests while taking enforcement action
- Complete a supplement or appropriate document regardless of how minimal the involvement in an investigation
- Operate on the PCWIN frequency while ensuring the main patrol frequency is being monitored
- Operate on the main patrol frequency once an operation becomes a critical incident
- Officers are to be aware that the shifts and days off may vary from day to day/week to week
- Have easy access to various surveillance and plainclothes equipment (i.e. disguises, backpacks, bags, ball caps, sunglasses, changes of clothing, etc.)
- Be willing to work in a plainclothes and uniform capacity

The following equipment should be in possession or within easy access at all times:

- Mobile Field Force equipment
- Complete uniform – available at all times (stored at assigned substation)
- Flashlight
- Department authorized – qualified firearm and/or concealable off-duty weapon
- Radio
- Writing instrument and notebook
- Plainclothes

- Badge, identification, and driver's license
- Bullet-proof vest
- Police high visibility vest (tactical vest)
- Handcuffs
- Appropriate paperwork
- Assigned less-lethal tools (i.e. batons, OC, TASER, etc.)

PLAINCLOTHES INVESTIGATIONS

Plainclothes investigations carry greater risks to both the CRT officer and the citizen. For these reasons, the following guidelines shall be followed:

- They shall only take place with approval from unit supervisor or Command Staff prior to any plainclothes activity.
- Formal briefings shall be conducted and specific assignments detailed prior to any transaction occurring (buy/bust documentation).
- Communications shall be advised of the location of the investigation.
- Money used in investigation shall be from the CRT monetary fund.
- Use of monies shall be documented by the "contact officer" and the supervisor in an incident (case) report.
- Prior to plain clothes operations CRT/BRAVO units will de-conflict using RISSafe.
- CRT officers shall not initiate a "Sex Acts in the Park" investigation without a complainant. If the CRT responds to a complainant, the CRT Sergeant shall notify a Division or Patrol Commander. The Bureau Chief shall be notified when there is an active investigation on a complaint. The CRT investigation for these incidents will be limited to surveillance tactics or plain clothes operations that fit open air contacts trained at Specialized Police Officer Response Training (S.P.O.R.T.).
- CRT tactical operations shall be conducted in accordance with specified CRT training.
- CRT personnel shall not use tactics reserved for tactical teams (i.e. vehicle assaults, dynamic entry search warrant service).

CRT OPEN AIR BUY AND PROSTITUTION OPERATIONS

Once it has been determined that plain clothes buy/prostitution operations will occur, the follow guidelines will be followed:

- The CRT supervisor will ensure that minimum staffing is met to safely conduct the operation (three surveillance officers, one contact officer, and one uniformed officer in a marked police vehicle).
- The CRT supervisor will ensure he/she is on scene and actively monitoring the operation.
- Officers will be provided specific assignments for the operation (i.e. contact officer, arrest/rescue, and surveillance).
- The CRT supervisor shall complete a briefing with all officers involved prior to deploying.
- An operations plan shall be completed utilizing the Incident Command template (see page 14).
- A determination will be made prior to the operation if the officer and suspect will be allowed to travel to another location during the transaction (“tripping”).
- Officers shall not enter any residence at any time during buy operations.
- Officers may enter businesses open to the public. Officers should avoid entering non-public areas of businesses if at all possible. It may be permitted based on business layout and shall be approved by the CRT supervisor prior to deployment. Arrest and rescue teams shall be briefed on how to locate and enter the room prior to the deployment.
- Officers shall not enter any suspect’s vehicle during any operations.
- Officers shall not allow more than one suspect in the officer’s vehicle.
- Suspects will be directed by the contact officer to sit in the front passenger seat of the officers’ vehicle.
- At no time will the suspect be allowed to operate the officers’ vehicle.
- Officers shall terminate any transaction where officer safety concerns are noted above the traditional dangers associated with such operations.
- Any officers working the operation will have authority to terminate it based on perceived dangers.

CRT MONETARY FUND

The CRT monetary accounts are designated as an investigative cash fund and governed by TPD General Order 3337. Each division having an investigative cash fund shall have fund custodians designated below. The fund custodian shall be thoroughly familiar with G.O. 3337 and all applicable general orders (3300) and city administrative directives (3.02-1).

1. Fund custodian – CRT Lieutenant – Administrative Responsibility.
2. Alternate fund custodian – CRT Supervisor – Operational Responsibility.

Procedures:

- CRT sergeants will utilize their assigned credit card to draw cash from the account.
 - A.) Limits – (\$200.00 per withdrawal. Two withdrawals per month.)
 1. \$400.00 per month cash limit withdrawal.
 2. **Any evidence purchase in excess of \$200.00 shall require commander authorization (G.O. 3337.3).**
 - B.) All receipts shall be retained by the alternate fund custodian (retention for 36 months; either hard copy or electronic on division share drive).
- Record draw on monthly report worksheet found in the Common/S drive (S:\FSB\CRT Monetary\CRT - Bravo Worksheets).
 1. Instructions for worksheet can be found in the folder.
- Use of investigative funds must have a corresponding case number.
- Record expenditure on monthly report found in the Common/S drive (S:\FSB\CRT Monetary).
- Within the first week of every month the report for the previous month shall be reconciled and printed.
- The fund custodian shall be provided with the copy for review and signature.
- The Division Commander shall be provided with the copy for review and signature.
- A copy of the signed worksheet and all corresponding receipts shall be provided to TPD Finance.
- All originals shall be maintained by the alternate fund custodian for a period not less than 36 months.

Due to the fluid and dynamic nature of CRT operations, it is acceptable to maintain cash on hand. The fund custodian and alternate fund custodian shall properly safeguard any cash on hand in the following manner:

- All cash not in use shall be placed in the CRT safe and only the fund custodian and alternative fund custodian shall have the combination and/or key to the safe.
- Only the CRT sergeant (alternative fund custodian) or the fund custodian shall retrieve cash from the safe and/or disburse the cash.

- The cash on hand shall match the cash on hand total on the monthly worksheet at all times.
- Any discrepancy between the cash on hand total and the worksheet cash on hand total shall be reported to the fund custodian and Division Commander immediately.
- If a discrepancy is noted in the cash on hand, all transactions with the fund shall cease until the fund is authorized to be used again by the Division Commander.

Any expenditure not directly related to developing or securing information that may lead to possible criminal prosecution or crime prevention is explicitly prohibited. Prohibited expenditures include office supplies, travel expenses, items available through supply, etc. For further information and guidance refer to the appropriate General Orders and/or Administrative Directives.

TRAINING

All CRT officers and supervisors shall attend Specialized Police Officer Response Training (SPORT) as soon as practical upon assignment to CRT.

The 40-Hour SPORT Training will contain the following:

- Knock and talk training
- Plainclothes survival
- Documentation
- Interviewing
- Surveillance (including practical exercises)
- Unmarked vehicle operations (including practical exercise)
- Telephonic Search Warrants (including practical exercises)
- Buy bust/suspect arrest tactics
- Officer Rescue
- CRT buy/prostitution training
- De-confliction using RISSafe
- Community policing

Training will be coordinated and instructed by all four CRT sergeants.

All officers shall be 'knock and talk' certified.

Above training requirements may be amended with authorization of the CRT supervisor, with the concurrence of the Field Services Bureau Command Staff (i.e., the officers with previous analogous experience or unit training).

The Field Services Bureau will conduct biannual training for S.P.O.R.T. Certification.

Officers working with CRT in a ride-along or TDY capacity shall not conduct plain clothes buy/bust operations or prostitution stings unless they have completed the CRT Buy/Prostitution training.

CRT Training Record

The CRT training record is intended to familiarize the CRT officer who is newly assigned to the squad with responsibilities and duties they may engage as a CRT/plainclothes officer. The CRT sergeant will assign new CRT officers to a trained officer within the squad for on-the-job training. The CRT training officer will document the training received by the newly assigned CRT officer. The CRT sergeant will document completion of the training record.

CRT Officer Training Record

| | | |
|--|--|-------------------------|
| Officer: | | START Date: |
| Trainer Initials | Training dimension | Trainee Initials |
| Plain-clothes-Officer Safety | | |
| | Tactical vest use during enforcement action | |
| | Unmarked vehicle operation | |
| | Responsibilities (Unmarked assignment) | |
| | Responsibilities (Marked car officer) | |
| Surveillance | | |
| | Stationary (Taking the eye) | |
| | Mobile surveillance – Vehicles | |
| | Mobile surveillance – Pedestrians | |
| | Surveillance Terminology | |
| Buy/Prostitution | | |
| | U/C Officer Responsibility | |
| | Surveillance Arrest/Take down officer Responsibility | |
| | Paperwork/Notifications | |
| | Uniform assists (Plainclothes/Commo Notification) | |
| | Uniform Assists (Marked car) | |
| Narcotic Investigations/Knock and Talks | | |
| | Narcotics ID and terminology | |
| | Knock and Talk | |
| Search Warrants | | |
| | Preparing a Search Warrant | |
| | Officer Resume | |

CRT SUPERVISOR EXPECTATIONS

| Sergeant Initials | Expectation Dimension | Officer Initials |
|--------------------------|------------------------------|-------------------------|
| | Leave Policies | |
| | Briefing/Debriefing | |
| | Standards of Conduct | |
| | Notifications | |
| | Monetary (Undercover Funds) | |
| | Uniform Availability | |
| | Other: | |

SERGEANT

DATE

OFFICER

DATE

SEARCH WARRANT

In an effort to ensure that all TPD personnel are utilizing the same practices, CRT personnel shall follow search warrant protocols outlined within **Operations Pamphlet 10/Crime Scene and Search Warrant Scene Processing**.

This pamphlet is located within the common drive/S (S:\CID\Reference Materials).

Officers and supervisors shall consider the following, if appropriate, prior to warrant service:

- Ensure de-confliction is completed.
- Utilize TRACC, Ileads, and/or Coplink to gather intelligence.
- CRT supervisors shall evaluate the threat level and determine if SWAT assistance is appropriate.

During the service of any search warrant, CRT officers shall either be in uniform or wearing a marked police tactical vest.

Appendix B

Unmarked, Plain Clothes & Undercover Driving Manual

MISSION

This manual provides guidelines and protocols for those sworn agency members driving vehicles not operated as emergency vehicles as defined by Arizona Law.

The nature of conducting police work by means of surveillance, plain clothes, undercover operations and any other support from unmarked vehicles has inherent risks. The driving component is potentially hazardous to all involved and the purpose of this manual is to provide standard operating procedures to prevent loss of life, serious injury or property damage related to driving while in an unmarked police capacity.

Unmarked, Plain Clothes and Undercover Driving

There are many different types of vehicles assigned for administrative, investigative or tactical support. The Commander of the Special Investigations Section will oversee policies regarding unmarked vehicles used for surveillance and undercover operations for the department. The Special Investigations Commander will collaborate with the Advanced Officer Training Commander on training, policy and procedures regarding the use of these vehicles.

SUPERVISOR RESPONSIBILITIES

The supervisor of any member operating an unmarked vehicle for mobile surveillance and undercover operations shall ensure the following:

- All training as outlined below is completed
- An annual web-based training refresher is completed
- Training and feedback is provided to all personnel in the unit related to operation of unmarked vehicles, and all personnel have completed required training
- Proper operational planning, briefing and assignments are completed
- Proper resources are available for the operation
- Vehicle tracking devices are utilized when resources and time permit

- Air Support is utilized when resources and time permit
- All personnel shall refrain from using any electronic device while driving (exception is the use of a police radio or blue-tooth communication equipment)
- All personnel shall secure all equipment to prevent it from becoming a projectile or getting lodged under a foot pedal of the vehicle
- Continued evaluation of operations when speeds of involved vehicles exceed 20 MPH over the speed limit.

OFFICER RESPONSIBILITIES

Personnel who are assigned an unmarked vehicle shall:

- Complete all training as outlined below
- Complete a yearly web-based training refresher
- Receive an operations briefing and understand their individual required duties and assignments
- Avoid unnecessary multitasking while driving
- Avoid unnecessary use of electronic devices while driving
- Secure all equipment to prevent it from becoming a projectile or getting lodged under a foot pedal of the vehicle
- Utilize a tracking device when resources and time permit
- Utilize air support when resources and time permit
- Notify a supervisor if mobile surveillance or undercover operations exceed speeds greater than 20 MPH over the posted speed limit. The manner of notifications will be the responsibility of unit supervisor.

TRAINING

All personnel operating an unmarked vehicle in a mobile surveillance, undercover or tactical operation shall complete training created by the Advanced Officer Training Section in conjunction with the Special Investigations Section.

- Online/lecture training program shall include at a minimum the following components:
 - Distracted driving
 - Mobile surveillance techniques
 - Communication
 - Use of alternative tracking methods
 - De-brief on critical incidents related to unmarked vehicle operations

- Practical application of unmarked drivers training shall include at a minimum the following components:
 - Mobile surveillance exercises
 - Communication
 - Low speed vehicle backing (Academy driving track)
 - Emergency backing and escape (Academy driving track)
 - Evasive training (Academy driving track)

Due to high rotation of personnel into units operating unmarked vehicles, practical application training may be difficult to accomplish quickly. All personnel will at a minimum complete the online/lecture training prior to any vehicle operation. New personnel shall attend either the Advanced Undercover School or Specialized Police Officer Training (S.P.O.R.T.) as soon as practical. Personnel who have not completed the practical training shall ride with a designated training officer prior to working in a solo capacity.

All personnel shall complete an annual unmarked driving training course delivered via PowerDMS.

All training completed shall be forwarded to the Training Division to be added to the members training file.

*****All Department members are required to adhere to General Orders in addition to policies outlined in this manual.*****

GENERAL ORDER DEFINITIONS

1143.6 Authority of Supervisors

Supervisors shall constantly direct their efforts toward the intelligent and efficient performance of the functions of the Department and possessing the authority to do so, shall require their subordinates to do the same. They shall not regularly perform the duties assigned to a subordinate when the subordinate is available. Supervisors shall be responsible for their own conduct and performance and for the conduct and performance of their subordinates. They shall investigate any misconduct or non-performance of duty that comes to their attention. When it is appropriate, supervisors will notify their superior or their supervisor of matters of concern.

Non-sworn employees shall not have tactical authority over sworn employees in the exercise of police power.

Supervisors may issue orders that deviate from existing orders in an emergency for the duration of the emergency. Supervisors shall immediately report to their superior any deviation from existing orders.

Supervisors shall ensure that subordinates complete all required duties and functions required of their positions. Supervisors shall be responsible for the evaluation, training and development of their subordinates. When a supervisor is absent, the supervisor shall designate a member of the next lower rank to act in that capacity. The member so designated shall have all the authority necessary to perform that assignment.

1330.2 Obedience to General Orders, Procedures and Policies Required

All members shall observe and obey all laws, City Administrative Directives, Department General Orders, Department procedures and policies, as well as any procedures and policies established by their Commanders.

1330.3 Required Knowledge

All officers shall have a working knowledge of all criminal, constitutional, and motor vehicle laws, and ordinances in force in the City of Tucson, as well as City Administrative Directives, Department General Orders, and policies and procedures of their respective divisions and bureaus, as may be appropriate to their assignment or classification. Non-sworn employees shall have a working knowledge of all laws, City Administrative Directives, Department General Orders, and policies and procedures of their respective divisions and bureaus as may be appropriate to their assignment or classification. All members are responsible for seeking and obtaining any additional information or clarification necessary in order to comply with laws, ordinances, City Administrative Directives, Department General Orders, Department policies and procedures or any other subject area with which they must be familiar.

2060 Deadly Force

Deadly force is authorized when an officer reasonably perceives an imminent threat of serious physical injury or death to the officer or another person. Deadly force is a measure to be employed only in the most extreme circumstances when all lesser means of force have failed or could not be reasonably employed.

2524.2 Roadblocks/Ramming Fleeing Vehicles

Roadblocks shall never be used for the purpose of terminating a pursuit. Pursuing units may use their police vehicles to intentionally ram the suspect vehicle in order to disable it and prevent further flight only in situations that warrant the use of deadly force and which are authorized by the pursuit supervisor.

2891 Roadblocks/General

The Tucson Police Department does not ordinarily operate roadblocks or train members in their use. (See also General Orders reference Roadblocks.)