

TUCSON POLICE DEPARTMENT

CRITICAL INCIDENT REVIEW BOARD

811 EAST PRINCE ROAD #114

APRIL 28, 2018

OFFICER INVOLVED SHOOTING



Table of Contents

Involved Parties	3
Investigative Methodology	4
Factual Background	4
Administrative Review	5
CIRB Analysis	6
CIRB Members	8

INVESTIGATIVE CASE INFORMATION

CIRB Number: 18-0238
TPD Case Number: 1804-28-0032
Date of Incident: April 28, 2018
Location of Incident: 811 East Prince Road #114

INVOLVED PARTIES

Field Response

Officer Melissa Ayun #48377

- Operations Division West – Squad 10 Patrol
- Police Officer
- Tenure: 12+ years

Sergeant David Hill #46938

- Operations Division West – Squad 10 Patrol
- Police Sergeant for 2 years 3 months at time of incident
- Tenure: 23+ years

Officer Marcos Ramirez #101841

- Operations Division West – Squad 8 Patrol
- Police Officer
- Tenure: 1+ years

Officer Damien O'Brien #101594

- Operations Division West – Squad 8 Patrol
- Police Officer
- Tenure: 1+ years

Community Members

Mr. Angelo Rope (09/29/98)

- Resident of 811 E Prince Rd #114
- Treated for gunshot wounds
- Booked into the Pima County Jail for Aggravated Assault with a Deadly Weapon on a Police Officer (2-counts), Misconduct Involving Weapons

INVESTIGATIVE 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 Homicide Investigations Unit and the Office of Professional Standards (OPS), as well as CIRB questioning of certain involved members.

The OPS and Homicide Unit investigations, along with testimony taken during CIRB proceedings, established the facts under review. As a matter of practice, CIRB does not ask all witnesses involved in an incident to testify nor does it require any witness to testify about matters already addressed in interviews. CIRB elected to take testimony from limited witnesses for the purpose of either eliciting clarifying information or obtaining 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. All members of CIRB are encouraged to participate in discussion and deliberation, giving fair consideration to differing points of view. This report represents the collective judgment of the board.

FACTUAL BACKGROUND

Officer Ayun was dispatched to an unknown trouble call at 811 East Prince Road. The female 911 caller was difficult to understand and arguing could be heard in the background. The female, later identified as Olivia Rope, made comments about a male named "Andrew." Olivia was arguing with a male in the background, was not responding to questions from the 911 call taker, advised she was in the parking lot and stated "officers needed to hurry up", "someone needs to get here right now", and "ASAP". When asked if there were weapons involved, Olivia said there were, but did not specify the type and hung up the phone. On re-contact, Olivia did not acknowledge the call-taker but left the line open.

Officer O'Brien and Officer Ramirez also responded to the call. Officer O'Brien was enroute with a flex-baton¹ and he requested a unit with a rifle to respond. Sergeant Hill copied the call and also responded. Officer Ayun was the first on scene and circulated the parking lot but was unable to locate anyone. Once Officer O'Brien, Officer Ramirez, and Sergeant Hill arrived, the four of them began checking the complex on foot. Dispatch was able to obtain apartment number #114 using Olivia's phone number. When officers responded to the apartment, a female could be heard yelling inside. Officers could see into the apartment through the blinds on the patio's sliding glass door. A female, identified as Olivia Rope, and a male, identified as

¹ A shotgun platform that shoots a less-lethal beanbag, which is meant to temporarily incapacitate someone.

Oswaldo Perez, could be seen inside. Sergeant Hill directed officers to make contact at the front door due to the arguing going on inside.

As the officers approached, Olivia exited the apartment, leaving the door ajar, meeting the officers in the entry way. She was upset and yelling. Officer Ramirez made contact with Olivia and they walked south of the apartment to talk. Officer Ayun and Sergeant Hill then began addressing Oswaldo while he was still inside the apartment. He appeared to be disoriented and was slow to respond to commands. They gave Oswaldo commands to walk towards them to which he complied. Oswaldo was directed to turn around and put his hands behind his back so handcuffs could be placed on him. Oswaldo was not resisting but was not being fully compliant while being detained. While attempting to handcuff Oswaldo, another male, identified as Angelo Rope, exited the bathroom/closet area of the apartment. Angelo was carrying a flashlight, utilizing a flashing strobe as he entered the officers' field of vision. Sergeant Hill gave Angelo commands to turn the light off. Angelo dropped the light, reached into his right front pocket, produced a handgun, and pointed it in the direction of Sergeant Hill, Officer Ayun, and Oswaldo who were all standing in the doorway. Officer O'Brien was standing directly behind them in the entry way but was unable to see inside the apartment.

Verbal commands were given to Angelo to drop the weapon. Sergeant Hill and Officer Ayun each fired their handguns at Angelo, striking him multiple times. Oswaldo took a few steps back into the apartment, trying to pull away from Sergeant Hill and Officer Ayun. Sergeant Hill delivered foot strikes to Oswaldo's lower calf/leg in order to gain compliance so he could be successfully detained in handcuffs.

Officers immediately administered first aid on scene to Angelo until he was transported by paramedics to Banner-University Medical Center for medical treatment.

ADMINISTRATIVE REVIEW

The Office of Professional Standards conducted an administrative review of this incident, including all aspects of the criminal investigation. The conclusion of the investigation found Sergeant Hill and Officer Ayun's use of force to be *Within Department Policy*. Additionally, the use of force of Sergeant Hill's foot strikes were found to be *Within Department Policy*.

PIMA COUNTY ATTORNEY'S OFFICE REVIEW

The Pima County Attorney's Office (PCAO) reviewed the investigative package prepared by the Criminal Investigations Division. PCAO found the lethal force used by Sergeant Hill and Officer Ayun was *Justified*. CIRB also concluded the use of lethal force by Sergeant Hill and Officer Ayun within department policy. Their actions were found to be necessary to protect the lives of the officers and community members in the immediate area.

CIRB ANALYSIS

CIRB called Sergeant Hill and Officers Ayun and Ramirez to speak with the board during a formal convening held on May 9, 2019. CIRB board members had a full understanding of this officer involved shooting after reviewing the complete criminal and administrative investigations, therefore, board questions were focused on a few process related areas of inquiry.

Tactics and Decision-Making

This incident was dispatched as an unknown trouble, domestic disturbance call. The aforementioned officers called for appropriate resources while responding, to include a less-lethal flex baton be brought to the scene as the weapon involved was unknown.

Once on scene, the officers circulated in the parking lot looking for a disturbance as described, however learned via dispatch that apartment #114 was likely the location. As they approached the apartment, they could hear a verbal altercation. The apartment only had one ingress/egress being the front door.

Initially Officer Ayun began to address Osvaldo, however he appeared to be disoriented and was not responding to commands to exit or come out to speak with officers. While attempting to handcuff Osvaldo in the threshold of the apartment is when Angelo appeared from another the other room. Commands were given to Angelo to drop the light; once he did a handgun was produced and Sergeant Hill and Officer Ayun discharged their duty weapons. These series of events happened in a matter of seconds and the rifle that had been requested had not yet arrived on scene.

The board did address with Sergeant Hill his role as a supervisor as the call developed. Sergeant Hill stated that the incident appeared to be a domestic violence call and a two officers response would be appropriate, however, there were three officers and himself that arrived on scene. Sergeant Hill indicated that although he did not formally designate himself as incident commander (IC) he was giving direction. Additionally, as this appeared to be a domestic call, it is appropriate that he would not declare IC at that time.

Sergeant Hill recognized that Officer Ayun was at a disadvantage addressing Osvaldo due to Osvaldo's larger stature and Officer O'Brien being tasked with the flex baton outside the apartment door. This is what caused Sergeant Hill to assist and engage Osvaldo with Officer Ayun. In hindsight, he feels he should have taken the flex baton from Officer O'Brien. This may have allowed him to have a taken a "step-back and have better supervisory oversight."

Both Sergeant Hill and Officer Ayun acknowledged that they were in a "fatal funnel²" position addressing Osvaldo at the threshold of the apartment. Despite this being a position of

² A term used by law enforcement which refers to doorways where one can be easily seen but difficult to move out of in the case of incoming projectiles.

disadvantage, Osvaldo's refusal to exit and lack of cooperation forced them to address him at this position.

Post-shooting, Officer O'Brien began administering first aid until other officers arrived and Tucson Fire Department could transport Mr. Rope.

Once the call on the radio was made that there had been shots fired, other resources began to respond to the location including Sergeant Mesa. Once on scene, Sergeant Hill briefed Sergeant Mesa and at that time Sergeant Mesa assumed IC and began coordination of cover officers and scene management. This is consistent with department policy and expectations.

Supervision

Due to the nature of the call and normally only requiring two officers, Sergeant Hill was the last to respond. Although, his roles overlapped, the rapid acceleration of the incident that unfolded required him to take action as an officer. However, by his own account and reviewed by the CIRB, he did maintain a supervisory role.

Wellness/BSU

The response by the Behavioral Science Unit (BSU) was considered to be beneficial by all involved officers. It's important to note that individual officers process traumatic incidents differently. Following this event, all the officers felt the care they received from their chain of command and BSU more than adequately met their needs.

Both Sergeant Hill and Officer Ayun noted the academy's reintegration program was excellent. This program is tailored to an individual officer and provides the opportunity to gain support and additional training opportunities to ensure the officer is ready to return to full duty.

CIRB Post-Board Discussion

CIRB members discussed two items that may benefit the department and community. First, they noted the delicate balance in supervision and avoiding the tendency to "micromanage." Additionally, in this incident, Sergeant Hill would not have normally taken an active role, however he did have to take a more active role and act as an officer. Delineation of this role is more challenging when supervising midnight squads that experience critical incidents and staffing shortages.

Second, the CIRB did discuss allowing investigative packages that are completed to be available for the members called to testify before a CIRB board to review in the entirety prior to their testimony.

CIRB MEMBERS

Chairperson, Deputy Chief Chad Kasmar

Vice Chair, Captain Joe Puglia

Scribe, Lieutenant Jennifer Howell Brotherton

Member, Lieutenant James Brady

Member, Lieutenant Jennifer Pegnato

Member, Lieutenant Dave Leotaud (Retired)

Member, Lieutenant Troy Perrin

Peer Officer, Officer Michael Doyle

City Attorney, Ms. Julianne Hughes

Legal Advisor, Ms. Rebecca Cassen

Independent Police Auditor, Ms. Liana Perez

Independent Police Auditor, Mr. Mitch Kagen

Community Member, Mr. Glen Parin

Non-Voting Observers

TPOA Grievance Chair, Sergeant Steven Simmers

Office of Professional Standards, Sergeant Matthew Brady