



Office of the Attorney General of Guam

590 S. Marine Corps Drive, Suite 901 ♦ Tamuning, GU 96913

Phone (671) 475-3324 ♦ Fax (671) 477-4703 ♦ ag@oagguam.org ♦ oagguam.org

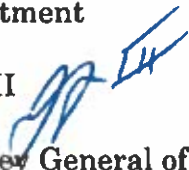
Hon. Leevin Taitano Camacho
Attorney General of Guam

GPD POLICE REPORT NO.: 2022-9558

OAG IIT REPORT No.: 22-0002

July 19, 2022

To: Stephen Ignacio
Chief of Police
Guam Police Department

From: J. Basil O'Mallan III 
Chief Prosecutor
Office of the Attorney General of Guam

CC: Leevin T. Camacho 
Attorney General
Office of the Attorney General of Guam

Re: **Independent Investigative Report**
April 8, 2022 Officer-Involved Shooting

The purpose of this memorandum is to provide a comprehensive account of the investigation conducted by the Independent Investigative Team (IIT) of the fatal shooting that took place in Harmon on April 8, 2022, and the results of that investigation. The Office of the Attorney General (OAG) and the Guam Police Department (GPD) conducted this investigation pursuant to procedures set forth in the the *Memorandum of Understanding Between the Office of the Attorney General, the Guam Police Department, and Other Government of Guam Law Enforcement Entities* dated November 10, 2021 (IIT Procedures).

Pursuant to the IIT Procedures, as a general rule, the OAG will present matters where the use of force results in death or serious physical injury to the grand jury for its independent review. Only in instances where the undisputed facts indicate the use of force was clearly justifiable may the matter be closed without formal grand jury presentation. As set forth in more detail below, based on the independent investigation and review, we have determined that the fatal shooting by a GPD officer was clearly justified. Therefore, the OAG declines to prosecute this matter or take any further actions to pursue criminal charges against the Officer.

INTRODUCTION

The Independent Investigative Team (IIT) was activated in the early morning hours of April 8, 2022. Pursuant to the IIT Procedures, GPD officers provided immediate notice of an officer-involved shooting. OAG Investigators J.V. Lujan (JVL), K.C. Pangelinan (KCP), H.W. James (HWJ) and A.V. Camacho (AVC) immediately responded to the scene and assisted in the investigatory phase of this matter.

SUMMARY OF EVIDENCE REVIEWED

During the course of its investigation, the IIT collected and reviewed the following:

- Police Reports IIT received and reviewed 3 GPD reports related to the April 8, 2002 incident: Injured Person, Reckless Driving and Shooting reports
- Interviews -IIT interviewed PO Travis and Officer
- Video footage -IIT obtained and reviewed video footage showing the driver in the moments immediately leading up to, during, and after the shooting
- Autopsy - IIT attended autopsy and received Autopsy Report ME-018-2022 dated April 24, 2022 confirming the driver died as a result of gunshot wound to chest
- Ballistics - Confirmed bullet from the body was fired from Officer's weapon.
- Weapons Report - Firearms examiner determined that the driver's rifle was a Colt M4 Carbine rifle replica.
- Vehicle Fire - GFD investigated and could not determine the cause of fire

FINDINGS OF FACT

A high speed chase

On or about 3:34 A.M., April 8, 2022, Dededo Precinct Command (DPC) officers attempted to conduct a traffic stop on a speeding vehicle described as a 2006 Mazda Tribute (SUV) traveling on Route 28 towards Route 1, Dededo. The vehicle refused to stop.

DPC and Tamuning-Tumon Precinct Command (TTPC) units pursued the SUV from Route 1 in Dededo toward Yigo, the SUV made a U-turn in Yigo which led back to the Dededo area. The pursuit then went toward Route 1 and Route 4 in Hagatna. The SUV then proceeded on to Route 4 where an officer observed that the driver appeared to be armed with an AR-15 rifle.

The SUV sped toward the intersection of Route 4, and turned left onto Route 10 (Chalan Pago/ Mangilao). The pursuit continued toward the intersection of Route 8, Route 10 and Route 16 (Barrigada). The SUV ran a flat tire but was able to continue onto Route 16. The pursuit finally came to a stop at the intersection of Route 16 and Route 27 in Harmon.

The driver exits the SUV armed with what appears to be an AR-15

The driver (sole occupant) of the SUV exited from the driver's side carrying what appeared to be a black AR-15 style rifle. Shortly after the driver exited, flames could be seen within the vehicle. The SUV was quickly consumed by the fire.

The officer fires a single shot when the driver appears to raise firearm

Police instructed the driver numerous times to drop the firearm, but the driver refused. At one point, the driver started to take steps toward the patrol vehicles and officers then slightly raised his rifle's barrel towards the officers on scene. At this point, the Officer fired his agency-authorized rifle, striking the driver once in the chest. Video footage obtained by the IIT corroborated statements given by the officer and witnesses on the scene.



Still from video footage obtained by IIT

Officers then subdued the driver, secured him in hand restraints, and requested Guam Fire Department medics. The GFD medics transported the driver to the Guam Regional Medical Center (GRMC), where he was later pronounced dead.

The forensic autopsy performed on April 24, 2022, confirmed that the driver died from a single gunshot wound.

Weapons Report

GPD Firearms Examiner POIII John Tyquiengco inspected the weapon the driver had the morning of April 8, 2022. POIII Tyquiengco concluded that it is made to resemble a real Colt M4 carbine rifle, but did not conform to the definition of a

firearm because it does not expel a projectile by means of an explosive. Rather it is an airsoft weapon that fires 6mm plastic bbs, using a battery power pack. PO III Tyquiengco also observed that the red/orange safety tip that normally accompanies this weapon to give a clear visual indication it is not a firearm had been removed.

Photo Comparison



Top: Weapon fired by the Officer

Bottom: Weapon held by the driver

DISCUSSION

Peace officers are authorized by Guam law to use deadly force under limited circumstances. Specifically, the use of force by a peace officer is justifiable if the peace officer believes that such force is immediately necessary to prevent another person from committing a crime involving or threatening bodily harm, damage to property. 9 GCA § 7.92(c).¹ Under the IIT procedures, there is a presumption to present cases where the use of force results in death or serious physical injury to

¹ Peace officers are also authorized to use deadly force if the peace officer believes that such force is immediately necessary to effect a lawful arrest and (1) the arrest is for a felony; (2) the person effecting the arrest is authorized to act as a peace officer; (3) the person effecting the arrest believes that the force employed creates no substantial risk of injury to innocent persons; and (4) the crime for which the arrest is made involved conduct including the use or threatened use of deadly force. 9 GCA § 7.92(c).

the grand jury unless clearly justified. A review of the evidence in this case supports a finding that the officer's actions were clearly justified.

There are undisputed facts that the officer reasonably believed that the use of deadly force was immediately necessary to prevent the driver from causing bodily injury. First, the officer reasonably believed that the driver was armed based on the following:

- The police radio reports that the driver was armed with a rifle;
- The driver exited his vehicle holding what appeared to be an AR15;
- Officers on the scene saw the driver waving and pointing the weapon

A side-by-side photo of the driver's rifle and the Officer's AR15 shows how similar they appear. The similarity of the weapons, the distance between suspect and Officer, and the lighting at the time of the incident, support a finding that the officer reasonably believed the driver was armed with a deadly weapon.

The officer did not immediately use deadly force. Officers on the scene requested several times that the driver put down the weapon. It was only when the driver appeared to raise his weapon that the officer opened fire. This finding was corroborated by several witness statements and video footage.

Based on GPD's General Order on Use of Force, the Officer's experience and training in active shooter response, the Officer acted in accordance with GPD's Use of Force guidelines which authorizes deadly force when the officer perceives imminent threat to the life of another is present. The Officer was justifiably concerned for the safety of self and others.

CONCLUSION

For the reasons stated above the Office of the Attorney General herein **DECLINES** to further prosecute this matter as to the officer who was involved in the shooting incident which resulted in the death of the driver.