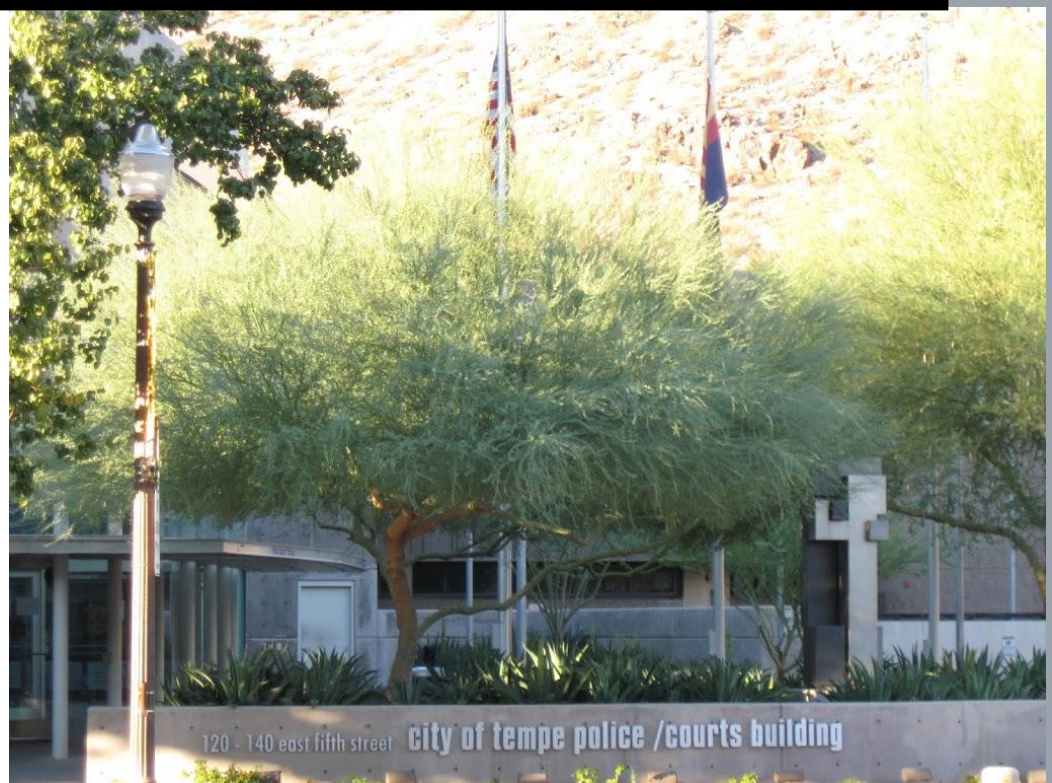


December 8, 2021

Tempe Police Use of Force Sentinel Event Review (SER)



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Introduction

On August 29, 2020, an officer (hereafter, the primary police officer in this incident will be referred to as Officer) with the Tempe Police Department (TPD) responded to a trespassing call at a hotel near the intersection of Route 60 and Route 101. Upon his arrival, the hotel manager (hereafter, Manager) informed the Officer that a different man in the hotel had just threatened the manager with a gun. This initiated a chain of unfortunate and undesirable events. The Manager described the suspect as a White man wearing a black t-shirt and tan pants. After looking at security cameras, he directed the Officer to the west exit from the hotel to intercept the armed man.

The Officer, who was clearly in an alerted state, exited the front door of the hotel and drew his gun as he approached the west exit. He confronted the first person who came to the west exit door – a Black man in a white polo shirt and khaki pants. The man was immediately compliant with the Officer’s orders, and explained that he worked at the hotel. He repeatedly asked the Officer not to point the gun at him, as he followed the Officer’s orders to get on his knees in the parking lot with his hands up. The Officer, clearly agitated, kept his gun trained on the man for roughly 90 seconds while verifying his identity. The Officer then allowed the man to leave. Ultimately, the armed man was not apprehended – in part because the Manager had mistakenly told the Officer to go to the west exit when the security cameras he had observed showed the man to be in a stairwell that led to the east exit from the hotel.

The situation got worse when the Officer, in violation of TPD policy, failed to provide his identity to the Manager or the employee (hereafter, the primary hotel employee involved in this incident will be referred to as Employee) he had held at gunpoint, despite multiple requests. This error was compounded when first a TPD Sergeant (hereafter, the primary police sergeant involved in this incident will be referred to as Sergeant), then a TPD lieutenant (hereafter, the primary police lieutenant involved in this incident will be referred to as Lieutenant) met with the furious Manager and again failed to provide the responding officer’s identifying information. When the Officer’s identity was revealed on August 31 (two days later), the community learned that the Officer had a prior disciplinary history that included concerns about his emotional self-regulation and well-being, and had been involved in a recent use of force that, while technically within TPD policy, had been controversial and highly publicized. These revelations further undermined community trust in the Officer’s fitness for duty and TPD’s transparency, candor, and legitimacy.

It was clear that these events were unintended and undesired by all involved. Neither the Manager nor the TPD Officer had wanted to hold an innocent hotel employee at gunpoint while an armed and dangerous individual walked away, and the Employee certainly did not want to be held at gunpoint by an agitated TPD officer. TPD also recognized the potential issues of race and emotional control raised by the encounter given the wide difference between the description of the armed man’s race and clothing and the race and clothing worn by the Employee, and the concerns these issues raised in the Tempe community.

These issues persuaded TPD leadership to characterize the interactions between TPD officers and hotel employees on August 29, 2020 as a “Sentinel Event.” A Sentinel Event is “a significant negative outcome that:

- Signals underlying weaknesses in the system or process
- Is likely the result of compound errors

- May provide, if properly analyzed and addressed, important keys to strengthening the system and preventing future adverse events or outcomes”¹

In an effort to learn from this event and prevent such things from happening in the future, TPD agreed to work with the Academy for Justice, Lodestar Dispute Resolution Center, and Center for Problem-Oriented Policing at Arizona State University and the University of Pennsylvania Carey Law School to conduct a Sentinel Event Review (SER). SER is a quality improvement process used extensively in other high-risk, dynamic settings (e.g., aviation, healthcare, manufacturing, military operations)² and is increasingly favored by criminal justice organizations across the country who seek to reduce errors and restore trust within their communities. SERs occur in parallel with other administrative and individual officer accountability initiatives. They seek not to punish any individual involved in the incident, but to modify policies, practices, procedures, and environments to prevent similar incidents.

The SER included a diverse set of representatives of TPD and community members (Reviewers). The Reviewers examined and discussed in detail security camera video, body-worn camera video from multiple officers, documents generated by TPD in the course of its administrative review of the incident, and disciplinary records for the officers involved. The Reviewers then attempted to answer the following questions:

1. What were the various factors or compound errors that contributed to the TPD Officer using force against a man who did not match the description of the assailant?
2. What were the various factors or compound errors that contributed to multiple TPD officers failing to provide the responding Officer’s identity upon request, as required by TPD policy?
3. What recommendations would the Reviewers make for TPD and others that might prevent such undesired events in the future?

Ultimately, the Reviewers identified 16 Contributing Factors that helped to cause this sentinel event. The prevention of any one of these might have interrupted or redirected the chain of events that occurred on August 29, leading to a better outcome. The Reviewers then agreed upon 41 Recommendations for change, each designed to prevent one or more Contributing Factors from occurring in the future.

Participating in a SER is a difficult undertaking for all involved. This Sentinel Event was a moment in time when multiple TPD officers did not satisfy the Department’s highest ideals, and it involved challenging topics and unpleasant acts that can be difficult to experience, even secondhand. TPD agreed to support this learning and quality-improvement process despite these difficulties, believing that its obligation to continual quality improvement requires acknowledging and learning from undesired outcomes to accelerate improvement over time.

The contributing factors and recommendations identified by the Reviewers follow.

Executive Summary and Recommendations

The events of August 29, 2020 at the Hawthorne Suites Hotel unfolded quickly, and led to undesired outcomes that none of the participants intended. A TPD Officer who came to the hotel to investigate a trespassing complaint was told less

¹ National Institute of Justice Sentinel Events Initiative website, accessed at <https://nij.ojp.gov/topics/articles/sentinel-events-initiative>, August 29, 2021.

² See, e.g., <https://nij.ojp.gov/topics/articles/sentinel-events-initiative>

than 60 seconds after entering the hotel lobby that there was an armed and dangerous suspect in the hotel. Roughly 90 seconds later, the Officer was detaining the Employee at gunpoint, and only 90 seconds later, the employee's identity had been confirmed and the Officer told the employee he could leave. In fact, the sum total of the interactions between the TPD Officer, the Manager, and the Sergeant was less than ten (10) minutes.

It seems clear that none of the participants in the incident wanted events to unfold in the way that they did. The Employee did not want to be held at gunpoint for 90 seconds; the Manager did not want to provide inaccurate information and subject his employee to an interaction with TPD involving a gun and a mistaken identification; the Officer did not want to detain the wrong individual, create a public concern about racial bias within TPD and receive sanctions for his behavior; and the Sergeant did not want an unpleasant interaction with the Manager to lead to disciplinary sanctions against the Sergeant.

This Report attempts to provide context and analysis to answer two questions. First, if no one wanted these undesirable events to occur, what factors caused them to occur anyway? Second, how can the environment in which TPD officers work be modified in the future so that such events will not occur?

The Reviewers identified three (3) overarching undesirable outcomes³ from the incident at the Hawthorne Suites Hotel on August 29, 2020 that were worthy of review:

1. The use of unnecessary force by the Officer against the Employee
2. The lack of emotional control by the Officer and the Sergeant during the incident
3. Public perceptions of racial bias by the Officer and potentially the Department as a whole

Unnecessary force used by Officer. The SER agreed with the TPD internal investigation that found that the Officer used unnecessary force in detaining the Employee, including holding the man at gunpoint for 90 seconds despite the man's compliance with all police commands. Unlike the TPD investigation, however, which was conducted to evaluate the Officer's individual accountability for his actions, the SER asked a different question: How can we help the next TPD officer responding to a call such as this conduct himself in a way that generates a better outcome?

The Reviewers recommended a number of tactical and other approaches that might have improved this incident. First, they noted how quickly the officer's emotions escalated and how little time he took to formulate an approach to the situation. Taking a brief pause to collect and calm oneself, consider options and formulate a productive tactical response has been shown to reduce uses of force – it did not appear that happened here.

In addition, TPD should improve and reinforce its training on the "low-ready" positioning of a firearm rather than continuing to keep the gun aimed directly at persons who are neither formal suspects nor presenting any direct threat to

³ A potential fourth undesirable outcome, improper handling by TPD of the complaints filed by the hotel employee and the hotel manager related to the incident, was discussed by the Reviewers. The Reviewers found no information to support the suggestion that that TPD did not adequately investigate the complaints filed by the hotel employee and the hotel manager, or that TPD did not administer discipline within the Department's established policies and process. During the discussion between the TPD Lieutenant and the hotel manager immediately after the incident, the Lieutenant did inform the hotel manager and hotel employee that he was going on vacation the following week; this may have led to the perception of a delay in TPD's review of the incident. The Reviewers did not find that this caused any material delay in TPD's administrative review.

the officer. This would have de-escalated the encounter while the Employee, who complied with all of the Officer's commands, was kneeling on the concrete with his hands empty and up.

Reviewers noted that the Officer did not ever ask the Employee whether he was armed, and neither searched him for a firearm nor asked him to lift his shirt or do anything else to assure the Officer that he was not armed. Additional training is needed to help officers evaluate the actual threat in an encounter such as this one in ways that will not subject the officer to additional risk.

In addition, Reviewers noted that hotel policies and the Manager contributed to the event as well, and that something as simple as a name badge for the employee might have allowed the Officer to more quickly rule the Employee out as the suspect.

Part of the negative reaction to the encounter from Reviewers included the Officer's use of profanity and yelling to communicate with others throughout the encounter, and the fact that the employee was forced to remain kneeling on hot pavement in the August Arizona sun during the period of time when his identity was being confirmed, despite complying with all Officer commands. While these revealed a lack of emotional control (discussed below), they also revealed a lack of respect for others in the midst of the encounter. Even if the Employee had been the suspect, and even if he had been armed, the Officer should have treated him calmly and with respect. This is also true of the responding Sergeant who, faced with an angry hotel manager, immediately met the Manager's anger with anger, thereby further inflaming an already unfortunate situation. Policing is not a field where "the customer is always right," but it is a profession that requires treating members of the community with dignity and respect at all times. TPD should ensure that its training of officers focuses not merely on law enforcement but on service to the community – and that officers are constantly reminded that each person the officer stops is a person the officer has sworn to serve and protect.

One way that TPD can provide officers additional support is to send multiple officers to calls that are likely to involve adversarial contact between the police and suspects. As this experience shows, even seemingly routine calls involving minor crimes can rapidly escalate into potentially dangerous interactions when the suspects are known to be at the scene. Providing officers with appropriate support during the encounter can counteract feelings of fear, risk or insecurity that might contribute to an emotional reaction by an officer. This requires call-takers at 911, police supervisors, and officers themselves to collaborate and ensure a suitable police response to each call.

Lack of emotional control by Officer and Sergeant. As noted above, it was apparent to the Reviewers that both the Officer and the Sergeant who reported to the scene were quick to excitement and anger in ways that contributed to the undesired outcomes.

While the Officer was dealing with a dynamic and unexpected situation, he immediately exhibited signs of agitation and excitement, showing frustration with the Manager's initial description and running outside with his gun drawn. His interactions with multiple individuals, including the Employee, indicated his high level of anxiety and a lack of emotional control in the moment.

Upon further investigation, the Reviewers learned that this lack of emotional control was a known concern to TPD. The Officer's Internal Affairs File and Employee Log included the following summary entries:

- One (1) oral reprimand for traffic crash (Officer opened squad car door into traffic)

- One (1) oral reprimand for pursuit policy violation (Officer pursued a motorcyclist suspect in a retail theft, resulting in motorcycle's crash)
- One (1) written reprimand for patrol vehicle crash (parking lot)
- One (1) patrol vehicle crash in a parking lot (counseling/retraining)
- Notice to attend a mandatory use-of-force training pursuant to review of an incident
- Complaint from communications supervisor about the Officer's condescending and unprofessional tone on the radio
- Note to file that appears to document informal counseling for an unnamed officer about waiting for backup, tactical breathing, and mindfulness (Note: Reviewers presumed that this note referred to this Officer as it was included in his Employee Log)
- Two (2) separate notes to file describing concerns from supervisors in other patrol squads about the Officer's unprofessional tone over the radio. In one note, the investigating supervisor felt that there was nothing improper in the Officer's conduct.
- A notation from the Officer's supervisor describing counseling of this Officer to slow down so as to reduce mistakes, citing driving and report writing.

In addition to these notations in the Officer's file, the Officer's immediate supervisor, the Sergeant who supervised this incident, also reported to TPD Internal Affairs during their investigation of this incident that the Sergeant had previously advised the Officer about the Officer's hurried decision-making and tendency to become overly emotional during some incidents. The Sergeant said that he had repeatedly talked to the Officer about his temperament, suggesting he get help, but the problems persisted. According to the Sergeant, "[Officer] gets spun up sometimes."

The Sergeant explained that most of his informal counseling with the Officer was about slowing down and calming down, acting professionally, and making good decisions. He said the Officer has had issues with getting unnecessarily argumentative or over-excited, adding, "Sometimes it's because he has other issues going on his life, like we all do." He reiterated that he's been working a lot with the Officer on personal problems, though he was unsure whether that work was having a positive impact on the situation.

Some of the above disciplinary notations, such as vehicle crashes, could be attributable to other factors, such as poor driving skills, and not necessarily impulsiveness or lack of emotional control. The internal employee files for this Officer contain positive notations as well, so the Officer's overall documented record is mixed.

Public perceptions of racial bias and avoidance of accountability by TPD officers. The Reviewers discussed at length the question of racial bias. It is an unfortunate but very real fact that police–community relations in Tempe, as with the rest of the United States, carry a heavy cynicism regarding racial biases in policing, particularly as applied to young Black males. While a literal parsing of the conversation between the TPD Officer and the Employee revealed that neither the Employee nor the Officer explicitly discussed race, many of the Reviewers felt that race was a substantial contributing factor to the incident; that it was implicit throughout the interaction, beginning with the Officer's decision to stop and hold a Black man at gunpoint despite having a description of the suspect as White and wearing quite different clothing. The Officer's decision to keep his gun trained on the employee throughout the encounter, despite the Employee being on his knees at a distance with his hands up, contributed to this concern. And many Reviewers perceived an implicit discussion of race when the Employee, with the Officer's gun trained on him, asked "I'll be another person on the news?" and the Officer responded, "Shut the f**k up with that sh*t." To these Reviewers, the Employee was really

saying, “are you going to shoot me without a provocation like so many other police officers have shot so many other Black men?” and the TPD Officer was responding, “this is not about race.”

The Officer’s denial clearly was not believed by the Employee, whose retelling of the incident to the Lieutenant repeatedly put the word “Black” into the Officer’s response. For him, the interaction was all about race. On the other side of the encounter, the Officer gave a race-neutral justification for detaining the Employee – an awareness that often eyewitness identifications are inaccurate, coupled with the concern that the individual was armed with a gun.

It is impossible to know what was truly going through the Officer’s head or heart in the moments leading up to and during this encounter, and this Report does not try. What is clear, however, is that many people who watched video of the incident found the Officer’s explanation to be dissatisfying as an answer to why a Black hotel employee was held at gunpoint with his hands up for 90 seconds by a White officer seeking a White suspect wearing very different clothes.

Policing in America in the 2020s has increasingly proved the Officer wrong – particularly since the murder of George Floyd, it is about race in the court of public opinion and in the conferral of legitimacy to police by society.

Any community review of TPD actions will ask difficult questions about, and be evaluated through a lens of systemic, institutional, and even individual racism. Regardless of the Department’s policies and procedures, the court of public opinion is requiring more from police officers to ensure racial justice. What before seemed like acceptable race-neutral justifications for aggressive police behavior is now evaluated by many as the latest in a series of unreasonable uses of force grounded in racism and an over-aggressive police force seeking to justify historical violence against people of color. Fair or not, TPD and other police departments across the country no longer get the benefit of the doubt in White/Black encounters with the community. This is something that every TPD officer should understand, and it should factor into every interaction between TPD and the community as TPD seeks to improve the provision of public safety to all community members in Tempe.

In an environment where the community doubts the good faith actions of TPD officers, the Officer’s decision to leave the hotel without providing his identity and contact information, as required by TPD policy, and the fact that he muted his body-worn camera to discuss the encounter with his Sergeant and did not unmute it, all get viewed with cynicism. Again, TPD officers must be aware of this and make extra efforts to provide transparency as a way of rebuilding trust with the community. The inability of TPD to disclose to the complainants the identity of the responding Officer for two days further exacerbated the perception of a “cover-up,” giving an unnecessary additional negative aspect to the encounter.

Transparency in TPD administrative reviews of citizen complaints. While the Reviewers did not identify any improprieties or undue delays in the Department’s review of the incident, they did note that the sanctions levied against the officers were not posted on a public website. This lack of transparency plays into substantial concerns among many in the general public that officers are routinely not held accountable for their actions by Departmental internal reviews. By contrast, the publication of the sanctions would address public cynicism about TPD’s response to citizen complaints and its willingness to follow through on internal accountability mechanisms for officers, including high-ranking officers, that intentionally deviate from TPD policies or procedures.

Description of Events

Use of Force at Hotel

On August 29, 2020 at approximately 4:55 p.m., Tempe 911 received a call from the Manager of the Hawthorne Suites Hotel located at 2301 E. Southern Ave. in Tempe (See Figure 1 below). The Manager reported a group of three trespassers who refused to leave the hotel, and asked for assistance from the Tempe Police Department (TPD).

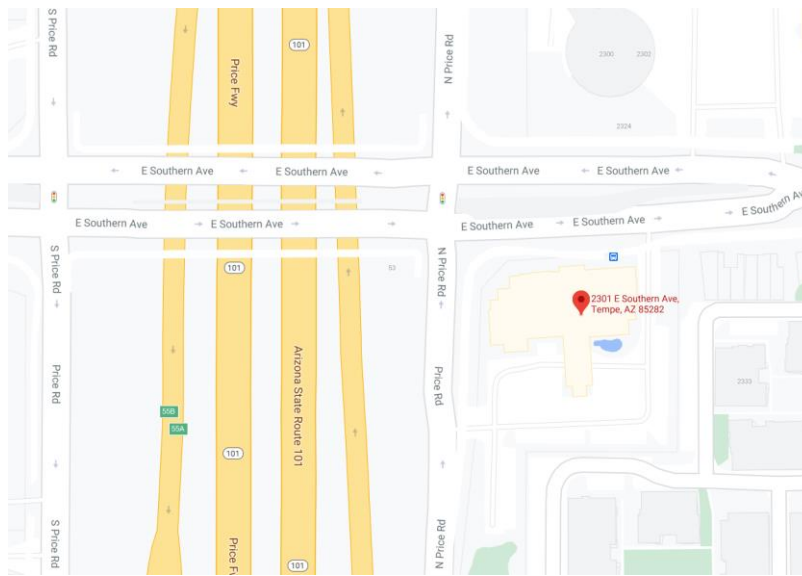


Figure 1. Map of 2301 E. Southern Ave., Tempe, AZ.

A single TPD officer answered the call, arriving at the hotel at 5:02 p.m. As the Officer came through the lobby, however, the Manager greeted him by saying, “We’ve got a whole other issue. Some guy just pulled a gun on us.”

The Officer immediately called for additional assistance from TPD while the Manager consulted security cameras in his office. In response to the Officer’s request for a description, the Manager said, “He’s wearing an Ed Hardy black shirt and tan pants.” The Officer asked for the suspect’s race, and the Manager responded that the suspect was on the 3rd floor and would be coming down the stairwell. Getting more agitated, the Officer asked again for the race of the suspect. The Manager’s response was not audible on the Officer’s body-worn camera, but the Officer then stated into his radio that he was seeking “a White male wearing a black shirt and tan pants.”

The Manager came around from his office to tell the Officer that the suspect “is gonna be coming down the staircase and exit out that door right there,” pointing to the west exit from the front of the hotel (see Figure 2 below).



Figure 2. Aerial photo of Hawthorn Suites with west exit identified.

The Officer stated into his radio that he was proceeding to the west exit, and the Manager's voice can be heard on the officer's BWC saying that the suspect would be walking out of the exit at that moment.

As the Officer moved out of the front entrance and turned right, walking towards the west exit, he drew his gun. Two people stood near the entrance, and the Officer aggressively and with profanity told them to "get inside, now! Get the f**k out of here, now!"

The Officer stood outside the exit with his gun drawn for approximately 15 seconds. A man came through the door, and the Officer immediately pointed his gun at the man, telling him to put his hands up. The man was Black and wearing a light gray shirt with a collar and a white stripe across the chest, and black pants. Other than being male and at the west exit, he did not match the description of the suspect with the gun.

A transcript of the interaction between the Officer and the man (referred to as Employee, though this was not known to the Officer until the end of the encounter) is as follows:

Officer [pointing gun]: Get your hands up!

Employee: Whoa, whoa.

Officer: One at gunpoint. Step out.

Employee (with both hands up): I work here.

Officer: You work here?

Employee: I was kicking the door closed, man.

Officer: Okay, put -- turn around.

Employee: I work here.

Officer: That's fine.

Employee: Come on, man, you don't got to point a gun at me --

Officer: Step this way. Hey --

Employee: -- I got my hands up.

Officer (shouting): -- listen to me. Listen. Okay?

Employee: I got my hands up.

Officer (shouting): I am responding to somebody with a firearm who matches your description, do you understand that?

Employee: I --

Officer: Come here.

Employee: I got my hands up, man. Take the gun off me.

Officer: Stand by.

Employee: For real. I got my hands up. Take the gun --

Officer: Where's your ID at? No, you don't get to tell me what to do.

Employee: I work here.

Officer: Where's your ID at?

Employee: Take the gun off me, man.

Officer: No.

Employee: Where your supervisor at? You going to shoot me?

Officer: No.

Employee: I'll be another person on the news?

Officer: *Get on your knees.*

Employee: *I didn't do nothing to you.*

Officer: *Shut the fuck up with that sh*t. Get on your knees.*

Employee (with hands raised, getting down on his knees): *I -- I didn't do nothing to you. Remember this. I need your badge number and your name.*

Officer: *You'll get everything you need.*

Employee: *Yeah.*

Officer: *Put -- put everything on the ground.*

Employee: *I didn't do nothing to you. I got my hands up and I work here. Go call the manager.*

Officer (to radio): *41, where are my other units at? [To Employee] Just hang tight, okay?*

Employee: *Okay, but this ain't -- I'm -- I work here. All you got to do is call the manager and take the gun off me.*

Officer: *Who's your manager? Stop telling me to --*

Employee: *[Name of manager.]*

Officer: *-- what to do.*

Employee: *[Name of manager.] Take the gun off of me.*

Officer: *Okay, what is your name?*

Employee: *[Provides first name].*

Officer (to radio): *41. Can we get somebody to get the complainant on the line and find out if there's an employee here by the name of [Employee name]?*

Employee: *You don't got to hold no gun. My hands are up. I'm not a threat to you.*

Officer: *Are you a cop?*

Employee: *I'm not a threat to you.*

Officer: *Are you a cop?*

Employee: *I'm not a threat to you.*

Officer: *You don't tell me what a threat to me is.*

Employee: *I'm not a threat to you.*

Officer: *You don't know.*

Employee: You can't -- just because you're a cop don't mean you can hold a gun at somebody whenever you get good and damn ready. I put my hands up and I'm not –

Officer: When I'm responding to somebody with a firearm, I can do what I need to to stay safe –

Employee: But my hands are up.

Officer: -- and go home to my family. Do you understand that?

Employee: My hands are up.

Officer: I have somebody on the phone right now with [Manager name] trying to confirm if you're an employee or not.

Employee: I –

Officer (shouting): As soon as I verify that, you can go.

(CROSSTALK)

Officer: And then you can get whatever information you need.

Employee: You can yell all you want.

Officer: Do you understand that?

Employee: You can yell all you want. It's crazy, huh? [To observer off-camera] Hey, can you record this? He's definitely got his gun on me, and I've got my hands up.

Officer: I'm recording too.

Employee: He's still holding a gun on me, and I got my hands up.

Male 2 (off camera): You work here.

Employee: I know I work here, but he's definitely got his gu-

Male 2: He works here.

Officer: That's fine.

Employee: He's definitely –

Officer: Just stay back.

Employee: Hey, record this, man. For real. I got my hands up on the ground, and he's still got a gun pointed on me.



Figure 3. Image capture from Officer body-worn camera

Employee: And my knees hurt, man. This sh*t burns.

Officer (to radio): 41, did we get [Manager name] on the line yet?

Employee: Anybody come out the front entrance?

Officer: Did he verify that somebody by the name of [Employee name] works here?

Employee: I'm just dressed like this for no reason? What the f**k?

Officer: Get out of here, [Employee name].

Employee: Yeah. Thank you. I will –

Officer: You can stand by in the lobby if you need all my information.

(CROSSTALK)

Officer: I'll be more than happy to give it to you.

Employee: Hey, go point that gun at somebody else.

Officer: Have a great afternoon.

The encounter between the Officer and the Employee lasted approximately 90 seconds. The Officer's gun was drawn and pointed at the Employee throughout the encounter, as the Employee knelt on the sidewalk with his hands up.

As the Employee walked away, the Officer continued to watch the exit for the armed man, asking the dispatcher for additional information from the Manager on whether the armed suspect had left the hotel. Approximately 40 seconds later, a White or Hispanic man with a black bandanna, white t-shirt and gray shorts came out of the door. Still with his gun drawn, the Officer said, "Stop right there," to the man, who turned back in to the hotel, causing the Officer to rush

into the hotel behind him. Opening an interior door from the stairwell, the Officer came across another man with a bicycle. Clearly angry and agitated, the Officer screamed at this third man:

Male 3: *Huh?*
Officer: *Stop right there.*
Male 3: *Me?*
Officer: *Where did he go?*
Male 3: *He's (inaudible - 00:06:28)*
Officer: *Where the f**k did he go?*
Male 3: *I ain't got nothing to do with that sh*t, man.*
Officer: *Where is he?*
Male 3: *It ain't got nothing to do with me.*
Officer: *No sh*t.*
Male 3: *So, why are you talking to me like that?*
Officer: *God d**n. Get the f**k out of the way.*
Male 3: *I'm not in the way.*
Officer: *Go. Okay, go.*

At this point, the Manager appeared at the far end of the hallway. The Officer asked where the suspect had gone, and the manager said that the suspect had walked outside. Clearly frustrated, the Officer left the west exit and returned to the main lobby through the front entrance. Still with his gun drawn, the Officer entered the lobby and asked the Manager again where the suspect had gone. The manager said, "I told you. And why do you have my employee, a black male, at gunpoint? He's clearly not f**king white."

At this, the Officer turned and walked out of the hotel. As he did, his Sergeant approached. Without slowing down, the Officer said to his Sergeant, "Somebody else go talk to [Manager name]." The Sergeant asked, "Where did --?" and the Officer responded, "He doesn't know."

The Officer did not provide his identification information to the Employee or to the Manager prior to leaving the hotel.

TPD Supervisor(s) Engaging with Hotel Employees

After the Officer left the lobby, the Sergeant entered the hotel lobby. He was directed to the Manager and Employee. The Sergeant was focused on the location of the man with the gun, but the Manager and Employee only engaged with the Sergeant about the Officer who had held the Employee at gunpoint.

The Sergeant, with exasperation in his voice, interrupted them. "Where is the guy with the gun?"

“He already left! You guys missed him!” the Manager angrily replied. The Manager explained that he was the person who had made the call, that the entire situation was on camera, and told the Sergeant that “you guys don’t know anything. You guys are incompetent in your jobs here.”

As the Sergeant turned to leave, the Manager asked to speak to a lieutenant. The Sergeant, clearly angered by the encounter, turned and said, “I’m the Sergeant, I’m the supervisor here you’re going to get. The first thing you said to me _”

The manager interrupted. “I want someone higher.”

“No,” replied the Sergeant, as he turned and walked out of the lobby.

The Sergeant briefly spoke into his radio, describing the Manager as “completely uncooperative,” and communicated that the officers could stand down on looking for the man with the gun. He found the Officer who had responded to the call. After muting his body-worn camera, the Sergeant engaged in a brief conversation with the Officer. The Sergeant re-entered the hotel and spoke to several individuals standing around the lobby, but he did not unmute his body-worn camera, so it is unknown what he said. Less than seven minutes after entering the hotel, the Sergeant got back in his car and drove away.

At 5:12 p.m., the Manager called 911 again, this time demanding to speak to a lieutenant. He angrily and repeatedly demanded a lieutenant come to the hotel or “I’m calling the news.” The operator attempted to interject several times and said, “Sir, you don’t call 911 to ask for a lieutenant.” “Yeah, well, you don’t pull a f**king gun on an unarmed Black man!” replied the manager. “I’m calling the news.”

“Sir, I’m not going to take this information on 911. You can call the news all you want. Good day,” said the operator before ending the call.

TPD did send a lieutenant to the Hawthorn Suites, who arrived within 30 minutes of the interaction between the Officer and the Employee. The Lieutenant spoke for approximately 30 minutes with both the Manager and the Employee in the manager’s office. The Manager acknowledged that the hotel had experienced a lot of questionable activity and prior instances that required him to call the TPD frequently. He also retold the events of the past half hour to the Lieutenant, beginning with the events leading up to the trespassing call, through the moment when another individual in the hotel had “pulled a gun on” both the manager and the Employee.⁴

The Lieutenant attempted to calm the situation down, discussing the situation and the responding Officer’s behavior in the context of a report of an armed suspect. The Manager stated that while most hotel employees wear name tags, the employee who had been involved in this incident was a new employee (~3 weeks of employment) and was not wearing a name tag during the encounter, but emphasized how different the description given of the armed man was from the actual features of the Employee.

⁴ While the Manager’s initial statement to the Officer was that “a guy just pulled a gun on me,” later statements by the Manager put this statement in some question. The Manager later stated that the man pulled up his shirt to reveal a gun in his waistband, but according to the Manager, he never pointed the gun at the Manager or the Employee. In addition, the fact that the Employee was present when the armed man displayed the gun had not been communicated to the responding Officer by the Manager. These two pieces of information might have modified the Officer’s response to the situation.

The Lieutenant then spoke to the Employee in front of the Manager. The Employee retold the story of the encounter with the Officer to the Lieutenant. The Employee included the request for the Officer's name and badge number and stated that the Officer had not provided it. The Lieutenant explained that officers coming to the hotel are used to "dealing with a lot of drugs," and the danger of an armed suspect may have impacted the Officer's mindset. The Employee reiterated that he had been fully compliant with the Officer's orders, and that there was no reason for the Officer to keep his gun trained on him, particularly once he was on his knees with his hands up. The employee also emphasized that the Officer was holding the gun cocked to the side, and that he had said, "Don't give me any of that Black sh*t."⁵

The employee also mentioned multiple times that the Officer had not provided his name and information. The Lieutenant noted that the Sergeant "came in and cleared everybody out of here because we were worried about the suspect." The Employee asked the Lieutenant, "Do you even know who the cop is?" The Lieutenant replied, "I believe I do but I'm not 100% sure, but I can look at body-worn camera footage."

The Manager asked the Lieutenant whether a sergeant was required to provide his supervisor's name and information upon request, and the Lieutenant confirmed that the requirement was for the sergeant to provide that information. He also stated that he was in the parking lot at the time, which was how he was able to respond quickly to the call.

After providing the Employee and Manager with his contact information, the Lieutenant left the Manager with another officer to document the trespassing and the individual with the gun incidents.

Internal Investigation

The Manager and the Employee ultimately filed a formal complaint against the Officer and the Sergeant. After investigating the matter, TPD Internal Affairs alleged the following policy violations:

- City of Tempe Personnel Rules Section 406.C.2, which states that an employee may not act negligently, recklessly, or carelessly in performing his/her duties during a specific incident or incidents
- City of Tempe Personnel Rules Section 406. C. 11, which requires employees to maintain "a reasonable standard of workplace civility and respect in his or her interactions with other employees, or the public"
- Tempe Police Department Order 3.201 D. 1. a. 1, which forbids abusive attitude, language, behavior, or conduct toward a fellow employee, a supervisor, or the public
- Tempe Police Department Order 03.201.D.1.b.4, which prevents employees from discriminating against any person in the performance of duties
- Tempe Police Department Order 03.201 D. 1.a. 5, which holds the employee responsible for the proper use of Department or City communications and computer systems and devices
- Tempe Police Department Order 03.201.D.1.c.13, which deals with employee conduct that might be unbecoming or interfere with the effectiveness or the reputation of the employee and/or department
- Tempe Police Department Order 03.201.D.1.c.12, which ensure compliance with TPD's Use of Force guidelines

⁵ The Reviewers review of the Officer's body-worn camera video did not indicate that the Officer's gun was cocked to the side. In addition, while the Employee's subsequent statements to the Lieutenant clearly indicate that he perceived the Officer's comments to be about race, the actual statement made by the Officer did not include the word "Black." Under the circumstances, some Reviewers felt that race was clearly implied by the conversation, while others thought the issue was less clear.

The investigation of the complaint by TPD Internal Affairs alleged the following policy violations against the Sergeant:

- Tempe Police Department Order 03.201 D. 1. a. 1, which forbids abusive attitude, language, behavior, or conduct toward a fellow employee, a supervisor, or the public
- Tempe Police Department Order 03.201. D.1.a.9, which deals with alleged acts or failures to act by personnel that are contrary to verbal and/or written rules, regulations, procedures, directives, or orders of the Department and/or supervisor
- Tempe Police Department Order 17.105, which looked at the Sergeant's failure to unmute his body-worn camera in a timely fashion during the encounter
- Tempe Police Department Order 03.201 D. 1. C.12, which provides for supervisory responsibilities including ensuring that employees perform their required duties, and investigating and reporting actual or alleged incidents of misconduct

The incidents at the Hawthorne Suites on August 29 were reviewed by the TPD Professional Standards Bureau (PSB). A PSB sergeant oversaw the investigation, which reviewed:

- the complaint itself
- body-worn camera footage, including the audit trail for who had watched the footage
- radio recordings of the encounter
- Computer-Aided Dispatch (CAD) information related to the case
- the TPD police report filed on the case
- employee logs and use-of-force incidents for the Officer
- Arizona Peace Officer Standards and Training Board (AZPOST) documents
- telephone interview recordings conducted by the Internal Affairs sergeant of the Manager and Employee
- interviews with the Officer, the Sergeant, the Lieutenant and other officers who witnessed the events in question
- consultation with subject-matter experts regarding firearm usage

The investigation concluded that the Officer had acted "negligently, recklessly, or carelessly" during the encounter at the Hawthorn Suites, and that his behavior "did not meet a reasonable standard of workplace civility and respect." The Officer was "abusive in attitude, language behavior or conduct" during the event. The investigation also found the Officer's conduct to be "unbecoming and/or interfering with the effectiveness or the reputation of the employee and/or the department," and that the Officer had failed to comply with the Department's Use of Force guidelines. The investigation did not find that the Officer had used Department information improperly, and did not find any violations of the Department's rules related to diversity or discrimination.

The investigation also found that the Sergeant was "abusive in attitude, language, behavior or conduct" during the encounter, and that he failed "to perform required supervisory responsibilities." The investigation concluded that the Sergeant had not violated TPD policy by failing to unmute his body-worn camera during the encounter.

Both the Officer and the Sergeant received administrative sanctions related to these findings, taking into account their performance history with the Department.

Analysis

The Reviewers thoroughly discussed the events of August 29 and the subsequent investigation conducted by TPD and found much that could be improved. In chronological order of the events, the Reviewers discussed:

1. *The environment of the “problem hotel.”* The hotel itself was viewed by TPD as a “problem hotel,” a location with significant illegal activity happening on a regular basis.

This was confirmed by the Manager’s discussion with the Lieutenant after the incident, in which the manager acknowledged that on a number of previous occasions, he had contacted TPD to address potentially criminal behavior at the hotel. The Manager expressed both frustration and appreciation for how those calls were handled. The ongoing crime and disorder problem at the hotel was further confirmed by the several officers and supervisors interviewed in the Internal Affairs investigation. The Reviewers discussed the potential impact that such an environment could have on an officer even before the officer walks into the lobby. That impact is increased when the trespassing call becomes a situation where an officer has to rapidly identify and apprehend an armed individual.

At least some of the Reviewers suspected that the Manager’s complaints about the handling of this incident could have been partly motivated by a desire to deflect police attention away from the crime problem at the hotel—and the hotel management’s role in it— and the police officials participating in the Review did report that police attention to the hotel crime problem has in fact subsided considerably in the wake of this incident. However, the Reviewers agreed that this was difficult to establish conclusively from the record. Moreover, there was consensus that even if the Manager was so motivated, it would not justify the manner in which the incident was handled. If anything, that a poor response to an incident could sideline a major crime-control initiative is all the more reason to treat this as a Sentinel Event that had far-reaching impact on the police agency and the Tempe community.

Contributing Factor 1. Chronic crime and disorder at the hotel.

2. *Potential for implicit (or explicit) bias.* Reviewers noted that each of the individuals involved in the incident had the potential to bring biases and assumptions about the other individuals into the interactions. These biases included feelings about the Manager, potential implicit racial biases about the Employee, and the Manager’s potential biases based on past interactions with the Tempe Police Department. While these biases are difficult, if not impossible, to eliminate, educating TPD officers about both the potential for their existence and about how such biases might influence the way that community members perceive the interactions – perhaps using video of this incident as a teaching tool – could help reduce their influence in the future.
3. *Officer self-dispatch.* Rather than allowing the Office of Emergency Services call professionals (i.e., dispatchers) to determine which officer(s) should answer the trespassing call, an open request was placed for officers in the vicinity. The Officer responded, beginning the chain of events. Reviewers discussed whether officers should be permitted to self-dispatch, or whether the current practice allowing officers to self-dispatch but ask the call professionals to continue to advise on the situation was appropriate.
4. *No backup.* Reviewers discussed the fact that the Officer was operating by himself at the hotel. TPD typically dispatches only one officer to trespassing calls, though as one TPD Reviewer put it, “this was not your standard

trespass,” given the nature of the hotel as a “problem hotel.” In addition, some felt that any call likely to involve an adversarial contact with a criminal suspect (which a trespasser would be) should require two officers.

The lack of backup may well have contributed to the rapid escalation of the Officer’s emotions, which began in the hotel lobby while getting the description of the suspect from the Manager. It also likely contributed to the Officer’s aggressive responses to the people he interacted with after that: the two people in the parking lot, the hotel employee he held at gunpoint, and the several other people in the hall and in the hotel lobby.

The Officer immediately called for backup, but under the circumstances as he understood them⁶ the Officer chose to immediately seek to apprehend by himself, a person known to have a handgun; under those circumstances, his heightened emotional state is understandable. The Reviewers were hesitant to second-guess the Officer’s decision in the moment, particularly because while the Manager had told the Officer that “somebody just drew a gun on us,” he later explained that the man had simply drawn a gun from his back pocket before the Manager persuaded him to put it back in his pocket, information that might have reduced the level of alarm or danger perceived by the officer. The Manager later confirmed to the Lieutenant that the gun was never pointed at him.

It is possible that the concern and risk perceived by officers in this situation could be mitigated in the future by the presence of one or more other officers being sent to the scene from the outset. Reviewers understood that resources may be limited, but sending more than one officer to respond to any calls that might involve the confrontation with one or more criminal actors, particularly at identified “problem locations” might provide important protection and peace of mind to responding officers, allowing them to remain calmer in challenging circumstances. Again, while there was consensus among Reviewers that the responding Officer had to make fairly quick decisions given the information he was provided about the display of a gun, at least some of the Reviewers felt that the Officer failed to gather enough basic information about the encounter between the Manager and the man with the gun to properly inform the ensuing police response. Such information arguably should have included whether the gun was pointed or merely displayed, whether any verbal threats accompanied the display of the gun, and the context in which the gun was displayed (e.g., a robbery or aggravated assault attempt, an attempt to intimidate, perceived self-defense). Such basic facts should help police determine the level of danger the man with the gun presented to the police or to others, particularly in a state in which it is lawful for most adults to openly carry a firearm.

Contributing Factor 2. Improper tactical response to locate the gun-pointing suspect (insufficient gathering of information about the facts of the incident)

Contributing Factor 3. Improper tactical response to approaching scene (failure to wait for backup)

5. **Heightened emotions of the responding Officer.** The Reviewers noted an immediate escalation in the Officer’s emotional state upon being told by the Manager that the trespassing call that had brought the Officer to the hotel

⁶ One Reviewer speculated that if the Officer had taken the time to gather sufficient facts about the “gun-pointing incident,” he might reasonably have concluded that, in fact, no crime had been committed (a gun was displayed but not brandished or pointed at anyone), and that no urgent tactical response was necessary at all.

was now a call to identify and apprehend an armed individual. This shift in the nature of the call obviously made the circumstances more dangerous for the Officer, and his demeanor shifted, with the Officer becoming impatient with and raising his voice to the manager.

The Officer's heightened sense of danger was displayed as he left the lobby, immediately drawing his gun as he walked toward the west exit, and as he shouted with profanity to tell the individuals in the parking lot to get away. These behaviors conveyed a sense of considerable excitement and agitation. The Officer's actions with the Employee conveyed a similar sense of excitement or agitation, as he kept his gun trained on the employee, interrupted the employee, argued with the employee about whether the employee posed a threat to him and told the employee of his need to make sure he got home to his family.

As part of the group's efforts to understand possible recommendations for improvement in this area, Dr. Michael White from Arizona State University gave a presentation to the Reviewers detailing his de-escalation training project with TPD. Dr. White and TPD received a grant from the U.S. Department of Justice in 2017 to design, deliver, and evaluate a customized de-escalation training program. Dr. White described the 18-month curriculum development process, and provided an overview of the training content. The training was delivered to officers in February/March 2020 via a randomized controlled trial.⁷ Dr. White described results from the evaluation of the training which point to a positive impact on officer attitudes and behavior, measured through officer-perception surveys and review of body-worn camera footage. Dr. White also discussed how the training addresses issues tied to the Officer's behavior during the incident under review.

Contributing Factor 4. Tactical communications: use of profanity by the Officer

Contributing Factor 5. Tactical communications: frustration and anger of the Officer.

6. **The misidentification of the Employee as a potential suspect.** The Reviewers discussed the responding Officer's decision to hold the Employee at gunpoint and continue to do so despite the fact that the Employee matched little of the description of the armed man provided by the Manager. Only the fact that the employee was male matched the description. In fact, given that the Officer obviously did not consider the other people in the parking lot to be potential suspects, it seems possible that if the employee had not been walking out of the west exit, he would not have been stopped by the Officer at all.

The Officer's stated rationale was that eyewitness identifications are often imperfect or inaccurate, and he had been directed to the west exit, where the Manager had said the armed man would be exiting.

The Reviewers had no way to verify the truthfulness of the Officer's statements but noted the considerable and obvious differences between the initial description of a "White man, black Ed Hardy t-shirt, tan pants" and a Black man wearing a gray polo shirt with a white stripe and black pants. In addition, the Employee immediately identified himself as a hotel employee, something that was unlikely to be made up as it was easily verifiable.

At the same time, Reviewers noted the need for the Officer to be careful given the potential risk that the suspect was armed and realized that the Employee was not wearing anything identifying himself as an employee of the

⁷ The Officer at the center of this event was assigned to the control group and did not receive Dr. White's de-escalation training.

hotel, complicating the ability of the responding Officer to verify his identity. They also noted how different circumstances can make the same duration of time feel quite different. The Officer verified the Employee's identity within about 90 seconds, which seems relatively fast. That same 90 seconds probably seemed incredibly long to the employee, who had a gun pointing at him throughout that time.

Contributing Factor 6. Misidentification of suspects by the Officer.

7. *The treatment of the Employee during the encounter.* Reviewers identified a number of areas for improvement in the Officer's conduct. First, the Officer was clearly agitated and having difficulty remaining calm. His raised voice and impatience in the lobby, while understandable, reflected a sudden increase in emotion and lack of calm that was reinforced by his shouting and use of profanity at the individuals in the parking lot.

The Officer's agitated state was also evidenced by his interaction with the Employee, as he shouted at the Employee repeatedly, told the Employee that he needed to get back to his family at the end of the day, and that he perceived the Employee as a threat. While Reviewers understood why a police officer might not—and probably should not—blindly follow requests to de-escalate or reduce force that come from a suspect, it did seem apparent to the Reviewers that the Officer was exhibiting more stress than seemed necessary or productive at the time.

TPD Reviewers suggested that the Officer could easily have asked the Employee to lift his shirt at the waist and slowly turn around, helping the Officer verify that the Employee was unarmed without having to get too close to the Employee. (It also might have allowed the Employee to remain standing rather than burning his knees on the hot pavement.)

Reviewers suggested providing mandatory de-escalation training for all officers on an annual basis and making sure that officer well-being and safety were at the core of all such training. TPD explained that it was in the middle of a randomized trial evaluating certain de-escalation training methods – while the full impact of this training is not yet known, they noted that this Officer was in the “control” group – that is, he was an officer who had not yet received such training.

Contributing Factor 7. Failure of the Officer to search the Employee for weapons (by a quick visual check of his waistband).

8. *The role of hotel employees in the encounter.* The Reviewers discussed the various impacts that hotel employees had on the encounter.

It is important to focus the recommendations on the modification of TPD behavior, and not to suggest that the individual who was held at gunpoint was responsible for the Officer's inappropriate use of force. At the same time, the Officer's actions, and subsequent actions of the Sergeant and Lieutenant, did not happen in a vacuum.

- a. *The Manager.* Reviewers noted that the Manager's descriptions, provided first to the Officer and later to supervisors, were not always in complete agreement with one another, reflecting the fallibility of eyewitness identification and memory, and giving some credence to the Officer's later explanation that he detained the Black employee despite getting a description of the gunman as White due to this issue.

A more obvious issue with the Manager's actions is that he (apparently inadvertently) sent the Officer to the west exit when the gunman was actually in the stairwell heading toward the east exit. Had the manager sent the Officer to the proper exit, the entire encounter between Officer and Employee would likely have been avoided, and the gunman would likely have been apprehended. Again, this does not excuse the Officer's conduct with the Employee, but it does provide some context for everyone's behavior during the interaction.

Finally, the Manager's anger and frustration with the TPD officers, while understandable, did contribute in particular to the inappropriate emotion shown by the Sergeant. Again, this does not excuse the Sergeant's conduct – it is to be expected that Tempe police officers will interact with frustrated individuals, and they will have to avoid the temptation to reflect that frustration back to those they serve. But it does provide some important context in considering potential recommendations to the Department for improvement.

- b. *The Employee.* Reviewers noted that while the Employee was immediately physically compliant with the Officer, he was verbally more aggressive, insisting that the Officer did not need to keep him at gunpoint and discussing the risk that he would be “another Black man on the news.” This may have contributed to the Officer's perception of a threat in his environment, causing him to keep the gun trained on the employee longer than he otherwise would have.

In addition, Reviewers noted that the hotel did not have a uniform for its employees, nor was this employee wearing a name tag. Either circumstance would have allowed the Officer to confirm the employee's status more quickly, reducing the likelihood of the interaction escalating as it did.

Contributing Factor 8. Misstatement of suspect location by the Manager; failure to provide police accurate information about gun-pointing suspect location.

Contributing Factor 9. Lack of identifying clothing/name tags for hotel staff.

- 9. *Perceptions of racial bias.* Reviewers discussed the obvious perception of the Employee and the Manager that the Officer's actions were driven by an (explicit or implicit) racial bias. It is difficult for members of the community to understand why a Black man was held at gunpoint when the description of the suspect was of a White man in substantially different dress – though some Reviewers did speculate that the various colors (white, black, tan) could have gotten confused in the Officer's mind. The Officer's explanation – that often descriptions are inaccurate – was not well received by the Employee or Manager. While it may be true, the breadth of the difference was still a concern for the Reviewers. The Officer further explained that the overriding suspicious factor he took into account in deciding whom to stop was their presence at or near the hotel stairwell and exit door from which the Officer had been told the man with the gun would imminently be emerging. This leaves open to question why a police officer who doubts witness accuracy as to suspect race and clothing would then impute witness reliability as to suspect location. Indeed, as it turned out in this incident, the witness was likely more accurate in his description of the suspect's race and clothing (although that cannot be known for certain as the suspect was never apprehended and, reportedly, there was no surveillance video of the suspect) than he was about the suspect's location, which the witness appears to have gotten wrong.

In addition, the dialogue between the Officer and the Employee regarding the Employee's race did not seem like effective communication in either direction. The Employee raised the concern that he would be "another person on the news," which several Reviewers interpreted as including a racial dimension and referencing the numerous and highly publicized instances of police violence against Black men – a scenario that has been of significant national concern. This should have been in the Officer's mind as well. The Officer's response appeared to many Reviewers to be an attempt to convey that his actions were not racially motivated. While it was repeated inaccurately by the Employee to the Lieutenant, several Reviewers viewed the Employee's retelling of the racial overtones to be a good faith interpretation of the Officer's statement "Shut the f*ck up with that sh*t" to be a rejection of the racial bias that the employee later articulated to the Lieutenant.

10. **Officer fitness for service.** Given the Officer's previous work performance issues, Reviewers questioned whether TPD would benefit from enhancing its officer well-being initiatives, including improving its ability to identify officers who may be having challenges with self-regulation, quickness to anger, emotional instability, or other similar circumstances.

The Officer's supervisors had noted similar overreactions by the Officer in the past. In addition, there were a number of warning signs that this Officer might be experiencing substantial amounts of stress both on the job and in his personal life. The Officer had recently participated in a use of force that was both traumatic and highly publicized, subjecting him to a great deal of public criticism on top of the trauma of the event itself. In addition, he was going through a divorce. Furthermore, the Officer had refused available counseling and psychological services.

TPD and community Reviewers expressed concern for this Officer and other officers, noting that more officers die by suicide than in the line of duty for several years running. They discussed three areas for potential improvement:

- a. *Organizational.* TPD could:
 - i. Implement an "early intervention" system that would help TPD leadership, including supervisors, more quickly identify officers who might benefit from additional resources to help them manage the stressors and traumas that officers are subjected to while working difficult, dangerous assignments. TPD Reviewers indicated that such a system was in process, but has not yet been fully implemented. When it is, it will be important for TPD to have a system for evaluation and quality improvement of the system.
 - ii. Require more counseling and wellness programming and continue efforts to destigmatize counseling and therapy services for officers.
- b. *Supervisory.* TPD could provide additional training to supervisors to help them recognize issues earlier and respond more constructively.
- c. *Individual.* Noting that this Officer had refused counseling and therapy services when offered to him in the past, TPD could require that officers under certain circumstances receive counseling and psychological services to assist them in dealing with challenging circumstances in their lives.

Contributing Factor 10. Failure of TPD to document early signs of emotional distress in the Officer.

Contributing Factor 11. Failure of TPD to respond effectively to signs of emotional distress in the Officer.

Contributing Factor 12. Failure of TPD to properly redress prior misconduct by the Officer (vehicle crashes, pursuit policy violation, missed court appearance and training assignment, unprofessional tone in radio communications, overly hurried response to some calls, failure to respond to an emergency call).

11. *Muting the body-worn camera in the conversation.* After both the Officer and the Sergeant had interacted with the Manager, the Sergeant walked out of the hotel's front entrance and he engaged in a brief conversation with the Officer. Both the Officer and the Sergeant muted their body-worn cameras for this conversation. TPD policy permits this muting but indicates that the body-worn camera should be unmuted and returned to normal recording mode at the end of the conversation. The Sergeant failed to unmute his camera.

As a result of the muting, both TPD investigators and Reviewers were unable to hear the conversation that occurred between the Sergeant and the Officer. This was potentially important as the Sergeant was likely hearing the Officer's perspective on the incident for the first time, in real time. In addition, investigators and Reviewers lacked audio as the Sergeant engaged with additional people in the hotel to discuss the incidents.

While the act of muting the body-worn cameras did not appear to be a violation of TPD policy, which implies that consultations with other officers may be muted,⁸ some Reviewers questioned the need for muting. The body-worn camera recording was not being monitored by anyone at the time it was occurring, so the only rationale for the muting apparent to these Reviewers was to enable officers to say things knowing they would not be recorded. Negatives of muting include the loss of valuable information for Reviewers, and increases in skepticism and lack of trust about officers due to a lack of transparency. There is no clear upside to the muting – if officers are not being candid with one another because they are being recorded, that would seem to justify the public's call for reforms rather than refute them.⁹

In addition, while the Reviewers had no reason to disbelieve the Sergeant's explanation that the failure to unmute his body-worn camera was simply an inadvertent mistake, there would seem to be no reason that the body-worn camera could not automatically turn audio back on after some period of time. The cameras could also be programmed to make a sound when the audio recording resumed, allowing officers to re-mute if the conversation was still going on.

In any event, the failure to unmute the body-worn camera was not deemed a significant contributing factor, but because it may have impeded the ability to review the incident, the Reviewers noted it here.

⁸ Paragraph 9.a. of the policy states: "To avoid starting and stopping recordings, officer should consider using the mute function when appropriate (e.g., to consult with another officer). Tempe Police Department Order 17.105, accessed at <https://public.powerdms.com/TempePD/tree/documents/1269528>

⁹ Another potential reason to allow voluntary muting of body-worn cameras that the Reviewers discussed was the ability to have unrecorded personal conversations about non-work topics (e.g., talking about family during a lunch break.) unrelated to work. Both community and TPD Reviewers noted that redacting such conversations prior to public disclosure would advance both the desire to evaluate the encounter in its fullness and the officers' reasonable privacy rights – but in any event, that was not the scenario presented in this case.

12. *Officer acts suggesting potential desire to reduce transparency and minimize accountability.* The Officer committed two acts that caused Reviewers concern in terms of the Officer's transparency, and potential efforts to minimize or avoid accountability for his actions. First, he failed to provide proper identifying information to the Manager and Employee before leaving the scene. Second, he muted his body-worn camera when discussing the incident with his Sergeant, making it impossible to evaluate his contemporaneous explanation and state of mind.

We have previously discussed the muting of the body-worn camera. In terms of the failure to provide identifying information, the Officer clearly knew both the policy and that the expectation was that he would share his information upon request. He failed to do so despite saying to the Employee that he would. This further inflamed the situation and gave credence to views that TPD was not committed to transparency in its handling of public police encounters.

There is no recommendation that the Reviewers could give here other than "TPD should ensure that officers act in accordance with an existing known policy." Given the Officer's deliberate and intentional failure to provide his information, an internal disciplinary response should have been (and in this case, was) imposed on the Officer.

Contributing Factor 13. Failure to provide complainant with Officer's identification information by the Sergeant and Lieutenant.

13. *Sergeant's handling of follow-up conversations.* Reviewers felt that as the Sergeant walked into the hotel lobby, he was responding to an unexpectedly inflamed situation, one about which he had not been adequately briefed by the Officer. The Manager was angry, defiant and disrespectful. Even so, the Sergeant, as a leader in TPD, should be able to remain calm in the face of angry community members. In this case, however, the Sergeant responded to the Manager in kind, immediately returning anger with anger. He refused to provide identifying information for the Officer and refused to put the Manager in touch with his Lieutenant, saying "I'm the sergeant" and "I'm the supervisor you're gonna get" before walking out of the lobby.

As with the other transparency concerns regarding the Officer's actions, Reviewers felt that the Sergeant knew what acts were expected of him; he simply failed to conduct himself appropriately. The Reviewers do not seek to minimize the difficulties of being a police officer at this moment in our history, but one of the requirements for the job, particularly in supervisory or leadership positions, is the ability to remain calm in the face of agitated members of the community and the constant prioritization of service to all members of the community at all times. TPD should enforce high standards of compliance with its behavioral protocols, especially from leadership, to ensure that those standards are maintained.

Contributing Factor 14. Sergeant's failure to provide identifying information for the Officer

Contributing Factor 15. Sergeant's refusal to provide complainant his supervisor's contact information

Contributing Factor 16. Tactical communications: perception of TPD disinterest in citizen complaint

14. *Lieutenant's handling of follow-up conversations.* While the Lieutenant who spoke with both the Manager and the Employee succeeded in helping to calm the situation, Reviewers saw opportunities for improvement in his handling of the situation. In particular, after taking the statements of both Manager and Employee, the Lieutenant stated that

he was going on vacation the next day, which had the effect of causing both the Manager and the Employee to react with cynicism and the belief that the investigation was not going to be timely or viewed as important. The Manager saw this to be a consistent disregard of his complaint about the responding Officer's actions, particularly in conjunction with his rebuffed request in his second call to TPD dispatch requesting a lieutenant to be sent to the scene and his poor interactions with the Sergeant.



Figure 4. Fishbone diagram showing Contributing Factors to the Sentinel Event.

Recommendations

Based on the Contributing Factors listed above, the Reviewers made the following consensus Recommendations to the Tempe Police Department.

Recommendations directed towards the unnecessary or excessive use of force by TPD officers:

Recommendation 1. Establish a system in Tempe that incentivizes hotels and motels to prevent crime from occurring in and around them (City enforcement of code violations, requiring compliance with city ordinances, etc.)

Recommendation 2. Require/request all hotel/motel staff to wear clearly visible indicia of their status as employees (as part of a suite of good practices for hotel/motel management)

Recommendation 3. Require improved design of hotel CCTV surveillance systems for higher-resolution imagery and clear labeling of the location of each camera on the respective monitor

Recommendation 4. Train officers to assess chaotic situations and formulate a tactical response prior to acting

Recommendation 5. Ensure that officers are trained in the proper positioning of a firearm for the circumstances (e.g., having gun at “low-ready” position, rather than “on target,” for detention of the hotel employee)

Recommendation 6. TPD, through policy and training, should provide officers with reasonable alternatives to standard tactics (e.g., kneeling during a police stop when there is a perceived risk that the suspect has a weapon or might flee) when those tactics would cause a suspect injury or undue discomfort

Recommendation 7. Complete patrol-staffing studies every few years to review the sufficiency of patrol staffing for proper handling of the existing volume and type of workload

Recommendations directed towards the unnecessary or excessive use of force by TPD officers and the lack of emotional control by responding officers:

Recommendation 8. Make the dispatch of two officers the default option for any call that will involve contact with criminal suspects, including trespass complaints, and do not permit self-dispatching officers to override this prior to arrival on scene and assessment of situation

Recommendation 9. Ensure field supervisors monitor calls to determine if an adequate number of officers have been assigned to the call, given the circumstances

Recommendation 10. Ensure all police officers are trained in de-escalation and emotional-control techniques

Recommendation 11. Provide scenario-based training for officers on confronting armed suspects by oneself, including how to quickly and safely determine if the suspect is armed

Recommendation 12. Implement stress-inoculation training under various scenarios for officers and dispatchers

Recommendation 13. Establish protocols for psychological evaluations of officers who are disciplined for lack of emotional control and/or who experience especially traumatic events, including providing for a buffer period for returning to full field duty

Recommendation 14. Require or otherwise incentivize all officers to participate in an annual mental/emotional wellness check-in with qualified professionals

Recommendation 15. Provide refresher training to officers returning to patrol from other extended assignments

Recommendation 16. Ensure supervisors are properly trained on their responsibilities relating to the emotional wellness of employees

Recommendations directed towards the unnecessary or excessive use of force by TPD officers, the lack of emotional control by responding officers and improper handling of complaints by TPD officers:

Recommendation 17. Establish a formal Early Intervention System by which to recognize signs of employees exhibiting problematic attitudes and behaviors, and establish clear responsibilities and protocols for intervening to address the concerns; include peer-support assistance as one form of intervention

Recommendation 18. Clarify the TPD procedures for assigning and delegating supervisory/command responsibilities for employee, scene and complaint-management functions

Recommendation 19. Ensure the training unit is adequately staffed to provide proper training to all department employees

Recommendation 20. Train supervisors in the proper documentation of issues and problems with their subordinate officers.

Recommendations directed towards the unnecessary or excessive use of force by TPD officers, the lack of emotional control by responding officers and public perceptions that the incident was racially biased:

Recommendation 21. Improve suspect description procedures in call-taking/dispatch and initial investigation functions

Recommendation 22. Provide cultural competency training to better enable officers to respond appropriately to people from cultures different from their own

Recommendation 23. Increase field supervisors' regular and random reviews of their officers' body-worn camera videos (requires proper staffing of supervisors)

Recommendations directed towards the unnecessary or excessive use of force by TPD officers and public perceptions that the incident was racially biased:

Recommendation 24. Improve suspect identification and suspect detention procedures to establish more clearly what constitutes a justifiable detention and to avoid erroneous detentions

Recommendations directed towards the lack of emotional control by responding officers

Recommendation 25. Reduce the use of profanity by police officers in the performance of their duties (through training, supervision, and behavior modeling; look for toxic masculinity)

Recommendation 26. Improve access to mandatory counseling for officers

Recommendation 27. Look at unresolved trauma both on the job and childhood (Adverse Childhood Experiences); incentivize attending wellness group sessions or seeing a counselor

Recommendations directed towards the improper handling of civilian complaints by TPD officers:

Recommendation 28. Provide all TPD employees who provide service to the public community-contact cards that bear, at a minimum, the employee's name and contact information (email/phone no.) for making complaints and/or commendations about the service received (consider adding a QR code)

Recommendation 29. Require officer name and badge number be provided to a citizen by any and all TPD personnel upon request (even if a supervisor is present)

Recommendation 30. Train officers and call-takers to verbally explain citizen complaint procedures in addition to providing them contact information

Recommendation 31. Train field supervisors to obtain adequate briefings from officers about the situations they are handling

Recommendation 32. Clarify the circumstances under which it is permissible or impermissible for officers to share BWC video with others, and implement technological blocks on impermissible sharing

Recommendation 33. Clarify TPD and City policies and procedures for investigating high-profile citizen complaints to reduce improper involvement in investigations (consider retaining an external consultant to review current procedures and practices)

Recommendation 34. Ensure dispatchers connect complainants with a supervisor, if so requested

Recommendation 35. Make public any and all final disciplinary dispositions from civilian complaints

Recommendations directed towards the improper handling of civilian complaints by TPD officers and public perceptions that the police response to this incident was racially biased:

Recommendation 36. Program body-worn cameras with a timer to resume recording after being muted, and a signal to the officer that it is doing so, while allowing the officer to resume muting if appropriate and within policy

Recommendation 37. Publicize the role of the Tempe Citizens' Panel for Review of Police Complaints and Use of Force; have City Hall/City Manager put out information on reviewed cases and outcomes, hold town hall meetings for public briefings on reviewed cases

Recommendation 38. Offer a briefing of the Mayor and City Council on the Sentinel-Event Review process and report

Recommendations based on the public perceptions that the police response to this incident was racially biased

Recommendation 39. Improve the communication of factual information from the organization to the public and media regarding findings and determinations of administrative complaints

Recommendation 40. Publicly acknowledge the legitimacy of public concerns about racial bias in policing in instances involving interactions with some members of the community

Recommendation 41. Improve officers' situational awareness regarding race and policing, understanding the dynamics in play when a TPD officer is interacting with a Black civilian

Conclusion

The encounter at police gunpoint between a TPD police officer seeking a potentially armed White male in a black Ed Hardy t-shirt and tan pants and a Black hotel employee in a gray-and-white polo shirt with black pants fortunately ended without any physical injuries. Nonetheless, for those critical of the Tempe Police Department, it provided further evidence that the Department is biased against Black members of the community, and subjected the Department as a whole and the officers who participated in the encounter and its aftermath to widespread criticisms and discipline.

The Reviewers are grateful to TPD for being willing to undertake this Sentinel Event Review in addition to the actions it took in its internal administrative review. The SER, which seeks to generate recommendations to help TPD and its officers achieve better outcomes in the future, asked different questions than the administrative investigation, which sought to determine whether TPD officers had deviated from established Department protocols or procedures and to allocate responsibility and discipline to those officers if so. Each review had a useful and distinct purpose, and the Reviewers hope that the implementation of the recommendations in this report will reduce the risk of future similar negative outcomes, as well as assist in a process of re-establishing trust between TPD and the community it serves.

Appendices

Appendix 1: Planning Group and Panel Members

Panelists and Participants

Name:	Position:	Affiliation:
Hanan Elsaad	Nurse	Banner Health
Ivette Alvarado	Professional Counselor	City of Tempe
Sheeren Lerner	Faculty	Mesa Community College
Robert Ferraro	President	Tempe Officers Association
Kyle Schmidt	Firearms Officer	Tempe Police Department
Edward Hache	Officer	Tempe Police Department
Michael Rodriguez	Officer	Tempe Police Department
Liliana Duran	Sergeant	Tempe Police Department
Dane Sorensen	Commander	Tempe Police Department
Anthony Miller	Lieutenant	Tempe Police Department
Rashidi Johnson	Sergeant	Tempe Police Department
Princess Lucas-Wilson	Criminal Justice/Law Enforcement Committee Chair	NAACP
Mike White	Professor	Arizona State University School of Criminology & Criminal Justice
Art Hinshaw	Clinical Professor	Arizona State University College of Law
Valena Beety	Professor	Arizona State University College of Law
Jay Jenkins	Director	Arizona State University Lodestar Dispute Resolution Center
Michael Scott	Clinical Professor and Director	Arizona State University School of Criminology & Criminal Justice; Center for Problem-Oriented Policing
John Hollway	Associate Dean and Executive Director	University of Pennsylvania Law School; Quattrone Center for the Fair Administration of Justice
Courtney Fleager	Law Student	Sandra Day O'Connor College of Law at ASU
Princeton Wilson	Law Student	Sandra Day O'Connor College of Law at ASU; NAACP