

SEATTLE POLICE DEPARTMENT MEMORANDUM

TO: Chief John Diaz
Chief of Police

DATE: 7/29/11

FROM: A/C Jim Pugel 
Investigations Bureau

SUBJECT: Firearms Review Board #11-001

In accordance with the Seattle Police Department Manual, Section 1.305, a Firearms Review Board (FRB) was convened in the SPD Headquarters Homicide Unit offices on July 21, 2011 at 0930 hours. A site visit to the incident location of 7th Avenue S. and S. Dearborn was conducted with FRB members prior to convening the FRB panel. The FRB was called to investigate and review the circumstances surrounding the discharge of a firearm by a West Precinct patrol officer. The incident and firearm discharge occurred on June 28, 2011 at about 2348 hours, in the City of Seattle. The incident and subsequent investigation was documented under G.O. #11-208425.

FRB members each received a FRB notebook prior to the hearing. Evidence considered included verbal testimony, memorandums, a PowerPoint presentation, statements, radio traffic and other related documents. The FRB heard testimony from Homicide detectives Paul Takemoto and James Cooper, CSI detective Jennifer Southworth, as well as Sgt. Chris Hall and Officer Tamara Floyd.

Involved Officer

Officer Tamara Floyd #6816

Assigned to West Precinct Patrol – 3rd Watch

Years of Service: 7 years with SPD

Training: Current with all department required certifications, optional certification with Taser.

Equipment used: Glock Model 17, 9 mm

Suspect #1

Unidentified African American male, approx. 6', slim build, wearing a black baseball hat and black jacket.

Weapon: Smith and Wesson "Lady Smith" .357 five-shot revolver handgun. Weapon recovered abandoned nearby with three spent rounds only in chamber.

Suspect at Large.

Suspect #2

Yusuf, Ahmed J. DOB: 8/27/84 African American male 5'6"/150 lbs. Wearing a black jacket.

Weapon: Springfield Armory 9mm semi-automatic pistol w/13 round capacity magazine (magazine empty at time of arrest).

Arrested at time of incident.

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Members of the Firearms Review Board:

Assistant Chief Jim Pugel, Criminal Investigations Bureau
Captain Mike Nolan, South Precinct (excused for medical reasons)
Lieutenant Scott Bachler, Training Section
Lieutenant David Proudfoot, Communications Section

Observers:

Suzanne Adams Citizen Observer
Sergeant Rich O'Neill Seattle Police Officers Guild
Renni Bispham SPD Legal Advisor
Capt. Sean O'Donnell Communications Section

Investigating Detectives:

Sgt. Mark Worstman, Homicide/Assault, Unit#715
Detective James Cooper, Homicide/Assault, Unit#715
Detective Paul Takemoto, Homicide/Assault, Unit#715

CSI Detectives:

Sgt. Michael Hay
Detective Mark Hanf, CSI Unit
Detective Jennifer Southworth, CSI Unit

Witnesses:

Sgt. Christopher Hall #6366

Chronological Summary of Incident:

Officer Tamara Floyd was working as a Patrol Officer in standard Patrol Uniform and operating a fully marked and equipped Seattle Police Patrol vehicle. Officer Floyd was assigned as 3K23 and was working routine patrol in the area of 7th Avenue South and S. Dearborn. Officer Floyd stated in her testimony that she was driving in the area to conduct a premise check due to chronic issues with noise and physical disturbances related to the patrons of an establishment known to her as the *Medina Hookah Bar* located at 700 S. Dearborn Street. Officer Floyd knew the owner of the establishment through her regular contacts and she described that the owner kept the patrons of the establishment well under control inside the business, but that he could do little to control them after they exited the business and loitered in the areas beyond.

The Medina Hookah Bar is located at the southeastern most corner of the block at the intersection of 7th Avenue South and South Dearborn Street. The business is bordered immediately to the north by a building housing City Produce and Beijing Arts. This business has open rooftop parking accessed via a ramp from the north from South Lane Street. The rooftop parking overlooks the 700 block of South Dearborn to the west and South Lane Street to the north. Across South Dearborn Street to the west from the Medina Hookah Bar is an open parking lot, bordered to the north by a Key Bank building with a drive through paralleling South Dearborn and additional businesses housed to the north.

Officer Floyd drove into the area initially from the north and looked south down 7th Avenue. She circled the area to the south and continued to observe. Officer Floyd testified that she saw that the street and parking lot was full of parked cars, so she inferred that there was significant crowd at the Medina Hookah Bar. Officer Floyd again approached 7th Avenue South from the north by driving eastbound on South Lane Street. Officer Lane said when she stopped at the intersection and looked to her right (south), she saw a group of approx. seven people arguing in the street on 7th Avenue south. Officer Floyd said she decided to

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stay in the area to monitor the argument, so she continued through the intersection and proceeded to drive up the ramp to the elevated rooftop parking accessed off of South Lane Street. Officer Floyd stated she knew this elevated parking area was also sometimes used by patrons from the Medina Hookah Bar to loiter, so she could check the parking lot while also creating a presence to monitor the verbal disturbance that would then be occurring below her and to the west. Officer Floyd said she found the elevated parking lot to be empty, so she drove her patrol car to the west edge of the parking lot and parked it where the spot light could be used to illuminate the crowd below on 7th Avenue South. Officer Floyd further explained that she was aware that she was the only available car at the time and though she wanted to create a presence and possibly disperse the crowd, she did not want to actually become engaged with them on her own. Officer Floyd was aware that there was a two-officer car and her sergeant (Sgt. Hall) arrived on a DOA a few blocks away.

Officer Floyd stated that she parked at an angle so her driver's window was facing to the southwest so she could observe the group below and across the street to the west. She said she lowered the window and believed she made eye contact with one of the subjects who looked up and toward her (east) from below. Officer Floyd noted that the parking structure is open to the west with only a metal railing running along the west edge. Officer Floyd identified two subjects who appeared to be the primary parties involved in the verbal disturbance. She described the east-facing subject as a African American male about 6' tall, slim, and wearing a black baseball hat and jacket. She described the west-facing subject as a African American male about 5'8" tall, medium build and wearing a black jacket and no hat. Officer Floyd would later identify the east-facing male as "Suspect #1" and as the subject who is at large. She would describe the west-facing male as "Suspect #2" and as the subject who was taken into custody at the time of the incident. Officer Floyd said she decided to turn her radio down so she could hear what the argument was regarding. She then decided to illuminate the subjects with her spotlight.

Officer Floyd said as she was reaching for her spotlight, she saw Suspect #2 push Suspect #1. Suspect #1 fell back against a car parked there, but came back up with a handgun and fired at Suspect #2. Officer Floyd said she immediately got on her radio and announced, "3K23 Shots Fired." Officer Floyd said Suspect #1 continued to fire at Suspect #2 with several other people in the immediate area. It appeared to Officer Floyd that Suspect #1 was shooting toward Suspect #2, the alcoves to the east, and toward the entrance to the Medina Hookah Bar as Suspect #2 fled first across the street to the east and then south toward the Medina Hookah Bar entrance.

Officer Floyd described that she exited her patrol car and ran to the railing, where she yelled in a loud, clear voice, "Seattle Police!" Officer Floyd said she also yelled commands to Suspect #1. Officer Floyd said when she could see that Suspect #1 was not obeying her commands, but instead continuing to fire his handgun at the other subject and toward the other people on the street and the open business, she made the decision to engage with her firearm. Officer Floyd described that this decision was predicated on her fear that if not stopped, Suspect #1 would hit and possibly kill the other subject or innocent bystanders in the area. Officer Floyd said she took aim, verified that no one was immediately adjacent to Suspect #1, and that the backdrop to her bullet trajectory was the brick bank building and a blue dumpster to the west. She said she fired one round at Suspect #1.

Officer Floyd said Suspect #1 showed no indication of being hit by her gunfire, but he did stop firing his weapon and immediately looked up at her position on the rooftop. Officer Floyd said she was fearful he would begin shooting at her, but this thought was interrupted when she heard several shots from below her and to her left (south) on South Dearborn Street. Officer Floyd said she observed that this was Suspect #2, now also armed with a handgun, firing toward Suspect #1 across the street. She described that Suspect #2 was running south toward the Medina Hookah Bar entrance while firing back to the northwest toward Suspect #1.

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Officer Floyd began to run toward the southwest corner of the elevated parking lot and shouted commands to Suspect #2, again identifying herself as "police" and giving commands. Officer Floyd said she again broadcast over her portable radio, "Shots fired" and that there was a "firefight." Officer Floyd described she was fearful that she was exposed to Suspect #1 to her west, as well as suspect #2 to her southwest. Officer Floyd said she heard Suspect #1 firing intermittently, but she did not believe the shots were directed toward her. She saw Suspect #2 move between parked cars and fire in the direction of Suspect #1. Officer Floyd testified that there were still people in the area and Suspect #2 was now firing toward Suspect #1, but with a full parking lot as his backdrop.

Officer Floyd said she made the decision that she needed to fire her handgun at Suspect #2 to stop his continued uncontrolled firing toward Suspect #1 and the potential for his bullets to strike whoever else was out in the area. Officer Floyd said she leaned out from the building and over the railing despite the presence of Suspect #1 across the street to her west, and fired one round at Suspect #2. Officer Floyd described that she identified that she had a clear field of fire and backdrop, but because he was relatively close to the entrance of the business, she was extremely conscious of the potential for someone to move into the field of fire suddenly. Officer Floyd said Suspect #2 immediately fell to the ground and stopped firing after she shot at him, so she believed she had hit him with her shot. Suspect #2 jumped back up again and began moving south toward the entrance of the business and again began shooting. Officer Floyd said she was concerned that he would continue into the business, so she moved quickly to exit the parking lot via the ramp to the north and moved on foot westward on South Lane Street and then south on 7th Avenue South in the direction Suspect #2 had fled toward the business. As she did so, Officer Floyd broadcast, "Shots fired. Help the officer."

Officer Floyd said she continued south on 7th Ave South and noted a green dumpster on the east sidewalk which she used to help cover her approach toward the business. She said she did not see Suspect #1 and did not immediately see Suspect #2. She said a patrol car pulled up in the street on 7th Avenue South. Officer Floyd said she yelled to the driver (Sgt. Hall) that there was an armed suspect to the west and another to the south. Officer Floyd said she recognized her sergeant (Sgt. Hall) as he exited the patrol car and he moved to the west and south as she moved south on foot.

Officer Floyd said as she neared the Medina Hookah Bar, she saw the owner waving to her near the front of the business. She said she then saw Suspect #2 standing on the sidewalk. She said she yelled commands at him and to show his hands and get down on the ground and he complied. Officer Floyd said she moved up to Suspect #2 and placed her knee in his back, at which point she saw a black semi-automatic handgun with the slide locked back on the step in front of the business entrance. She said she took control of the weapon and waited for other units to arrive, at which point she took Suspect #2 into custody.

Officer Floyd said in the interim she faced to the west and tried to provide cover for Sgt. Hall as he secured the parking lot to the west of 7th Avenue South.

Sgt. Hall described that he initially responded when he heard Officer Floyd broadcast, "Shots Fired." Sgt. Hall said he was nearby at the aforementioned DOA scene and realized he would likely be the first back-up to arrive. Sgt. Hall said as he approached in his vehicle on South Lane from the west he saw Officer Floyd moving west on South Lane and then turn south onto 7th Avenue South. Sgt. Hall said he turned south onto 7th Avenue South and paralleled Officer Floyd briefly before stopping his vehicle and getting out on foot. Sgt. Hall said he heard Officer Floyd warn that there was an armed subject somewhere to the west and another to the south. Sgt. Hall said he moved to the west side of 7th Avenue South on foot and provided cover in the direction while Officer Floyd moved south and eventually took Suspect #2 into custody. Sgt.

Hall maintained this security position until additional units responded to assist with the scene, security sweep, and clearing the Medina Hookah Bar.

Following the incident, Suspect #2 was identified as Ahmed J. Yusuf. Yusuf gave a statement and said the initial disturbance between him and the other male (who he said he could not identify) was over an earlier incident the other male claimed he was involved in, but that Yusuf denied being associated with. Yusuf said the other male had threatened him with a handgun and tried to tell Yusuf he had to come with him, but the disturbance was interrupted when a patrol car (more likely than not Officer Floyd) drove by. Yusuf said this interruption allowed him to retrieve his own handgun from his car. Yusuf said he was not aware of Officer Floyd when she was above him on the elevated parking lot and he did not hear her commands.

The second subject, identified as Suspect #1 has not been identified. Officers located a .357 handgun in a shrub on the far west side of the parking lot located to the west of 7th Avenue South and near the last location Suspect #1 was observed. Witnesses interviewed the night of the incident, but not testifying at the FRB, told officers and detectives they thought the suspect had hidden a gun in the bushes in this area. Officer Williamson responded with his Canine and conducted a positive confirmation track from the location of the shooting to the shrub where the handgun was recovered.

CSI Detective Jennifer Southworth gave testimony relating to the processing of the scene. Det. Southworth described that the gunfire between Officer Floyd and Suspect #1 was at an approx. distance of 67 feet. The gunfire between Officer Floyd and Suspect #2 (Yusuf) was at an approx. distance of 94 feet. The gunfire between Suspect #1 and Suspect #2 varied, but was generally at a distance of approx. 62 feet. There were fifteen spent 9mm shell casings recovered in addition to the three spent shells in the recovered .357 handgun. There was no physical or visual evidence anyone was hit by any of the gunfire.

Two of the recovered 9mm shell casings were attributed to Officer Floyd's weapon based on the distinctive firing pin strike created by a Glock handgun. Two rounds were missing from her seated magazine and all other rounds were accounted for in her two spare magazines.

Determination:

- A. The discharge occurred while the officer was on duty.
- B. The discharge was intentional.
- C. The discharge was directed at a person.
- D. The use of the firearm was necessary to arrest or apprehend a person who the officer reasonably believed had committed, had attempted to commit, was committing or was attempting to commit a felony.
- E. Considering the circumstances known to the officer at the time it would not have been a reasonable alternative to allow the suspect to escape without resorting to the use of force.
- F. The immediate actions of the officer did not contribute to the need to fire.
- G. The officer's actions were found to be justified.

Findings:

- The firearm discharge by Officer Tamara Floyd was found by the FRB to be justified.

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Summary and Recommendations:

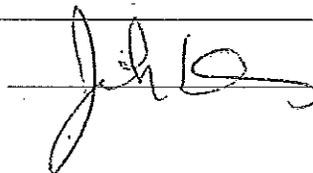
Officer Floyd's decision to conduct a premise check may have interrupted a potential homicide, felony assault or abduction from occurring. Her awareness that she lacked sufficient back-up to confront the disturbance on her own and her decision to move to a superior position where she could create a presence and monitor the situation while maintaining standoff distance was tactically sound. Officer Floyd made good use of her available cover and equipment to enhance her own safety and to request additional units. She left her superior position only when she feared an armed subject might force entry into a crowded establishment.

Her decisions to fire were based primarily on a desire to stop subjects from harming one another or others in the immediate area. In effect, she exposed herself to potential retaliatory gunfire to stop the primary shooters from harming the general public or each other. Her decisions to fire appear to have been well-considered as to back-drop and potential collateral damage, even to the extent of taking only one shot at each subject and ceasing her engagements when each subject ceased firing.

Officer Floyd commented in her testimony that one of the key tactics in her mind was to keep moving and she credited this and getting as small as possible as valuable tactics she had learned and utilized in previous Department training.

Approval/Comments/Date

Officer Tamara Floyd was placed in an extremely difficult position in which she was forced to use her weapons to stop the two suspects from either shooting each other or innocent bystanders.



John Diaz
Chief of Police

cc: Deputy Chief Clark Kimerer, Chief of Staff
Deputy Chief Nick Metz, Chief of Operations
Assistant Chief Mike Sanford, Patrol Operations Bureau
Assistant Chief Paul McDonagh, Special Operations Bureau
Assistant Chief Dick Reed, Field Support Bureau
Director Mark McCarty, Human Resources Bureau
Director Kathryn Olson, OPA
Captain Steve Brown, Training
Captain Mike Washburn, Violent Crimes Investigations
Captain Sean O'Donnell, Communications
Captain Michael Nolan, Board member
Lieutenant David Proudfoot, Board Member
Lieutenant Scott Bachler, Board Member
Lieutenant Steve Wilske, Homicide and Assault
Suzanne Adams, Citizen Observer
Rich O'Neill, Bargaining Unit Observer/Representative
Renni Bispham, SPD Legal Advisor