

HAYES OID FACT SHEET

13-040 | P13-186428

Date Occurred: December 31, 2013
Time of Occurrence: 1133 Hours
Decedent: Dontae Daveon Lewis Hayes
Location: Arlington Park, 3860 Van Buren Blvd., Riverside

Officer(s) Involved: Officer Nathan Asbury #1368
Officer Paul Miranda #1501

Officer Witness(s): None

Civilian Witnesses: Female juvenile – Name redacted due to witness being a minor

Officer Injuries: None

Suspect's Injuries:

Decedent Hayes sustained three gunshot wounds, (2) to the left chest area and (1) to the left mastoid area of the head. Hayes was pronounced deceased at the scene.

Gunshots Fired by Officers Asbury and Miranda:

The duty weapons of each officer were examined by a forensic specialist at the California State Department of Justice. The examiner found that all weapons functioned properly during the examination. The following evidence is based upon the charting of each officer's duty weapon by RPD Detective Rowe.

A total of 10 rounds were fired between the two officers.

- **Officer Nathan Asbury fired (3) rounds**

Springfield Armory .45 Cal. One round was found in the chamber and four rounds were found in the magazine which holds a capacity of seven rounds. Four additional magazines were found loaded to the capacity of seven rounds.

- **Officer Paul Miranda fired (6) rounds**

Glock 22 .40 Cal. One round was found in the chamber and nine rounds were found in the magazine. Two additional magazines were loaded to the full capacity of 15 rounds.

Gunshots Fired by Decedent Hayes:

- **Dontae Daveon Lewis Hayes fired (1) round**

Colt Model 911 .45 Cal semi-automatic.

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FACT SHEET

The fact sheet is numbered and designed to point you to important factual information located in the criminal case book that will help guide you in your review process. It is not designed to take the place of a cover to cover review. It is up to you to review the “fact sheet” data before or after a cover to cover review. Each point of reference is preceded by a TAB number followed by a page number and paragraph number.

TAB 1 – OID Summary, Pages 1 – 8: OID Summary by Detective Rick Cobb, Lead Investigator. The summary provides a detailed overview of the incident.

TAB 3 – Original Report, Page 1 Narrative: Detective Rick Cobb. Took the initial crime report listing the crime as PC 664-187, Attempted Murder of a Peace Officer. File #P13-186428. Detective Cobb wrote in the narrative that he responded to Arlington Park in regard to an officer-involved shooting. All subsequent reports in this investigation are “supplemental reports.” Officers Asbury and Miranda were listed as victims and decedent Hayes as the suspect. Neither officer was injured. (Decedent fired a shot at Officer Asbury’s face at near point blank range. Asbury was able to deflect Hayes’ gun hand as Hayes fired his gun at Officer Asbury’s face. It is for this reason that an Attempted Murder of a Peace Officer crime report was taken.)

TAB 4 – Supplemental Report, Pages 1 – 2 Narrative: Sgt. McCarthy. Upon arrival, he took a “Public Safety” statement from Officer Asbury to determine if there were any outstanding suspects, the direction of gunfire, witnesses and establish the crime scene. (This is a brief statement obtained from peace officers involved in a shooting without going into detail so the officer’s rights are not violated. The officer is required to provide certain details that include any outstanding suspects, direction of gunfire, witnesses and establish the crime scene. A detailed interview is taken by a detective at a later time.) Asbury stated he was standing behind Hayes and attempting to place handcuffs on him subsequent to a felony warrant. Hayes suddenly produced a handgun and fired one round from over his shoulder toward Asbury’s head. Asbury then unholstered his sidearm and fired rounds at Hayes from a close distance.

TAB 5 – Supplemental Report, Page 1: Sgt. Collins. Upon arrival, he took a “public safety” statement from Officer Miranda. Miranda stated that he and Officer Asbury contacted Hayes at Arlington Park and Hayes produced a handgun and fired it at him (Miranda) and Asbury. Miranda then fired his weapon at Hayes. Miranda believed at the time that he fired five rounds.

TAB 8 – Supplemental Report, Pages 1 – 2: Officer Espinoza. He arrived at the scene of the shooting and assisted in the handcuffing of Hayes for safety purposes. He turned Hayes over on to his stomach and placed the handcuffs on him. Espinoza saw a semi-auto pistol lying on the ground approximately 3’ from where Hayes fell. He was then tasked with establishing a crime scene log.

TAB 9 – Supplemental Report, Pages 1 – 2: Officer Fast. Fast was assigned a perimeter position at Hayes and Van Buren. While there, he saw a subject sitting on a park bench. Fast activated his recorder and asked the subject, Manuel Carranto, if he saw what happened.

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Carranto saw an officer talking to two subjects in the park, but did not see the shooting, what caused it, and did not hear what was being said. Carranto heard gunshots and saw an officer pointing his gun at a subject who fell to the ground. Carranto identified himself as a homeless person and could not provide an address.

TAB 10 – Supplemental Report, Pages 1 – 2: Officer J. Cruz. Cruz responded to the scene and was directed to assist in closing the park. He located a potential witness, Manuel Benavante, sitting on a mountain bike looking at the shooting scene. Benavante said he did not see the shooting or what prompted it. Benavante said he drove past the park and saw a male and female arguing. The male, later identified as Hayes, was pulling on the female. He saw officers arrive and he then rode off. After he turned onto Hayes Street he heard gunshots. He returned to the park and saw Hayes lying on the ground. Benavante became uncooperative and provided no additional information.

TAB 12 – Supplemental Report, Page 1 Narrative: Officer Glover. Glover arrived at the crime scene and was directed to search the area of the shooting for unaccounted shell casings. In doing so, he located the casings lying on the ground next to the police vehicle used by Asbury and Miranda.

TAB 13 – Supplemental Report, Page 1: Officer Allison. Allison arrived at the crime scene and was directed to canvass the area for possible witnesses. He spoke to a couple of nearby residents who did not see anything. One heard popping sounds and another thought it was fireworks.

TAB 14 – Supplemental Report, Pages 1 – 2: Officer McMahon. Officer McMahon arrived at the scene to assist. McMahon initially contacted Asbury and ensured he was okay. He saw Hayes lying on the ground with a gunshot wound to the head. He searched and handcuffed Hayes with the assistance of Officer Espinoza. McMahon saw a cocked semi-auto pistol lying on the ground next to Hayes. He located (9) shell casings and marked them with a piece of paper as evidence.

TAB 19 – Supplemental Report, Page 1 Narrative: Officer Cupido. Monitored RFD paramedics assess Hayes' injuries and status. RFD firefighter / paramedic Foy pronounced Hayes deceased at the scene at 1149 hours.

TAB 20 – Supplemental Report, Page 1 Narrative: Officer G. Hirdler. Officer Hirdler was tasked with checking the exterior of buildings on Magnolia since it was alleged that Hayes fired a weapon in the direction. Nothing was found.

TAB 35 – Supplemental Report, Page 2: Officer Navar. Officers Navar and Soria responded to the scene to assist. Upon arrival, Navar saw Asbury and Miranda standing up and pointing their sidearms at Hayes who was lying on the ground. Also saw a female lying on her stomach approximately 4' away from Hayes. For safety purposes, Navar and Soria took control of the female and placed her in a police vehicle pending further investigation. The female was handcuffed since her role in the incident was not known. Navar and Soria were tasked with

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transporting the female to the police station for an interview. The female was placed in an interview room pending arrival of detectives. While the female was in the room, she was crying, yelling, and blaming herself. She was loud and belligerent. It was determined that the female was a witness and with Hayes when the shooting occurred. Neither officer took any further action with this witness. The witness was a minor and was later released to her mother.

TAB 37 – Supplemental Report, Pages 1 – 2: Officer Hammer. Hammer was tasked with canvassing the neighborhood for potential witnesses. Contact was made with three separate residents on Van Buren. None of them saw anything. Two out of three said they heard what sounded like firecrackers. No further information was provided.

TAB 38 – Supplemental Report, Pages 1 – 2: Officer Lindgren. Upon arrival, he was assigned a perimeter position in the park. While doing so, he spoke with three landscapers that had been working in the park at the time of the shooting. Two of the three were mowing and edging and did not see or hear anything. One was seated in a truck, but did not see anything. He heard what sounded like firecrackers.

TAB 40 – Supplemental Report, Page 2, last paragraph & all of Page 3: Detective Rick Cobb. Summary of the interview with Officer Asbury followed by the interview transcript. Asbury had run a wants and warrants check on Hayes with the information he provided that revealed a felony warrant. Asbury noted that Hayes had several tattoos and according to the warrant he had none. Miranda then went to the police unit to try and obtain a photograph of Hayes to verify they had the right person.

As Miranda walked to the police vehicle, Asbury asked Hayes to stand up and place his hands behind his back. Hayes began to comply as he stood up and turned away from Asbury, placing his left hand behind his back. Hayes then refused to put his right hand behind his back and kept it in front of him. Asbury tried to grab Hayes' right hand as Hayes stepped forward and to his right. At the same time he spun to his left. Hayes had a gun in his right hand and pointed it directly at Asbury's face. Asbury tried to deflect the gun away from his face while at the same time Hayes shot at him. Asbury stated, "I remember seeing smoke and a flash in my face. It scared me to say the least." Asbury said he thought he had been shot in the face and was "scared to death."

Asbury said he realized that Hayes was trying to kill him. Asbury removed his sidearm and fired a shot at Hayes' chest, striking him in the chest. Hayes was still standing and Asbury fired a second round into Hayes' chest. Hayes was still standing while Asbury fired a third shot at his head, striking him in the head. Asbury said he fired the three rounds in quick succession. He was uncertain if Hayes fired a second round at him.

Asbury recalled that at some point during the shooting, Hayes pointed his handgun at Miranda. He heard Miranda firing his sidearm as well. Hayes then fell to the ground along with his handgun. Asbury noticed that Hayes was still moving after he fell to the ground so he (Asbury) kicked the gun out of Hayes' reach.

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TAB 41 – Supplemental Report, Pages 1 – 2 Narrative: Detective Sanfilippo. Summary of the interview with Officer Miranda followed by the interview transcript. Officer Miranda said that Asbury had run a wants and warrants check on Hayes with the information provided by Hayes and his juvenile female friend. Hayes came back with both a felony and misdemeanor warrant. Asbury attempted to have dispatch check for tattoos on Hayes, but that information was not available to dispatch. Miranda then elected to walk back to their police vehicle and check for a Cal ID photograph in order to verify if Hayes was the right person on the warrant.

Officer Miranda was working on the computer in an attempt to obtain Hayes' photograph when his attention was diverted to where Asbury and Hayes were located. Miranda estimated that he was in the vehicle for approximately 30-seconds. He saw that Asbury was standing behind Hayes. It looked as though Asbury was in the process of handcuffing Hayes. Due to Hayes' demeanor, Miranda exited the patrol car. It looked as though Hayes was going to try to run. Asbury had one of Hayes' hands behind his back. Hayes stepped to his right and spun back toward Asbury while at the same time pulling a handgun out of his waistband. Hayes pointed the gun at Asbury who at that point created some distance between himself and Hayes.

Officer Miranda saw Hayes point his gun at him (Miranda) so he ducked behind the open driver side door of the patrol vehicle. Miranda said that he was "in disbelief, I can't believe it just happened. I felt helpless." Miranda said that he did not see it coming and thought he was going to be shot. Miranda then saw Hayes point the gun at Asbury and immediately heard a "pop." He did not know who fired the shot. Miranda stood up and advanced toward Hayes while at the same time firing his handgun at Hayes. Miranda said he continued firing while advancing on Hayes and was approximately 4' away when he fired his last round. During this time, Miranda said that he was only focused on Hayes and did not know if Asbury had fired his weapon or not.

Officer Miranda saw Hayes fall to the ground and his gun fell within a few feet of him. Asbury kicked the gun away from Hayes' reach. Miranda saw Hayes' ball cap lying on the ground next to him. Miranda noticed that the female subject that was with Hayes was lying on the ground near Hayes and in order to prevent her from tampering with evidence by touching the cap he kicked it away. When Miranda kicked the ball cap he saw a shell casing fall out of it. He then waited for other assistance to arrive.

TAB 42 – Supplemental Report, Page 2: Detective Rick Cobb. Conducted a recorded interview with the juvenile female that was with Hayes at the time of the shooting. She was crying and hysterical while Cobb tried to interview her. The female kept asking if her boyfriend was dead and Cobb finally told her that he was. She then became more hysterical. Cobb asked her if she could tell him what happened at the park. The female said Hayes pulled out a gun and she tried to stop him. She knew he had it with him. They were going to sell it and get rich. Cobb was unable to continue with the interview since the female was much too upset. Her guardian had been notified and she was released.

TAB 43 – Supplemental Report, Page 2: Detective Rick Cobb. On January 3, 2014, Cobb received an email via the "chiefonline" site. A female whose name was redacted from the public report for her protection, claimed that on December 29, 2013, she spoke to a black male on the

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street who told her that he “felt like doing something to get locked back up.” When asked what he was thinking about doing the subject said, “just get them to do me like Tyisha Miller.” The female claimed she could identify the person if she saw him again. Cobb sent her a photograph of Hayes and she confirmed that he was the person that she spoke to. The female claimed that she made the contact at the RPD 'chiefonline' after reading about the shooting in the newspaper.

TAB 44 – Supplemental Report, Page 2: Detective Rick Cobb. Cobb requested a “Touch DNA” test on the gun used by Hayes. The forensic staff refused to do the DNA test for two reasons. One, there was other evidence that linked the gun to Hayes. Secondly, there was blood on the gun and any DNA found would be attributed to the blood.

TAB 46 – Gunshot Residue test results from the Los Angeles County Department of Medical Examiner-Coroner, Page 1. A gunshot residue test was conducted on Hayes and this test showed positive for gunshot residue on Hayes’ hand(s). (NOTE: This would be indicative that he fired a gun.)

TAB 47 – Supplemental Report, Pages 2 – 6: Detective Jim Brandt. This tab includes the processing of the crime scene by detectives, the Coroner’s office, and forensic technicians. The crime scene was described and photographed. Evidence was located, identified, and photographed. Brandt was assisted in the processing of the crime scene by the following personnel: Sgt. Amador, Sgt. Russell, Detective Cobb, Detective Sanfilippo, Detective Medici, Detective Rowe, ID Tech Susan Lane, ID Tech Selena McKay-Davis and Deputy Coroner N. Rissi. The Deputy Coroner processed Hayes’ body for transportation to the Coroner’s office pending an autopsy. The report consists of the following sections: Scene Description, Scene Processing / Evidence Collected, Weapon Information and Dontae Hayes (body and clothing description).

Deputy Coroner Rissi conducted a GSR collection and took fingernail scrapings from Hayes and gave it to FST Lane for booking. In order to ensure the collection of all possible shell casings, two members of the Riverside Treasure Hunter’s Club assisted by using metal detectors.

TAB 48 – Supplemental Report, Pages 1 – 2: FST S. Lane. Crime scene evidence processing, measurements, and collection. Pages 3 – 5 consist of the evidence log indicating what was collected and booked.

TAB 49 – Supplemental Report, Pages 2 – 4: Detective Rowe & Sr. Forensic Tech McKay-Davis. Charting of the officers' weapons. The officers that fired weapons in this incident are Asbury and Miranda.

Officer Asbury	Fired (3) rounds; Springfield Model 1911 .45 Cal Semi-Auto
Officer Miranda	Fired (6) rounds; Glock Model 22 .40 Cal Semi-Auto

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TAB 50 – Supplemental Report, Page 2 Narrative: Sr. Forensic Tech McKay-Davis. Reported on evidence collection, photographs of evidence, and charting of Officer Asbury's and Miranda's weapons.

TAB 51 – Department of Justice Weapons Examination Reports, Pages 1 – 2: Sr. Criminalist Richard Takenaga. Analysis of weapons and shell casing comparisons. Reported that both Officer Asbury's and Officer Miranda's weapons functioned properly in the analysis.

TAB 52 – Supplemental Report, Pages 1 – 2: Detective Sanfilippo. Det. Sanfilippo attended the autopsy of Hayes and reported the examination. The autopsy was conducted by Dr. McCormick and Coroner Techs C. Clark and B. Franco. Also present was RPD Forensic Tech L. Velin. Dr. McCormick determined that Hayes sustained three gunshot wounds, two to the chest and one to the head. Two gunshots went in a front to back trajectory to the left chest. One went front to back through the left mastoid temporal. Page 3 is the property report listing items seized as evidence during the autopsy.

TAB 53 – Supplemental Report, Page 1 Narrative: Sr. Forensic Tech McKay-Davis. Reported on evidence collected from the body of Hayes during the autopsy. Page 2 contains a property report on these items. Page 3 is a photo log of the autopsy.

TAB 54 – Autopsy Protocol Report, Pages 1 – 11. Forensic Pathologist Dr. M. Scott McCormick. The autopsy was conducted by Dr. McCormick on January 2, 2014. The cause of death was listed as "Multiple Gunshot Wounds." The report provides specific detail as to each gunshot. Lab reports are included.

TAB 56 – Thumbnail Photos / DVD Photos: P13186428 Item10; P13186428 LV; P13186428SL; P13186428MD. Click on each of the P numbers for access to the photographs.

TAB 57 – Audio Log, Page 1: In order to hear the dialogue between Officer Asbury, Officer Miranda, Decedent Hayes and his juvenile girlfriend click on "1501PM 12_31_2013 11_29 AM."

TAB 63 – Riverside County D. A. Staffing Review Letters: Letters from the Office of the District Attorney, Riverside County, to RPD Chief Sergio Diaz, dated May 6, 2015, reporting that upon review of this officer-involved shooting, there is no criminal culpability on behalf of any of the two officers involved.

By Frank Hauptmann, CPRC Manager