



**PUBLIC REPORT
ON THE
OFFICER-INVOLVED DEATH OF RENE CARLOS GUEVARA**

**CPRC CASE NO. 03-095
RPD CASE NO. P3-03-349-218**

I. Contents of Report

This report contains the Community Police Review Commission's assessment of the Riverside Police Department's criminal investigation into the Officer-Involved Death of Rene Carlos Guevara.

The sources for this report are the complete criminal investigation that was conducted by the Riverside Police Department, Crimes Against Person Unit, as submitted to the Riverside County District Attorney's Office and released by them.

Other sources include witness interviews conducted by the Commission's contract investigator and newspaper articles.

The object of this report is not to determine whether or not the shooting was within policy, but rather to review the application of the policy and procedures used by the officers in this incident and investigation into the incident by the Crimes Against Persons unit of the Riverside Police Department.

For clarification purposes, the officers involved in this incident have been assigned numbers (O1, O2, etc.) that correspond to the order in which each officer joined the pursuit. Witnesses have been identified as W1, W2, etc.

II. Factual Summary

This incident began on December 15, 2003 when Rene Guevara, driving a Mazda Minivan, collided with a vehicle driven by a private citizen (W1) at the intersection of Tyler and Hole, and drove away.

The driver gave chase in her damaged but drivable vehicle. That chase went from Tyler to Magnolia, then north on Harrison to California, where they turned right.

While driving on California, Guevara got behind a white pickup truck and followed it closely to Van Buren. Both vehicles turned left and drove to Wells where they turned left again. They then turned right on an unknown street and drove to Philbin.

W1 stated that, at times, the white truck and Guevara drove at excessive speeds. Both vehicles then turned left onto Philbin. As the white truck entered the community center off of Philbin, Guevara appeared to strike it in the rear end. Guevara proceeded down Philbin and turned left onto Ivanhoe, then right onto Campbell and left onto Kent. At some point during this time (exactly where is not clear), Guevara drove behind another vehicle (W2) and followed it closely, speeding up when it sped up and slowing down when it slowed down.

When W2 pulled to the right, stopped, and signaled with her hand for Guevara to go around, he wouldn't. W2 said that Guevara pulled next to her, but did not acknowledge her. She said he appeared dazed and that when he drove off, he struck the left side of her vehicle.

At this time, Motorcycle Officer Robert Sayers (O1) joined the chase and got behind Guevara. Sayers (O1) followed Guevara to the intersection of Kent and Grammercy where Guevara made a series of 360-degree turns that eventually resulted in Guevara chasing Sayers (O1) out of the intersection and west on Grammercy. Officer Michael Carroll (O2), driving a patrol car, joined the chase and followed the two other vehicles.

Guevara ran his van up to and collided with Officer Sayers' (O1) motorcycle as they drove down Grammercy. In an attempt to evade Guevara, Sayers (O1) made a quick turn left onto Rutland. Guevara attempted to make the same turn, but could not negotiate it and ran over the far curb, up into a yard, and collided with a fence. Officer Carroll (O2) pulled his patrol car behind Guevara in an attempt to block him in. Guevara then accelerated backwards in an attempt to strike the police car in the doors, but Carroll (O2) pulled forward which placed Carroll (O2) in front of Guevara. Guevara then started to chase Carroll (O2).

Guevara chased Carroll (O2) north on Noble Street, then east on Campbell Street to Rutland, where they turned north. While chasing Carroll (O2), Guevara rammed him from behind at least once. When Guevara pulled to the side of Carroll (O2) to pass him, he collided with the side of Carroll's (O2) police car and attempted to run him into other vehicles. Guevara moved in front of Carroll (O2) as they turned onto Rutland and, at the intersection of Rutland and Cypress, Guevara stopped, sat for about fifteen (15) seconds, then rapidly accelerated backwards, striking the front of Carroll's (O2) patrol car. Guevara then sped away with Carroll (O2) and Sayers (O1) giving chase.

The officers chased Guevara northbound on Rutland to eastbound Arlington. Guevara made a quick right into the "Arco" gas station parking lot and exited back onto southbound Rutland. At that point, Sayers (O1) said he saw Officer Soria (O3) driving northbound on Rutland and attempting to join the pursuit. Soria (O3) completed a U-turn and became the second car.

The pursuit continued southbound on Rutland through the stop sign at Cypress Avenue at about 60 mph. Guevara went airborne when he went over the dip in the street and at that point, two more police cars joined the pursuit.

Guevara drove into the parking lot of Arlanza School, then drove back across the street and into the driveway at 5870 Rutland Avenue and came to a stop. Officer Soria (O3) parked his patrol car on the street north of Guevara, exited his vehicle and took cover behind his driver's door. Officer Carroll (O2) parked his car on the opposite side of the driveway from Officer Soria (O3). Before Carroll (O2) could get out of his car Guevara started backing up. To avoid being struck once again by Guevara, Carroll (O2) backed his car up and followed him as he continued south on Rutland.

When Guevara backed out of the driveway, he backed out towards Soria (O3). Soria (O3) then moved to the rear of his car and took cover on the passenger side of his car.

Guevara proceeded southbound on Rutland with four police cars in pursuit to Philbin, where they turned eastbound. Prior to turning on Philbin, the cars passed two 13-year-old girls who were standing on the sidewalk on Rutland. They saw Guevara pull into the driveway, then back out and almost hit a police car, then continue south on Rutland. They said that as Guevara approached them, he swerved onto the sidewalk, then back onto the street. The girls and the CPRC Investigator estimate that the van missed hitting the girls by as much as eight feet or as little as three to four feet.

After turning down Philbin, Guevara drove to Ivanhoe where he turned southbound, made a U-turn and came back to Philbin, where he stopped. Officers Carroll (O2), Nibecker (O4), and Prince (O5) pulled their patrol cars to the west of Ivanhoe on Philbin.

Guevara reached for something and came up with a bottle and made motions like he was "making a toast." Officers Nibecker (O4) and Prince (O5) exited their vehicles, drew their weapons, and moved to a position in front of their patrol cars. Nibecker (O4) had his pistol and Prince (O5) had a shotgun. Guevara then drove forward and Officer Prince fired three rounds, striking Guevara once. Guevara's van drove over the curb on the north side of Philbin and struck the side of a church. Guevara was pronounced dead soon thereafter.

III. Information Gathered

- A. Criminal Investigators interviewed 53 civilian witnesses and 5 sworn personnel.
- B. The CPRC Investigator interviewed 32 civilian witnesses, some of whom were interviewed by Riverside Police Department personnel. The statements given by those persons interviewed by both were consistent with one another. There was nothing in the statements of those individuals interviewed only by the CPRC Investigator that was inconsistent with the witness statements taken by the RPD investigators.

IV. CPRC Findings

- A. Incident Critique
 - 1. Given Mr. Guevara's disregard of human life and the safety of the public, there are two tactical concerns regarding this case. The first is the officers' decision not to use their vehicles to block the suspect's vehicle when he drove into the driveway at 5870 Rutland Avenue and the second was the timing of the officer's decision to use deadly force.
 - During the pursuit, beginning with the first police contact by Officer Robert Sayers (O1) southbound on Kent Street, the police were able to stay in contact with Mr. Guevara and avoid serious injury to themselves. In a chaotic situation created by the suspect in which he was assaultive to citizens and the police, it is difficult to see how they could have done anything different, except as noted below.

- When Mr. Guevara pulled into the driveway of 5870 Rutland Avenue, there were two police cars in the vicinity, Officer Carroll's (O2) and Officer Soria's (O3). Witnesses indicated the patrol cars were parked on the either side of the driveway.
- Mr. Guevara's stop in the driveway 5870 Rutland provided an opportunity to block his vehicle in, using one, or both police cars. That could have prevented the escape of Mr. Guevara and the risk of additional potential violence with his vehicle (in the vicinity of a school).
- While Mr. Guevara was blocked in, officers would have been justified in using their vehicles as improvised weapons to prevent his escape and to prevent further danger to the public.

Riverside Police Department Policy and Procedure 4.30 Use of Force Policy, Section E, Use of Force Technique, Level 5 – Intermediate Weapons, describes the use of improvised weapons (see Attachment).

In this case, the officers' cars could be deemed "improvised weapons."

Also, Department policy is very clear with regard to when lethal force can be used (see Attachment).

Given these guidelines, one could make a case that the officers would have been within policy if they had used lethal force any time after Mr. Guevara ran his vehicle into that of Motorcycle Officer Sayers (O1).

Furthermore, where the officer has reasonable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others, it is reasonable to eliminate the threat of imminent harm to the public by using lethal force.

Thus, if the suspect threatens the officer with a weapon or there is reasonable cause to believe that the suspect has committed a crime involving the infliction or threatened infliction of serious physical harm, lethal force may be used if necessary to eliminate the threat of imminent harm to the public, and if, where feasible, some warning has been given.

2. Exploration of other less-lethal tools that are not currently available to RPD officers

One such tool would be the Pursuit Intervention Technique (PIT) maneuver. This maneuver may have terminated the pursuit at an earlier time and thereby reduced the risk of harm Mr. Guevara presented to the community and the officers.

B. Investigative Critique

In reviewing the criminal case, the Commission found a serious, unsound practice by two of the criminal investigators. In both cases, when the investigators wrote their synopsis of the events, they incorrectly reported facts and statements attributed to witnesses, including officers. It is important for officers who prepare summaries to

remain impartial investigators and report the statements accurately because, in this instance, it unnecessarily creates an issue regarding the credibility of the officers at the scene when no such issue was present. Materially changing the meaning of statements should be a cause for concern in the Riverside Police Department. The two examples are as follows:

- In the case summary, written by Mike Medici, on Page 8, he makes the statement, attributed to Officer Prince (O5), that Mr. Gueverra “--- began to initiate a westbound turn onto Philbin directly at Prince (O5) and other officers.” In fact, a careful reading of the Officer Prince (O5) transcript shows no statement that says that, or even implies it.
- On Page 14, he said, “---- it’s like all he’s got to do is turn that wheel and that’s me.” On Page 16 of his statement, when asked if (Mr. Guevara’s) wheels were turning toward him, Officer Prince (O5) stated, “But as he started, it was more straight----”. In fact, neither Officer Prince (O5) nor Officer Carroll (O2) said that the suspect turned to the left when he started moving at the intersection. Their statements were supported by other eyewitnesses who said they did not observe Mr. Guevara turning toward officers as he left the intersection.
- Only one witness, who was standing a block away to the west of the intersection, which would be to the right of the van, said he saw the van turning left. But he added it could not have turned sharply enough to hit any officers.

The post-mortem wounds descriptions indicate that rounds were fired from the left rear of the cab of the van. In addition, the final position of the van against the church does not show evidence of turning to the west. In fact, in order for the vehicle to have been turning left when the shots were fired, it would have had to make two corrections in order to end up where it did. One of the wounds was to Mr. Guevara’s brain, and it is unlikely he made any driving corrections after that.

- In a witness interview summary by Detective Ron Whitt, he attributes information to her to the effect that the suspect vehicle “ --- accelerated toward the officers in a N/W direction.” A review of her interview, the recording shows that she said it was a northeast direction. Also, when asked if the van was going toward officers, she said she could see no officers in the direction the van was going.

V. Summary

While, ultimately, it was the reckless behavior of Mr. Guevara that forced the officers involved in this incident to take the actions they did to protect themselves and the public, it is the Commission’s belief that the officers should be given the tools and the training to allow them to eliminate such threats sooner.

It is the Commission’s belief that the inaccurate reporting of witness statements by the investigators, whether intentional or in error, is consistent of their duty to gather, record, and report the facts objectively. The failures of accuracy in this case are precisely the type of actions that have created the community’s concern of this Department’s veracity in the first place.

VI. APPENDIX

A. 4.30 USE OF FORCE POLICY

E. USE OF FORCE TECHNIQUES:

Level 5: Intermediate Weapons:

Intermediate weapons are utilized to immediately impede the threatening actions of an **aggressive** suspect. They consist of:

- personal body weapons such as palm heel strike, common fist, bottom fist strike, elbow strike, knee strike, front kick, side kick, roundhouse kick,
- impact weapons such as PR-24, expandable baton, mid-range baton, short billy, riot baton and flashlight,
- less lethal munitions
- **improvised weapons**
- and other self-defense techniques designed to protect the officer and/or innocent citizens from bodily harm.

These weapons are generally used when lethal force is not justified and lesser levels of force have been, or will likely be, ineffective in the situation. The baton may be appropriately displayed as a show of force if verbalization techniques appear to be ineffective when used on an aggressive suspect. A decision to draw or exhibit a baton must be based on the tactical situation. For example, the drawing of a baton may be reasonable in a situation of an officer entering a bar or other location of prior disturbance calls, or exhibiting the baton in a situation where there is an escalating risk to the officer's safety. If the situation continues to escalate, the baton can provide a viable method of controlling the suspect. The baton was designed as an impact weapon and should be used for striking movements and blocks. [Emphasis added]

Caution shall be used to avoid striking those areas such as the head, throat, neck, spine or groin which may cause serious injury to the suspect.

In situations when use of the baton is applicable, the front, side, rear, and round house kicks can be applied as alternate use of force techniques when attempting control of an **aggressive** suspect.

Another alternative to the use of the baton as an impact weapon is the flashlight. While certainly not preferred over the baton in most situations, the flashlight is usually readily available, especially at night, and may be appropriate at times when the baton is not accessible or too cumbersome. Nevertheless, should this choice be made within an intermediate use of force situation, caution shall be used to avoid striking those areas such as the **head, throat, neck, spine or groin** which may cause serious injury to the suspect.

Generally, the deployment of less lethal munitions should have the goal to restore order and/or reduce the risk of more serious injury. Incidents where deployment may be an option include, but are not limited to, the following:

- Restoration or maintenance of order during a jail or civil disturbance.
- Safely controlling violent persons.
- Subduing vicious animals.
- Situations wherein the authorizing person deems their use necessary to safely resolve the incident.

Depending on circumstances, less lethal weapons can be used to safely control violent or potentially violent suspects when the officer reasonably believes the following conditions exist:

- Attempts to control the incident with lesser force options have been, or will likely be ineffective in the situation, and
- There is a reasonable expectation that it would be tactically unwise for officers to approach or place themselves in range of the suspect.

Level 6: Lethal Force:

If the situation becomes life threatening, the officer would be compelled to escalate to the ultimate level of force. The use of lethal force is a last resort dictated by the actions of a suspect **where the officer has reasonable cause to believe that the suspect poses a significant threat of death or serious physical injury to the officer or others**. The weapon of choice in these situations is generally one of the various departmentally approved firearms. However, this does not preclude officers from using **any reasonable means** to protect themselves or other persons from this immediate and significant threat of **death or serious physical injury**.

Regarding the timing of the officer's decision to use lethal force, the commissioners realize that the decision to use lethal force is the most important decision the officer will ever make. They also realize that each officer must establish his or her threshold for using lethal force within the parameters established by case law and Department policy. The Commission does not criticize the officers for not using lethal force before they did, they simply want to acknowledge that had they used lethal force sooner that use would be tactically sound.

B. Investigators Statements

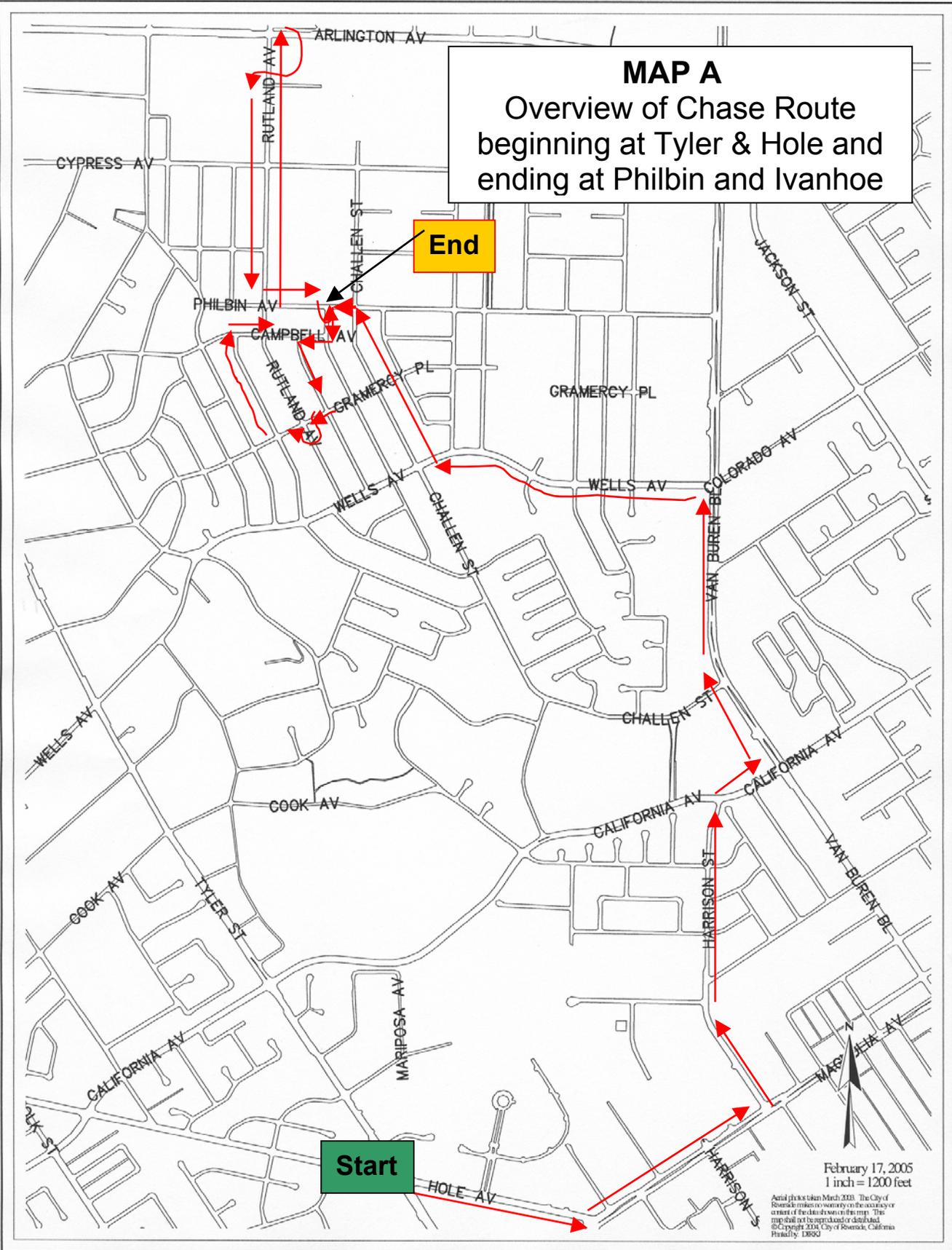
- a) Page 8 of Detective Mike Medici's Report
- b) Transcript of Officer Prince's interview
- c) Page 3 of Detective Ron Whitt's supplemental report – interview of Josepha Bowes
- d) Transcribed excerpts from Detective Whitt's recorded interview of Josepha Bowes

C. Maps

- a) Overview of chase route starting at Tyler and Hole to end at Philbin and Ivanhoe.
- b) Sequence of events – Maps B-1 through B-9.

MAP A

Overview of Chase Route
beginning at Tyler & Hole and
ending at Philbin and Ivanhoe



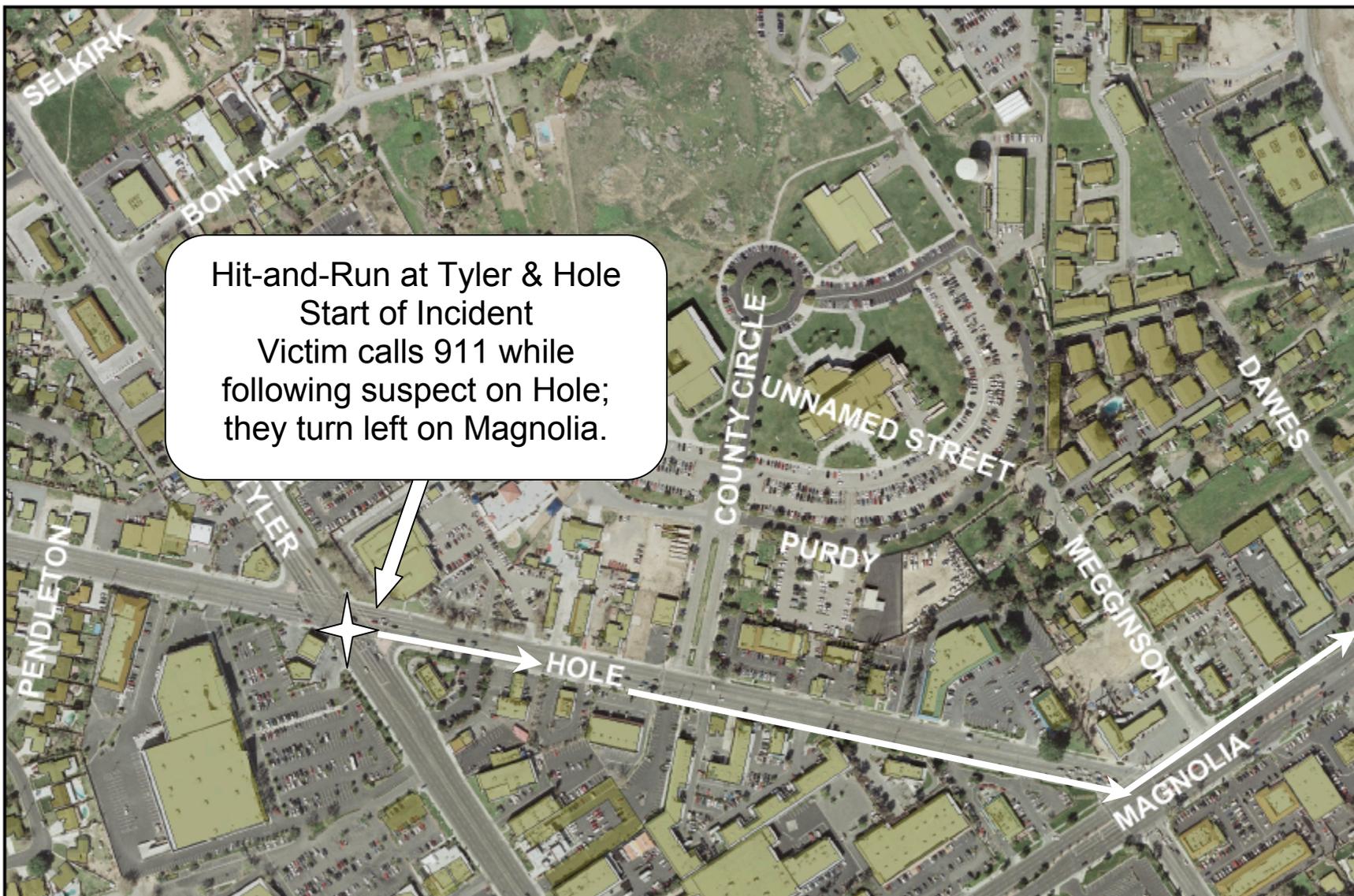
February 17, 2005
1 inch = 1200 feet

Aerial photos taken March 2003. The City of
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Hole & Tyler (start of incident)

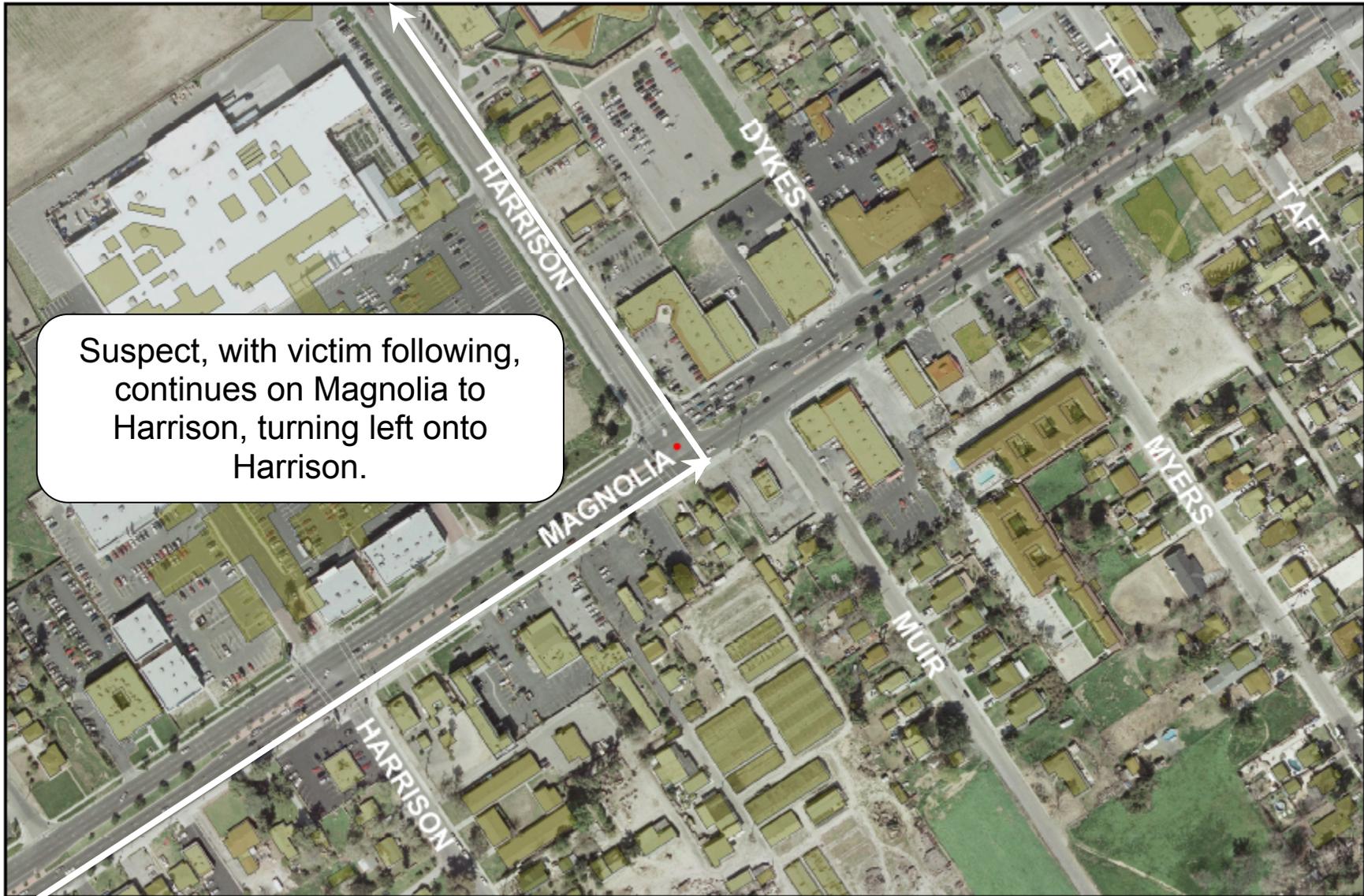
Map B-1



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Magnolia & Harrison

Map B-2



Suspect, with victim following, continues on Magnolia to Harrison, turning left onto Harrison.

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Harrison & California

Map B-3



Guevara / 03-095

Van Buren & Wells

Map B-4



Guevara / 03-095

Wells - Unknown Street - Philbin

Map B-5



Guevara / 03-095

Map B-6

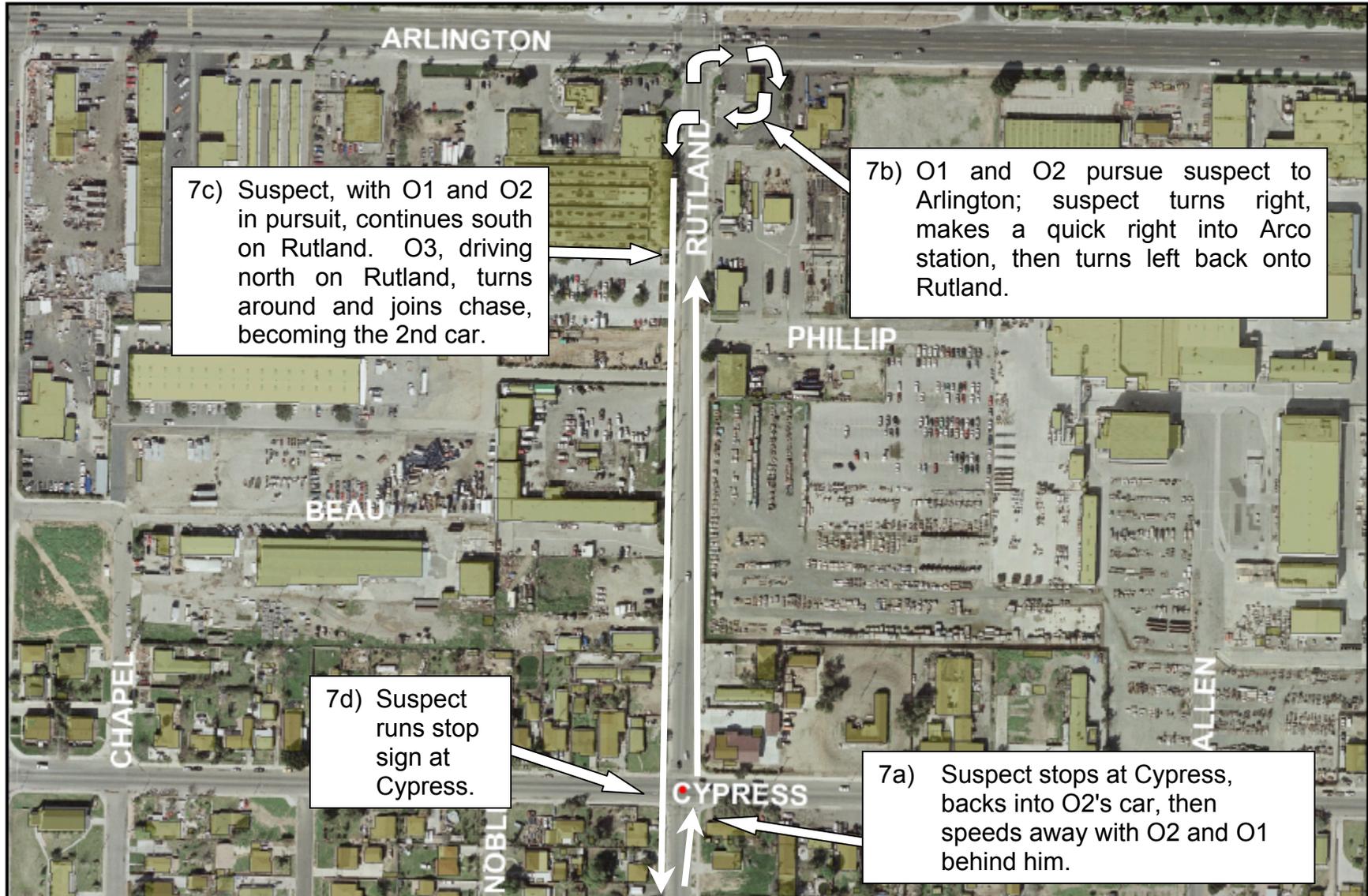
Gramercy - Noble - Philbin - Ivanhoe area



Guevara / 03-095

Map B-7

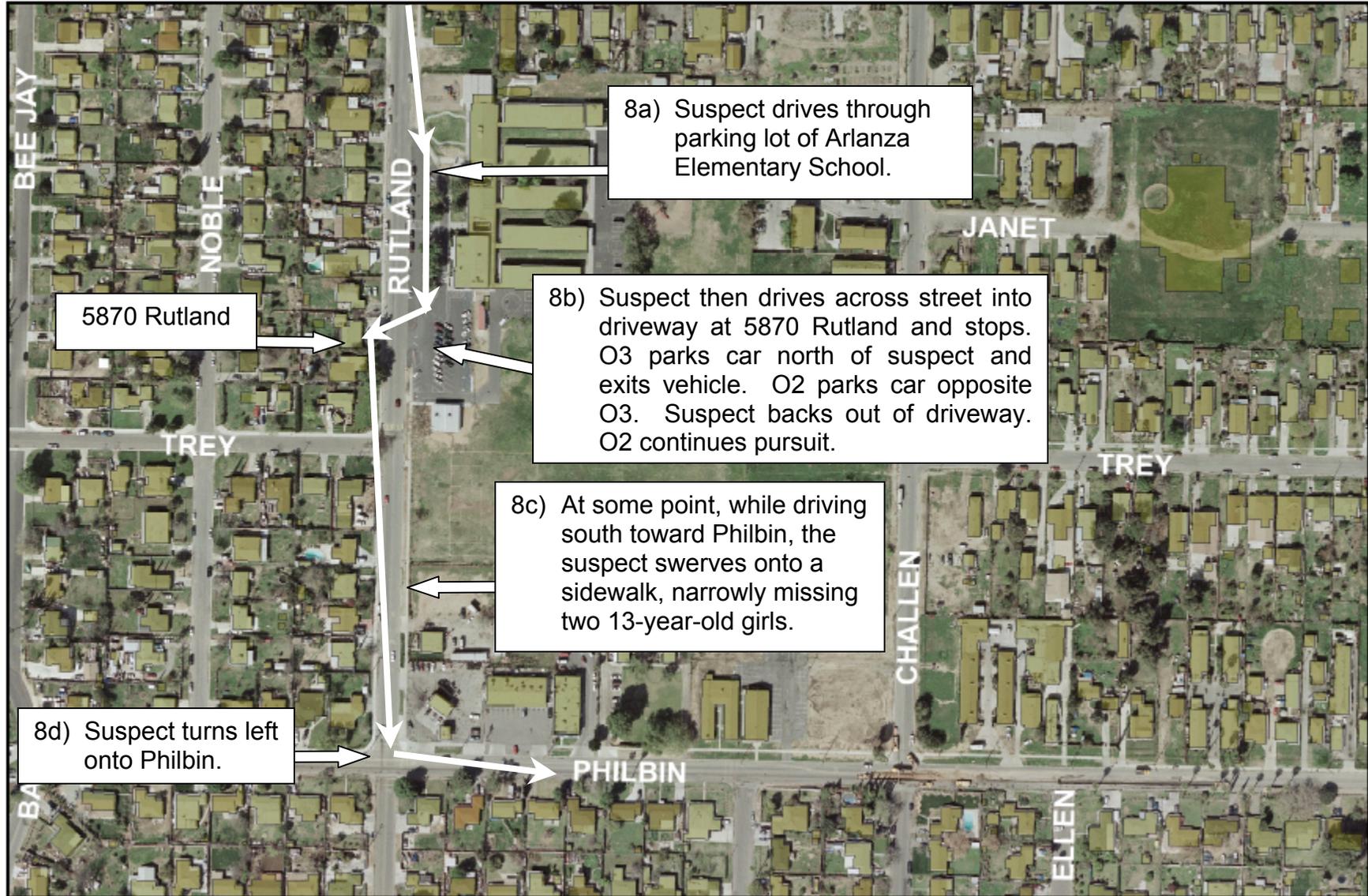
Rutland to Arlington and back



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Map B-8

Rutland at Arlanza Elementary



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Map B-9

Philbin & Ivanhoe - Incident End

