

## Fred Grimm: The jury that saved Miami

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The jury decided that the Miami cop was guilty. It wasn't so much a verdict as a reprieve.

As the Dade County jurors — four white, two black — finished their deliberations on that other Pearl Harbor Day, 25 years ago, nearly everyone in the city was mindful that their verdict carried explosive potential.

Miami's black neighborhoods had erupted 11 months earlier, after Officer William Lozano shot a speeding motorcyclist in Overtown, killing the young black driver with a bullet to the head. A passenger on the back of the bike was fatally injured.

In those days, we employed the tepid euphemism “civil disturbance” for these events, as if that could describe the random gunfire, the looting, the injuries, the 13 buildings burned, the man killed by sniper fire, the 327 arrests, the incalculable economic damage the city suffered over the next two nights.

The January 1989 eruption had been the fourth angry, fiery, deadly outburst suffered by Miami since a Tampa jury acquitted four white Metro-Dade police officers in the beating death of black insurance salesman Arthur McDuffie in 1980 and set off riots that killed 18, injured hundreds and left the city with \$100 million in losses from arson and looting.

Overtown erupted again in 1982 after Miami police officer Luis Alvarez shot a young black man in the head inside a crowded game arcade. And again in 1984 when Alvarez was acquitted.

On Dec. 7, 1989, apprehension hung over this battered tourist town like a storm cloud — up until the moment the jury said “guilty,” rejecting the policeman's self-defense argument. Lozano had testified that he feared the oncoming motorcyclist was attempting to run him down.

The verdict wouldn't stand. Eighteen months later, the Third District Court of Appeal decided that the community's collective sense of dread might have influenced the Dade County jury. "Surely, the fear that one's own county would respond to a not guilty verdict by erupting into violence is as highly impermissible a factor as can be contemplated," the appeal panel wrote, ordering a new trial because the Dade circuit judge had refused a defense motion for a change of venue.

The judges also decided the trial judge had erred when he allowed testimony that Lozano's training cautioned police officers against firing at moving vehicles. And the judge, they said, should have instructed the jurors that Lozano had no legal obligation to get out of the way of the oncoming motorcycle.

As my colleague David Ovalle has reported, the Third District decision has had a profound effect on subsequent cases involving police shootings in the line of duty. Future prosecutions of police officers, even in outrageous cases, would become a heavy lift. Even more so since Florida loosened the definition of self-defense. The 25<sup>th</sup> anniversary of the Lozano case conjures up inevitable comparisons to the fatal police shooting on Aug. 9 in Ferguson, Missouri, that has caused so much national consternation about race and police shootings and law enforcement in black neighborhoods.

Of course, in Miami things are always more complicated than a black-man-white-cop confrontation out in the Midwest.

On the evening of Jan. 16, 1989, the Martin Luther King holiday, a police car was pursuing Clement Anthony Lloyd, 23, a native of the Virgin Islands, as he raced through Overtown on his red, very fast, 1,000-cc Kawasaki Ninja. His friend, Allan Blanchard, 24, newly arrived from V.I. himself, was mounted on the bike behind Lloyd.

Officer Lozano was on Northwest Third Avenue, on foot, investigating a minor crime, when he saw the bike with the two black men speeding toward him in the wrong lane. He fired a single shot from his Glock 9mm pistol. Lloyd, hit in the head, crashed into an oncoming car. The suspected small-time drug dealer, known as "Bigga" to his friends, had been wearing four gold bracelets and two gold necklaces. He had \$1,514 wadded in his pants pocket.

The scene quickly drew an angry crowd. Unlike what unfolded in Ferguson in August, Miami city officials rushed to Overtown, desperate to head off yet another awful outburst, another round of national stories branding Miami as “Paradise Lost.” The timing was excruciating. It was Super Bowl week in Miami and the San Francisco 49ers and the Cincinnati Bengals and 100,000 visitors were in town, along with 1,500 journalists covering the game, ready to be diverted from mindless sports trivia to breaking riot coverage.

Unlike anything seen last summer when Ferguson was about to erupt, Miami Mayor Xavier Suarez was on the scene, wading into the crowd in Overtown, trying to defuse the growing anger. Reporters described how Suarez “bare-headed, a jacket over his left arm, his right arm raised, walked from one angry clot of young black men to the next, appealing for calm.” The mayor implored them “Please quit! Please stop!” as bottles were hurled toward him, shattering at his feet.

It was a brave attempt, but the madness escalated. And once again, the utter irrationality of mob anger devoured Overtown and Liberty City. Among the businesses looted and burned that night was Liberty Mart, which had been opened in Liberty City after the 1980 riots as an altruistic operation that would provide jobs for women who lived in that stricken neighborhood. The JESCA daycare center next door was ruined.

Unlike what unfolded in Ferguson, the Miami policeman who fired the fatal shot was quickly hit with criminal charges — two counts of manslaughter. Of course, this being Miami, where issues are never as simple as black and white, there were certain ethnic complications. Hispanic civic leaders protested that Lozano, who was born in Bogotá in 1959, had been made a scapegoat. The Colombian American Small Business Association protested that Lozano was sacrificed to appease the black community. The Coral Way Colombian Lions Club and the Colombian Association of Journalists added to the clamor.

More than 70 Hialeah politicians and cops and residents showed up at a fundraiser for Lozano's legal fund. The money helped Lozano hire Roy Black, who was becoming known as one of the nation's leading criminal defense attorneys.

In the previous year, five policemen in Dade County had been killed in the line of duty, two of them from Miami. The very real dangers facing a cop in Miami became key to Lozano's defense.

It didn't work for a Miami jury. But at his retrial in Orlando, in 1993, the all-white Orange County jury listened intently as Black told them what it was like policing the streets of strange, scary Miami. "You've got to feel what it was like on that street. You have to feel the danger. You have to feel the fear, the tension, the electric shock, the heartbeat — everything you go through when your life is on the line."

The prosecution put on five eyewitnesses to the shooting. Black ripped away at their inconsistencies. (Much like the grand jury discovered in the Ferguson case, the street witnesses in Overtown had mismatched accounts of the shooting.) Black then decided not to call a single defense witness. He didn't need them. Lozano was acquitted.

But there were no riots. Not this time. The evening of the verdict, squads of police officers reacted to any volatile gathering with a lightning reaction. And there were lots of high-minded speeches from community leaders about how they had engineered a new and peaceful approach to the racial issues plaguing Miami.

I suspect, too, that the calm on the street that night had a lot to do with the rain. A long, steady tropical downpour that evening drowned out the anger and saved weary Miami from yet another battering.