

# TUCSON POLICE DEPARTMENT

## CRITICAL INCIDENT REVIEW BOARD

**SOUTH PARK/  
EAST 34<sup>TH</sup> STREET**

**OCTOBER 24, 2016**

**OFFICER INVOLVED  
SHOOTING**



# Table of Contents

Executive Summary.....	3
CIRB Report.....	6
Captain J.T. Turner .....	9
Lieutenant Danny Denogean .....	12
Sergeant Duke Marmion.....	14
Officer Robert Miranda.....	17
Officer Robert Orduño .....	21
General Recommendations and Findings .....	25
CIRB Direction and Action Items .....	27
CIRB Members .....	28
<i>General Order</i> Definitions .....	34
Related Video Link .....	48

# EXECUTIVE SUMMARY

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## INVESTIGATIVE CASE INFORMATION

**CIRB Number:** 16-0569  
**TPD Case Number:** 1610-24-0603  
**Date of Incident:** October 24, 2016  
**Location of Incident:** South Park Road/East 34<sup>th</sup> Street

## **Methodology**

The Tucson Police Department (TPD) Critical Incident Review Board (CIRB) convened to review this incident with a focus on department policy, tactics, supervision, equipment, use of force, decision-making, training, and incident command. CIRB evaluation included the following modes of inquiry: document and video review; review of interviews conducted by the Homicide Unit, Aggravated Assault Unit, Robbery Unit and Office of Professional Standards (OPS); and the CIRB questioning of certain involved members as well as subject matter experts.

The Homicide Unit, Aggravated Assault Unit, Robbery Unit, and OPS investigations, along with testimony taken during CIRB proceedings, established the facts under review. CIRB elected to take testimony from only specified individuals in order to elicit clarifying information or obtain further explanation of details developed in the underlying investigation.

Once CIRB testimony and fact gathering was complete, the group's members deliberated with the goal of reaching consensus in their findings and recommendations. Consensus does not necessarily mean complete agreement among members on every issue, but it does mean general agreement. Each member of the CIRB listened thoughtfully to the perspective of other board members, giving fair consideration to differing points of view. Ultimately, this report represents the collective judgment of the board.

## **Introduction**

On October 24, 2016, at approximately 2000 hours, Officer Orduño and Officer Miranda were assigned to a grant funded Operation Stonegarden<sup>1</sup> deployment. While riding together as a two-person unit in the area of Tyndall Avenue and 34<sup>th</sup> Street they observed a male on a

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<sup>1</sup> Operation Stonegarden (OPSG) is a Department of Homeland Security grant program provided to state and local governments which supports efforts to reduce crime and prevent terrorism, as well as to prepare the nation for the threats and hazards that pose the greatest risk to the security of the United States. The OPSG Program supports enhanced cooperation and coordination among federal, state, local, tribal and territorial law enforcement agencies. Each eligible local unit of government at the county, or federally-recognized tribal government level, must design their operations in coordination with state and federal law enforcement agencies.

motorized bicycle commit a traffic violation. The male was later identified as Marcus De La Torre. When they attempted to initiate a traffic stop Mr. De La Torre stopped momentarily before fleeing on the bicycle.

The officers followed Mr. De La Torre a short distance before he discarded the bicycle and began running on foot. Officer Miranda got out of the patrol vehicle and pursued Mr. De La Torre on foot. Officer Orduño continued driving the vehicle in an attempt to intercept Mr. De La Torre. Officer Miranda followed Mr. De La Torre onto Park Avenue just south of 34<sup>th</sup> Street. At that point Mr. De La Torre turned toward Officer Miranda and began shooting at him from the east side of Park Avenue. Officer Miranda returned fire from the middle of the street on Park Avenue.

As the gunfire began Officer Orduño pulled onto Park Avenue from 34<sup>th</sup> Street on the east side of the street and unsuccessfully attempted to strike Mr. De La Torre with the patrol car. Officer Orduño exited his vehicle and fired his weapon at Mr. De La Torre striking him several times. Mr. De La Torre was subsequently detained (and treated) by additional responding officers. During the exchange of gunfire, one of the rounds fired by Mr. De La Torre grazed Officer Miranda on the side of his head. Officer Miranda was transported to the hospital where he was treated and later released.

A Glock 26 handgun was recovered in close proximity to where Mr. De La Torre had fallen. Numerous officers provided medical aid to Mr. De La Torre utilizing their department issued Individual First Aid Kits (IFAK). Mr. De La Torre was transported to the hospital for treatment and released several days later before being booked into the Pima County Jail.

### **Issues Identified and Examined by CIRB**

CIRB examined the following issues:

- If Officer Miranda and Officer Orduño should have engaged in a foot pursuit of Mr. De La Torre
- The effectiveness and safety of the “partner splitting” tactic during a foot pursuit
- Communication between Officer Miranda and Officer Orduño
- The use of deadly force by Officer Miranda and Officer Orduño, including the use of a vehicle in a deadly force application
- Written policies or procedures involving the Operation Stonegarden grant program
- The operational impact decentralization of the Gang Tactical Unit had on Operation Stonegarden deployments
- The design and communication of departmental goals for each Operation Stonegarden mission
- Command oversight, including level of command, of the Operation Stonegarden deployments and operations orders

- Incident Command (IC)

CIRB determined the following after a review of this incident:

***CIRB found there were deficiencies in training, equipment, and supervision associated with this incident.***

CIRB determined that the department did not provide sufficient training related to best practices associated with conducting foot pursuits.

CIRB also found that Sergeant Marmion's pre-operational briefing did not include a tactical operations plan because the deployment did not involve a pre-identified target. Such plans are important even for Stonegarden grant activities and similarly specialized missions to assure officers are focusing their efforts on the right people in crime hot spots or other designated areas.

Sergeant Marmion maintained Incident Command for the duration of the incident. CIRB determined that because he was the involved supervisor, that responsibility should have been assumed by one of the three responding commanders.

***CIRB found deficiencies in the officers' tactics.***

Officer Miranda and Officer Orduño did not transmit any information on the radio regarding their initiation of a traffic stop of the bicycle until after the foot pursuit began. This was problematic in terms of facilitating communication with other officers nearby and it compromised officer safety.

***CIRB found the officers' use of force to be within policy.***

Officer Miranda's use of deadly force (when he fired his duty weapon at Mr. De La Torre) was deemed *Justified* by the Pima County Attorney's Office and *Within Department Policy* by CIRB. Officer Orduño's use of deadly force (when he attempted to strike Mr. De La Torre with his vehicle and when he used his department firearm) was deemed *Justified* by the Pima County Attorney's Office and *Within Department Policy* by CIRB.

# CIRB REPORT

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## CASE OVERVIEW

On October 24, 2016, at approximately 2000 hours, Officer Orduño and Officer Miranda were assigned to the Operation Stonegarden deployment in the area of Tyndall Avenue and 34<sup>th</sup> Street as a two-person unit in a marked patrol vehicle. Officer Orduño was driving and Officer Miranda was the passenger. They were stopped facing eastbound when they observed a male on a motorized bicycle commit a traffic violation (failing to stop at a posted stop sign). The male was later identified as Marcus De La Torre.

Mr. De La Torre was riding westbound toward the officers. Officer Orduño rolled his window down and told Mr. De La Torre they wanted to speak to him. Mr. De La Torre stopped briefly, but as both officers went to exit the patrol vehicle he fled on the bicycle. The officers got back into their patrol vehicle and started following Mr. De La Torre.

Mr. De La Torre traveled a short distance before he discarded the bicycle and began running on foot. He jumped over a 6-foot chain link fence and ran down an alley. Officer Miranda exited the patrol vehicle and pursued Mr. De La Torre on foot, following him down the alley, while Officer Orduño remained in control of the patrol vehicle. Officer Orduño drove a short distance westbound then cut through an empty lot in an attempt to intercept Mr. De La Torre. Officer Miranda followed Mr. De La Torre onto Park Avenue just south of 34<sup>th</sup> Street. Mr. De La Torre turned and began shooting at Officer Miranda from the east side of Park Avenue, striking him on the side of the head. Officer Miranda was standing in the middle of the street and returned fire at Mr. De La Torre.

As Officer Orduño pulled onto Park Avenue from 34<sup>th</sup> Street, he witnessed Mr. De La Torre exchanging gunfire with Officer Miranda, who was now laying down on the ground in the roadway of Park Avenue. Officer Orduño drove his vehicle towards Mr. De La Torre in an attempt to strike him, a tactic he believed would stop the lethal force being used against Officer Miranda. He also wanted to provide Officer Miranda with cover from Mr. De La Torre's gunfire. Officer Orduño was unsuccessful in using his vehicle in this manner and Mr. De La Torre was able to continue his attempt to flee from the officers. When Officer Orduño realized he had not hit Mr. De La Torre with his patrol car he exited his vehicle and pursued him on foot.

Officer Orduño observed Mr. De La Torre turn and point his weapon west towards Officer Miranda. In response, Officer Orduño fired his duty weapon at Mr. De La Torre and struck him several times. Mr. De La Torre fell to the ground and did not fire additional rounds. A Glock 26 handgun was recovered in close proximity to where Mr. De La Torre had fallen.

Mr. De La Torre was subsequently treated by responding officers who provided medical aid using their department issued IFAK. Mr. De La Torre was transported to the hospital for treatment. He was released several days later and booked into the Pima County Jail.

Officer Miranda was provided medical assistance by responding officers and then transported to the hospital where he was treated and later released.

### **INVOLVED PARTIES**

#### **Field Response**

Officer Robert Miranda #46937

- Operations Division West - Patrol
- Tenure: 12 years at TPD, 10+ years prior law enforcement experience
- Stonegarden grant deployed officer (passenger of two-person unit)
- Retired from TPD on August 31, 2018

Officer Robert Orduño #49276

- Operations Division West - Patrol
- Tenure: 10 years
- Stonegarden grant deployed officer (driver of two-person unit)

Sergeant Duke Marmion #40740

- Operations Division East - Patrol
- Tenure: 18 years
- Operation Stonegarden grant supervisor
- Retired from TPD on June 24, 2017

#### **Investigative Response**

Sergeant Marco Borboa #26742

- Homicide Investigations Unit
- Supervisor

Detective Kelly Pike #35801

- Homicide Investigations Unit
- Detective

Detective Jeff Lockwood #48373

- Homicide Investigations Unit
- Detective

Lieutenant Justin Lane #44176

- Office of Professional Standards
- Commander

Sergeant Craig Kerlin #41533

- Office of Professional Standards
- Supervisor

### **Community Member**

Mr. Marcus De La Torre 01/24/1983

- Bicycle operator
- Charged and convicted of Attempted First Degree Murder and two counts of Aggravated Assault with a Deadly Weapon on a Peace Officer

### **Subject Matter Experts**

Captain JT Turner #26895

- Specialized Response Division
- Oversight of Operation Stonegarden grant program
- Commander
- Retired from TPD on June 29, 2017

Lieutenant Danny Denogean #31558

- Operations Division Midtown
- Operation Stonegarden grant program administrator
- Commander

# ***Captain JT Turner #26895***

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Captain Turner was interviewed by CIRB regarding the **administration** of the Operation Stonegarden Grant Program.

CIRB's clarifying questions sought to determine:

- The objectives of the Operation Stonegarden grant program
- The strategies used during Operation Stonegarden deployments
- Whether the department is optimizing Operation Stonegarden deployments

## **CIRB Testimony**

Captain Turner stated he oversaw the department's Emergency Management section at the time of this incident. His position also had oversight of the Operation Stonegarden Grant Program. Captain Turner said he had been involved with Operation Stonegarden intermittently since 2008. He said Lieutenant Danny Denogean served as the Operations Manager and had the day-to-day oversight of the grant, although Lieutenant Denogean did not report directly to him. While Customs and Border Protection (CBP) worked with the department on some operational aspects of the program, actual grant funds were administered on an annual basis through the Arizona Department of Homeland Security (AZDOHS) and Federal Emergency Management Agency (FEMA) after a formal application process was completed by TPD.

Captain Turner told CIRB multiple agencies participated with the Operation Stonegarden grant, however each participating entity was responsible for managing their respective deployments. Each deployment had to be approved by CBP personnel who verified that discrete deployments fell within the Operation Stonegarden grant guidelines. The AZDOHS acts as the fiduciary and tracks the funds on behalf of FEMA. Captain Turner testified deployments must be focused on the program's primary goals of combatting illegal drug trafficking and the related crimes experienced in border communities.

CIRB questioned Captain Turner about the objectives, expectations, and strategies associated with the Operation Stonegarden deployments. Captain Turner explained the Tucson Police Department's Operation Stonegarden grant was originally operated through the Special Investigations Section's (SIS) Gang Tactical Unit (GTAC) prior to the agency wide 2016 reorganization. The guidance provided by CBP at that time included direction to conduct proactive patrols in high crime areas focusing on illegal drugs, weapons, and human trafficking. The locations, objectives, expectations, and strategies used during the deployments were based on regularly occurring intelligence meetings with CBP.

When the department reorganized in 2016, the GTAC Unit was disbanded and the officers were sent back to fulfill patrol functions. Implementation of Operation Stonegarden deployments

remained with the previous GTAC supervisors because of their historical knowledge. These sergeants were directed to report operationally to Lieutenant Denogean. Captain Turner testified Lieutenant Denogean received direction through his chain of command to spread deployments equally among the four field patrol divisions on a rotational basis. This change expanded the number of officers participating in the Stonegarden deployments and provided an opportunity to increase crime reduction resources, proactive patrols, and focused investigations across all divisions within the city.

Captain Turner said there is not a standard operations manual for Operation Stonegarden due to the number of agencies that participate in the program. Participating agencies are responsible for designing their deployments, completing Daily Activity Reports (DARs), and managing their own operations. Once fully developed, each prospective deployment must be pre-approved by CBP through email or telephone communication. A DAR is required for every deployment and includes details on the intent of the deployment, the personnel working the deployment, and the operational area of the deployment. The sergeant overseeing the operation completes the DAR and submits it to Lieutenant Denogean who in turn advises CBP of the deployment.

Captain Turner lauded the public safety benefits of the program. He stated the Tucson Police Department is the clear leader in terms of designing and executing effective deployments in the Pima County region working group. Beyond the deterrent effect of the high visibility operations, he explained that officers have successfully removed significant amounts of currency, weapons, and drugs from the community. He said the deployments also consistently result in proactive felony and misdemeanor arrests.

Captain Turner indicated there were ways the department could improve the use of the grant. In his estimation the current program strategy was not as effective as when it was centralized out of SIS. He testified that the old practice was more conducive to combatting crime problems associated with street gangs.

### **Analysis**

*What were Captain Turner's perceptions of the way Operation Stonegarden deployments were implemented and where did he see possibilities for improvement?*

CIRB found Captain Turner's testimony clarified the objectives, strategies, and expectations for agencies participating in the Operation Stonegarden grant. He described the divisional approach put in place after the department's reorganization and explained how that decentralization necessitated a greater emphasis on consistency to ensure deployments furthered department objectives in a manner consistent with the program goals of combatting illegal drug trafficking and the related crimes experienced in border communities.

## **Findings and Recommendations**

Almost immediately following this incident and during the CIRB review process, Operation Stonegarden deployments started being managed and vetted through the Field Services Bureau (FSB) Chief to better facilitate a consistent department-wide deployment approach, inter-divisional strategic decision making, and overall accountability in these deployments.

CIRB had no further recommendations beyond these changes.

# ***Lieutenant Danny Denogean #31558***

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Lieutenant Denogean was interviewed by CIRB regarding the **administration** of the Operation Stonegarden grant program.

CIRB's clarifying questions sought to determine:

- Lieutenant Denogean's role in the administration of Operation Stonegarden
- The current structure and deployment strategy of Operation Stonegarden
- How Operation Stonegarden expectations, objectives, and strategies were communicated to the officers and supervisors working the deployments as well as the patrol division commanders impacted by such deployments
- If creating an operations pamphlet for Stonegarden deployments could improve program effectiveness

## **CIRB Testimony**

Lieutenant Denogean was assigned to Operations Division Midtown at the time of this incident. He also served as the administrator for the Operation Stonegarden Grant as it applied to patrol operations and has held this position for approximately two years. Above Lieutenant Denogean, the chain of command structure for Operation Stonegarden consists of Captain Turner and Assistant Chief Kevin Hall. Lieutenant Denogean's testimony regarding the administration and history of the program was consistent with Captain Turner's testimony. When it came to the intricacies of deployments, however, he was able to provide more in-depth information.

Lieutenant Denogean explained that prior to any deployment the operations supervisor had to select a proposed target location. The location was typically selected from among problem areas identified by division commanders, the Community Response Team, or the Neighborhood Crimes Unit. Once a location was identified the sergeant would create an operations plan that would be sent to Lieutenant Denogean, the division captain, and eventually to CBP for final approval. The proposed plans were submitted several weeks prior to the deployment to allow time for any changes or objections to the selected location.

Lieutenant Denogean was asked about communication efficiencies during the planning process. He indicated he expected information sharing to occur at the patrol division level, particularly regarding division problems identified by sector officers, Community Response Teams, and Neighborhood Crime Sections. He explained that the officers now utilized for Operation Stonegarden deployments are often from different patrol divisions, which typically means that they do not have regular interaction with each other prior to the deployments. Lieutenant Denogean did not provide any immediate solutions to improve this communication challenge.

Lieutenant Denogean told CIRB there is no “operations pamphlet” that outlines the protocols for Operation Stonegarden. He stated while the development of an operations pamphlet could be beneficial, the critical information regarding Operations Stonegarden deployments already exists in the grant operations plan. He said he currently meets with all new sergeants that oversee these deployments and ensures they have a thorough understanding of the expectations associated with the Operation Stonegarden mission. He also said he expects deployment supervisors to brief deployment officers with these same expectations.

### **Analysis**

*What were Lieutenant Denogean’s perceptions of the way Operation Stonegarden deployments were implemented and where did he see possibilities for improvement?*

CIRB found Lieutenant Denogean’s testimony was consistent with that of Captain Turner’s. CIRB found the testimony helped to further clarify Operation Stonegarden expectations, operations, and responsibilities. As with Captain Turner’s testimony, Lieutenant Denogean expressed some concern with the department’s “decentralized approach” and spoke to a general need for a greater emphasis on consistency to ensure deployments furthered department objectives in a manner consistent with the program goals. He also outlined some of the benefits that could be realized through the development of a Stonegarden specific “operations pamphlet.”

### **Findings and Recommendations**

CIRB recommends the development of an “operations pamphlet” for Operation Stonegarden deployments.

# ***Sergeant Duke Marmion #40740***

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Sergeant Marmion was interviewed by CIRB regarding **supervision and incident command**.

CIRB's clarifying question sought to determine:

- The deployment information covered by Sergeant Marmion during the Operation Stonegarden briefing

## **Investigative Statement and CIRB Testimony**

Sergeant Marmion was assigned to Operations Division East (ODE) at the time of the incident. He reported to the ODE chain of command for patrol responsibilities and to Lieutenant Denogean for Operation Stonegarden deployments. Sergeant Marmion testified the Operation Stonegarden grant came from the Department of Homeland Security and that it was awarded to agencies throughout the country to combat border crime, illegal weapons, drug trafficking, and human smuggling. He said he had been involved with the program for approximately seven years. When supervising Stonegarden deployments he said he found it challenging to report to two separate chains of command.

Sergeant Marmion explained that before each deployment an operations request would be sent through Lieutenant Denogean to CBP for deployment approval. The request contained the locations where officers would be deployed, the number of officers working, and the deployment time frame. He understood that the department could not move forward with an operation until approved by CBP.

Prior to any Operation Stonegarden deployment, Sergeant Marmion told CIRB he would conduct a formal briefing at the Operations Division South substation. He said he held this type of formal briefing prior to this incident. He said Officer Miranda and Officer Orduño worked for him while they were assigned to the GTAC Unit, as well as on previous Operation Stonegarden deployments, and that he thought they both had a good understanding of his deployment expectations.

On the day of the incident he said he had approximately eight officers working the deployment. During the briefing he said he discussed the deployment goals. Those goals included citing for traffic violations, engaging in consensual contacts, and conducting appropriate field interviews. His expectations for that night were consistent with traditional proactive patrol duties. The deployment plan did not include a specific target.

Sergeant Marmion indicated that when possible he deployed officers as two-person units. He also expected the Stonegarden-deployed officers to work within close proximity to each other. To prevent drawing from existing patrol resources, he expected his Stonegarden personnel to be self-reliant in the event one of the deployment officers required additional assistance during the

course of the deployment. This allowed his deployment team to independently perform the Stonegarden mission without taxing division patrol officers handling calls for service.

On October 24, 2016, Sergeant Marmion deployed the Stonegarden team in the area of South Campbell Road and East 36th Street to the east, South Mission Road and West Ajo Road to the west, East 22nd Street to the north, and East Valencia Road to the south. Due to the large geographical area he said he required the deployment officers to work within close proximity of each other.

Sergeant Marmion testified that it was not unusual for foot pursuits to occur during Operation Stonegarden deployments. He said he believed Officer Miranda and Officer Orduño understood his expectations of engagement if a foot pursuit were to occur during a Stonegarden operation. He told CIRB that when suspects fled, officers performing Stonegarden duties would deploy to that area to assist with establishing containment and scene security. Sergeant Marmion said if not already requested by the impacted member he would ensure a canine unit and air support were requested. He would also make sure personnel were communicating clearly on the air, setting containment, and calling for any additional resources as needed. Sergeant Marmion explained he regularly conducted debriefings upon conclusion of each individual operation.

Sergeant Marmion agreed that personnel could benefit from additional training related to foot pursuits. He added that the decision to engage or not engage in a foot pursuit should be left up to the individual officers rather than being dictated in a policy that would spell out when officers could or couldn't pursue.

When asked about the relative positioning of Officers Orduño and Miranda during the officer involved shooting, Sergeant Marmion said he believed the officers made the right tactical decision by splitting up. Sergeant Marmion told CIRB that when Officer Orduño split from Officer Miranda he was able to place himself and his vehicle in a position between Mr. De La Torre and Officer Miranda thus preventing Mr. De La Torre from further engaging Officer Miranda in a gunfight. He said he believed Officer Orduño's actions saved Officer Miranda's life. From Sergeant Marmion's perspective, while there are times when it is tactically advantageous for officers to stay together in a foot pursuit, he believed they made the right decision in this situation.

Sergeant Marmion told CIRB that on the night of the incident he felt the responding investigative and command personnel interest in the Operation Stonegarden deployment outweighed their interest in the well-being of the officers who had just been involved in a life and death situation. He told CIRB that only one commander checked on him while he was on-scene the night of the incident. He said he broke down upon realizing that he had almost lost Officer Miranda.

Sergeant Marmion testified that after the shooting no one followed up with him to see how he was doing and he ended up using three days of sick leave to process the event. He initially went back to work the day after the incident but realized that he shouldn't have been there so he took three days off. He believed the agency could do a better job of following up with members involved in critical incidents.

Sergeant Marmion identified a concern involving incident command. Sergeant Marmion explained that when he arrived on scene he took incident command and gave specific direction to other sergeants arriving to the incident. A short time later commanders arriving at the scene gave orders that conflicted with his earlier direction but did so without speaking with him first or taking incident command. He stated this resulted in a duplication of effort at a dynamic scene.

### **Analysis**

*What did Sergeant Marmion discuss during his Operation Stonegarden briefing?*

CIRB determined that Sergeant Marmion conducted a verbal briefing with the officers involved in the Operation Stonegarden deployment. This was a standard deployment that did not involve any specific targets. The goals he discussed during the briefing included citing for traffic violations, engaging in consensual contacts, and conducting appropriate field interviews. Sergeant Marmion had worked with the involved personnel on past deployments and believed these officers were aware of his supervisory expectations.

*What were the ways in which Sergeant Marmion believed the department could handle an incident like this better in the future?*

In making its findings, CIRB considered Sergeant Marmion's concerns about confusion and duplication of efforts related to poor communication in transferring incident command. CIRB also discussed the department's obligation to be more responsive and supportive to members involved in critical incidents, especially officer-involved shootings (OIS). This could include doing a better job checking up on all members in the days following an OIS as well as assuring they get the time off necessary to rest and recover from the trauma they may have experienced.

### **Findings and Recommendations**

Sergeant Marmion was the Operations Stonegarden supervisor on the night of this incident. When the shooting occurred he took incident command and started coordinating the necessary response by requesting additional resources. CIRB found that as commanders arrived at the scene they also attempted to manage various aspects of the response. CIRB determined this created confusion because those commanders failed to communicate with Sergeant Marmion as the incident commander. CIRB believes it is important that members of the agency follow current policies and procedures as they relate to incident command.

Additionally, although Sergeant Marmion was the acting supervisor of the focus officers at the time of the incident, he was not included in the Behavioral Sciences Unit (BSU) response given to involved personnel. His role in the incident may have been overlooked because the involved members no longer directly worked for him or because BSU was not notified he was the supervisor on the night of the incident. This matter highlights the need for both BSU and an officer's direct chain of command to take the time to follow-up and check the welfare of all affected members after a critical incident.

# ***Officer Robert Miranda #46937***

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Officer Miranda was interviewed by CIRB regarding **tactics, decision-making, and use of force.**

CIRB's clarifying questions sought to determine:

- Why Officer Miranda or Officer Orduño did not notify Communications regarding the traffic stop on Mr. De La Torre or his subsequent flight
- Officer Miranda's thought process regarding drawing his duty weapon
- What Officer Miranda's understanding was of a rumored change in the department's use of force policy concerning situations when officers draw their duty weapons

## **Investigative Statement and CIRB Testimony**

Officer Miranda was assigned to Operations Division West at the time of the incident. He had previously worked for Sergeant Marmion when he was assigned to the GTAC Unit. On the night of the incident he was working an Operation Stonegarden deployment under the supervision of Sergeant Marmion. He had seven years of Operation Stonegarden deployment experience.

Officer Miranda was the passenger in a marked patrol car driven by Officer Orduño. They observed Mr. De La Torre commit a traffic violation when he failed to stop at a stop sign. Though they did not advise Communications, the officers attempted to conduct a traffic stop. Mr. De La Torre refused to stop. Officer Miranda and Officer Orduño chose to follow Mr. De La Torre without advising the dispatcher.

Officer Miranda testified this was a decision he made based on their initial contact with Mr. De La Torre, who had only committed a traffic violation. He did not feel it was necessary to take resources away from the officers working calls within the division, but did believe it was important to continue with the attempted stop. Based on his experience, Officer Miranda said he felt he knew when to call for additional resources and believed they were not needed at that moment. He told CIRB he thought Officer Orduño shared his opinion about the lack of immediate need for additional units.

Officer Miranda said he would not change how he handled this incident but acknowledged he could have advised the dispatcher after Mr. De La Torre committed a traffic violation, failed to stop when directed to do so, and actively evaded detention.

Officer Miranda said he and Officer Orduño had worked together in the past when they were assigned to the GTAC Unit. Officer Miranda believed they had a good understanding of how each other operated and reacted under a variety of circumstances. During this incident he said they chose to split up. Officer Miranda believed the decision to split up most likely saved his life. He told CIRB when Officer Orduño came around the corner onto Park Avenue and placed the patrol

car between himself and Mr. De La Torre it provided enough cover and time to exchange magazines and reload his duty weapon.

CIRB asked Officer Miranda about a portion of his OPS interview in which he recounted a hesitation in drawing his weapon. He testified that he had a conversation at dinner just before this incident about a rumored new policy on the use of force. It was his understanding the proposed policy would require a use of force report any time an officer pulled his or her duty weapon from their holster. The conversation at dinner among the officers included their perception that there were a lot of “bureaucratic decisions” being made by the Executive Leadership Team about how officers function on the street without line level input.

Officer Miranda said if the dinner conversation had not run through his mind during the incident he would have probably pulled his duty weapon from the holster when he stopped to let traffic pass as he crossed the street in pursuit of Mr. De La Torre. He told CIRB that the dinner discussion, “[p]opped into my mind and do I really need that use of force [rumored report requirement] at this point?” Officer Miranda told CIRB that if he had drawn his duty weapon sooner, he would have been able to immediately return fire at Mr. De La Torre at the moment when De La Torre quickly turned and started firing shots at him.

Officer Miranda told CIRB that because of his hesitation his gun was still in his holster when Mr. De La Torre started to shoot at him. He told Central Investigations Division (CID) investigators that Mr. De La Torre shot at him several times before he was able to unholster and return fire. He said he initially returned fire while standing up and then worked his way down to his knees, as he did not have any cover or concealment in the middle of the street. Officer Miranda did not think that his shots were affecting Mr. De La Torre because Mr. De La Torre continued to fire at him.

Officer Miranda stated that once he knew he had been hit by gunfire he laid down on the side of his body and continued to fire rounds at Mr. De La Torre. He told CID investigators that his magazine emptied just as Officer Orduño rounded the corner. Officer Miranda observed Officer Orduño position his car, get out, and yell commands at Mr. De La Torre. He used the cover provided by Officer Orduño as an opportunity to reload his weapon and move to the west side of the street while Officer Orduño engaged Mr. De La Torre.

Officer Miranda observed the suspect turn and point his firearm at both of them. Officer Miranda told CID investigators that he was in fear for his own life and the life of Officer Orduño. He heard an exchange of gunfire between Mr. De La Torre and Officer Orduño. He said both he and Officer Orduño returned fire at Mr. De La Torre.

After the last of the gunshots he observed Mr. De La Torre “go down” in some grass. Officer Miranda realized that he was bleeding quite a bit and started to feel dizzy from his gunshot wound. He told CID investigators that he thought the injury was a graze wound and not life threatening because he was “alive and moving.” He sought cover behind a tree and let Officer Orduño know over the radio that he was not approaching Mr. De La Torre with him. Officer

Orduño sent the first arriving officer, Officer Pedersen, to provide medical aid to Officer Miranda while he held Mr. De La Torre at gunpoint.

Officer Miranda told CIRB that he finds foot pursuits to be a useful tactic under the appropriate circumstances. He told CID investigators that he had partnered up with Officer Orduño enough to know that he was bringing the car around to cut Mr. De La Torre off in the road. He recommended additional department scenario-based training that includes specific instruction on not only how to detain a suspect at the end of a foot chase, but also how to manage the adrenaline and fatigue that occurs during and after a foot pursuit.

### **Analysis**

*Why did Officer Miranda and Officer Orduño fail to notify Communications regarding the traffic stop on Mr. De La Torre or his subsequent flight?*

When Mr. De La Torre refused to stop, Officer Miranda chose to continue following him without advising the dispatcher. Officer Miranda told CIRB this decision was based on their initial contact with Mr. De La Torre, who had only committed a traffic violation. Due to the limited staffing available in the division, Officer Miranda did not feel it necessary to request additional officers but did believe it was important to make the traffic stop. Given their collective experience, Officers Miranda and Orduño believed they would know when it would become necessary to call for additional resources. After reflecting on the incident, however, Officer Miranda thought the better approach would have been to notify the dispatcher sooner.

Officer Miranda recognized that Sergeant Marmion required the Stonegarden units to work in close proximity to one another. Because of this direction, Officer Miranda knew there were other officers in the area that may have been available to respond. Choosing not to make the radio notification meant that the other Stonegarden units were unaware of what was occurring. Officer Miranda understood, albeit in hindsight, those additional officers could have assisted in the containment and apprehension of Mr. De La Torre.

*What was Officer Miranda's thought process regarding the timing of drawing his duty weapon?*

Prior to the incident Officer Miranda had been engaged in a conversation about a rumored new department policy being discussed concerning use of force. This included a potential requirement that a use of force report be completed any time an officer pulled his or her duty weapon from their holster. He stated this conversation briefly went through his mind and that it affected his actions as he chased Mr. De La Torre.

Officer Miranda said he would have normally drawn his duty weapon earlier in the foot pursuit. He indicated his decision to draw his duty weapon was based on the type of incident he was responding to while considering the level of force being used by the subject. He also stated that in his experience pointing a firearm at a suspect to gain compliance can be an appropriate de-

escalation tactic. He testified that had he drawn his weapon sooner, he would have been able to immediately return fire at Mr. De La Torre when Mr. De La Torre began firing at him.

Officer Miranda also voiced concerns about the national media attention and overall negativity surrounding police officers' actions. He told CIRB that when he considered the unforgiving media climate along with the rumors about the department creating a new use of force policy, he had concerns that officers would hesitate to take action as he did and that there would be increased potential for injuries due to inaction.

### **Findings and Recommendations**

CIRB determined that Officer Miranda should have notified Communications when Mr. De La Torre failed to stop. Officer Miranda stated he felt he knew when it would be necessary to request additional officers, but admitted in hindsight if he was faced with a similar situation he would notify Communications at the time of the initial stop attempt. Department policy directs personnel to make a radio notification of field contacts and traffic stops for officer safety reasons. CIRB reminds personnel that staffing levels and heavy call loads must not affect decisions to request additional resources needed to safely conduct their work.

When this incident occurred the department's use of force policy was under review. The policy update work included conversations about mandatory tracking of when firearms were pointed at suspects (much like the department Taser policy that existed at the time of this incident). Though an actual policy change had not been implemented, CIRB agreed that many rumors were swirling around the agency. Members are reminded that they are only held accountable for department policies properly issued or trained on, not speculation about future policy that may or may not be adopted. Members are encouraged to review standing policy and seek guidance on any areas of uncertainty so they ensure they fully understand the department's actual use of force policy.

Officer Miranda believed there was a lack of training specific to foot pursuit tactics. CIRB recommends that Training Academy personnel develop further foot pursuit instruction and scenarios for inclusion in Advanced Officer Training. Officer Miranda also suggested that officer positioning when addressing fleeing subjects should be a primary focus of the updated training. CIRB determined that the decision for officers to split up or to stay together during foot pursuits should remain discretionary.

CIRB found that Officer Miranda's testimony and the work of the investigative units supported his use of deadly force to defend himself against Mr. De La Torre's use of deadly force. The Pima County Attorney's Office concluded Officer Miranda's use of force was **Justified** and CIRB found his actions to be **Within Department Policy**.

# **Officer Robert Orduño #49276**

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Officer Orduño was interviewed by CIRB regarding **tactics, decision-making, and use of force.**

CIRB's clarifying questions sought to determine:

- Why Officer Miranda or Officer Orduño did not notify Communications regarding the traffic stop on Mr. De La Torre or his subsequent flight
- Why Officer Orduño split up from Officer Miranda rather than join him in the foot pursuit
- What Officer Orduño's intentions were when he drove his patrol vehicle towards Mr. De La Torre

## **Investigative Statement and CIRB Testimony**

Officer Orduño was assigned to ODE at the time of the incident. He was previously assigned to the GTAC Unit where he and Officer Miranda worked together under Sergeant Marmion's supervision. Officer Orduño and Officer Miranda were riding together as a two-person unit assigned to the Operation Stonegarden deployment on the night of the incident. Officer Orduño was the driver and Officer Miranda was the passenger in charge of radio communications.

Officer Orduño and Officer Miranda observed Mr. De La Torre fail to stop at a stop sign while riding a bicycle. They attempted to initiate a traffic stop, but Mr. De La Torre refused to stop. Officer Orduño told CIRB neither officer advised Communications of their attempted stop, noting radio traffic was unusually high. As they attempted to stop and speak with Mr. De La Torre he dropped the bicycle he had been riding and fled from them on foot. Officer Orduño stated that in hindsight either he or Officer Miranda should have notified the dispatcher of their traffic stop attempt when Mr. De La Torre refused to stop.

Officer Orduño testified that when Mr. De La Torre ran he began following him down the alley in the patrol vehicle. While driving the patrol vehicle he unsuccessfully attempted to grab Mr. De La Torre before Mr. De La Torre had the opportunity to jump over a fence. Officer Orduño said he considered going over the fence after Mr. De La Torre but realized he had positioned his car too close to the fence. This prevented him from fully opening his door to get out.

Officer Orduño told CIRB it was at that time Officer Miranda got out of the vehicle and pursued Mr. De La Torre on foot. Because of the patrol car's position, Officer Orduño explained he would have been forced to climb over the seat and exit the vehicle from the passenger side to follow on foot. Instead, Officer Orduño saw the direction Mr. De La Torre ran and determined he could intercept him if he drove out of the alley and turned onto 34<sup>th</sup> Street.

Officer Miranda and Officer Orduño did not verbally communicate with each other regarding their actions ahead of time. Officer Orduño testified that since he and Officer Miranda had frequently partnered together they do not always need to verbally communicate what they plan to do with each other. Officer Orduño stated Officer Miranda knew from past practice that if he was engaged in a foot pursuit that Officer Orduño would attempt to intercept the fleeing suspect utilizing the patrol vehicle.

When Officer Orduño turned onto 34<sup>th</sup> Street he observed Officer Miranda laying in the street firing his duty weapon at Mr. De La Torre. His immediate concern was that Officer Miranda was in a position where he had no cover. He said he wanted to stop the deadly force Mr. De La Torre was using against Officer Miranda and quickly recognized that using his vehicle to disable Mr. De La Torre was his most viable option. He said he drove towards Mr. De La Torre in order to strike him, but this attempt was ultimately unsuccessful.

Officer Orduño said he believes department training regarding the utilization of vehicles as a means of countering deadly force should be created. He said officers receive training on evasive maneuvers and obstacle avoidance but should also be trained on how to use a vehicle in a deadly force situation.

Officer Orduño concluded his testimony by stating he thought the command staff and the department handled the incident well. He expressed concerns regarding his opportunity to view the video taken from the rear facing MVR camera in the vehicle. He indicated he was only permitted to review video from the vehicle's front camera despite asking OPS personnel about video from the rear camera. It was later determined that OPS was unaware of the additional video recordings from the rear camera. Once they became aware, Officer Orduño was allowed to review the rear camera video.

### **Analysis**

*Why did Officer Miranda and Officer Orduño fail to notify Communications regarding the traffic stop on Mr. De La Torre or his subsequent flight?*

Officer Orduño testified that the radio airway was filled with transmissions. He said this was the basis for his decision not to advise the dispatcher of their attempted traffic stop. He said Sergeant Marmion's expectations were that Operation Stonegarden officers should be self-reliant and provide each other with backup should they require additional assistance. Stonegarden deployment officers worked in close proximity to each other so they could be readily available to assist each other if needed. Unfortunately, because neither Officer Miranda nor Officer Orduño notified the dispatcher they were attempting a traffic stop on Mr. De La Torre, other officers remained unaware of the situation. Advising dispatch of the foot pursuit and indicating that the officers had split up would have provided dispatch the opportunity to obtain the appropriate assistance from other officers.

*Why did Officer Orduño split up from Officer Miranda rather than join him in the foot pursuit?*

Officer Orduño and Officer Miranda said they did not verbally communicate regarding a recommended course of action or contingency plans ahead of time, mostly due to the fact they had worked together enough and engaged in other foot pursuits which allowed them to anticipate each other's actions. Officer Miranda said he knew if he was engaged in a foot pursuit Officer Orduño would try to cut the suspect off with the patrol vehicle.

This kind of unspoken understanding between officers who routinely work together is not unusual. Incidents such as this evolve rapidly and can make communication difficult or impossible when officers become separated from each other. While both officers in this incident responded to unfolding events as the other thought they would, CIRB encourages two person units to communicate in advance regarding expectations and contingencies. This includes a basic plan covering what role each member will be responsible for assuming while they jointly work an incident.

The decision for two officers engaged in a foot pursuit to split up in order to capture a fleeing subject remains a tactical consideration best determined at the time of the incident by those engaged and with the best knowledge of the facts. Department personnel are reminded that this decision can have grave consequences.

*What were Officer Orduño's intentions when he drove his patrol vehicle towards Mr. De La Torre?*

Officer Orduño intended to deploy his vehicle as a means of lethal force against Mr. De La Torre to immediately stop Mr. De La Torre's ongoing deadly force against Officer Miranda.

### **Findings and Recommendations**

Officer Orduño and Officer Miranda attempted to initiate a traffic stop on Mr. De La Torre. When Mr. De La Torre refused to stop, the officers chose to continue following him without notifying Communications. CIRB determined the officers should have made the proper notifications over the radio at the time of the initial stop attempt. CIRB further determined that both officers now recognized the importance of radio check outs and that no remedial training was needed for either officer.

Officer Orduño's testimony, as well as the physical and documentary evidence, supported his stated intention to use his vehicle to prevent any further deadly force by Mr. De La Torre against Officer Miranda. The Pima County Attorney's Office concluded Officer Orduño's attempted use of deadly force with his vehicle was **Justified** and the CIRB finds his actions to be **Within Department Policy**. The same is true for Officer Orduño's deadly use of force with his firearm.

During his testimony Officer Orduño expressed concerns regarding the viewing of the video from the rear MVR camera of his patrol car. This concern has been addressed with OPS and

procedures have been implemented to ensure all video, including rear camera footage, will be available for member review in the future.

Officer Orduño recommended training specific to using a vehicle as a means of countering deadly force. CIRB confirmed this topic is being addressed by the Training Academy in the basic training curriculum. This curriculum contains a detailed section outlining best practices for using a vehicle as a means of lethal force.

# GENERAL RECOMMENDATIONS AND FINDINGS

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## Policy

Policies regarding checking out with Communications prior to conducting traffic stops are clearly defined and must be adhered to even during times of heavy radio traffic.

The department will continue to undergo general order and policy improvements on a recurring basis. Members are reminded that they are only obligated to adhere to department policies that have been officially issued or trained on, not speculation regarding future policy considerations.

CIRB found issues with incident command at multiple points during the incident. Sergeant Marmion assumed incident command when he arrived on scene but was not relieved of command until investigative personnel secured the scene well after the shooting took place. CIRB determined that a number of commanders were present, providing direction, and otherwise capable of assuming incident command in the time before investigators took responsibility. CIRB reminds members they must follow current policies and procedures regarding incident command on all calls for service, including critical incidents.

## Equipment

CIRB recognizes this is an incident where body worn camera (BWC) footage could have provided greater detail regarding the actions of the officers and criminal conduct of Mr. De La Torre. Since this incident occurred, the majority of the Field Services Bureau has been issued BWCs through the "Tucson Delivers" sales tax initiative. The department's goal is to assure all patrol officers and sergeants are issued BWCs by the end of fiscal year 2019 (June 2019).

## Training

One of the key issues addressed during this CIRB involved foot pursuits. CIRB finds a need to develop training specific to foot pursuits that includes instruction on proper engagement and positioning as well as alternative approaches such as setting up perimeters, utilizing K9s, and calling upon air support. Both Officer Miranda and Officer Orduño expressed a willingness and desire to be involved in the development of this training.

## Use of Force

The Pima County Attorney's Office determined the actions of both officers were **Justified** under Arizona law. Similarly, CIRB finds that the situation Officer Miranda and Officer Orduño faced

was one in which deadly use of force was necessary, proportional, and within department policy based on Mr. De La Torre's deadly use of force. Therefore, the CIRB finds:

Officer Miranda – Use of Force, Firearm; ***Within Department Policy***

Officer Orduño – Use of Force, Vehicle; ***Within Department Policy***

Officer Orduño – Use of Force, Firearm; ***Within Department Policy***

### **Supervision**

Operation Stonegarden deployments occur citywide and involve multiple chains of command. Given the scope and complexity CIRB recommends the following changes in how deployments are administered, planned, and managed<sup>2</sup>:

- A single, clearly defined Stonegarden chain of command
- Stonegarden chain of command approval for all operations in advance of deployment
- Deployment goals should be identified and clearly communicated to all participating members and affected divisions
- A defined mission and target for each deployment established by the deployment supervisor as directed by the appropriate divisional command staff
- Supervisors working Operation Stonegarden deployments need to be in uniform and in marked units
- "Operations Plans" and briefings should be standardized using the appropriate ICS forms

### **Reporting and Investigation**

CIRB appreciates the complexities of the administrative and criminal investigations following critical incidents. While reviewing the investigative material, CIRB discovered that both OPS and CID interviews contained numerous investigator interruptions of interviewed personnel attempting to answer questions. These interruptions were often unnecessary and left the interviewed personnel without an opportunity to provide a complete explanation or description. Investigative personnel are reminded to refrain from unnecessarily interrupting during interviews in order to allow for a full development of the record.

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<sup>2</sup> In the months immediately following this incident Assistant Chief Hall implemented a series of changes to the manner in which Stonegarden oversight and operations take place. Those changes address the recommendations brought forth by CIRB in this report.

## CIRB DIRECTION and ACTION ITEMS

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The findings and recommendations of the CIRB will be forwarded to the affected members' chain(s) of command for review and appropriate action. Recommendations involving equipment, training, and policy will be forwarded to the appropriate units and the Training Academy for prompt action. Implementation will be monitored and tracked by the Audit and Best Practices Unit.

CIRB recommends the Training Academy create training that includes national best practices for foot pursuits and that Officer Miranda and Officer Orduño be included in the development of this training.

Assistant Chief Kazmierczak will have oversight of this recommendation.

CIRB confirmed the basic training curriculum contains in-depth instruction concerning the use of a vehicle as a means of lethal force. CIRB recommends that the Training Academy provide an AOT update module on this material.

Assistant Chief Kazmierczak will have oversight of this recommendation.

# CIRB MEMBERS

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Chairperson, Deputy Chief Chad Kasmar

Vice Chair, Captain Eric Kazmierczak

Scribe, Lieutenant Michelle Pickrom

Member, Lieutenant Robert Garza

Member, Lieutenant Jennifer Pegnato

Member, Lieutenant Corey Doggett

Peer Member, Sergeant Rob Brandt

Peer Member, Officer Jacob Smith

City Attorney, Ms. Julianne Hughes

Legal Advisor, Ms. Lisa Judge

Independent Police Auditor, Ms. Liana Perez

Community Member, Ms. Margo Susco

## Non-Voting Observers

TPOA Grievance Chair, Officer Don Jorgenson

Office of Professional Standards, Sergeant Craig Kerlin

# GENERAL ORDER DEFINITIONS

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The following *General Orders* were in effect at the time of the incident. Many of these have been updated as a result of this review. For all current policies, please refer to our website, [tucsonaz.gov/police](http://tucsonaz.gov/police).

## ***2020 Force Model***

The force model has been developed for illustrative purposes, to explain the various levels of resistance and force that may take place during a use of force incident. The model is based on the concept that, as the resistive individual(s) increases the level of resistance or threat to the officer, the officer may increase the level of force necessary to overcome the resistance. Conversely, the officer may decrease the level of force as compliance is attained.

When applying the concept of a force model, the totality of the circumstances involved in the incident must be considered. Officers may initiate the use of force at any level of the force model that is appropriate under the circumstances. Circumstances that may influence the level of force used by the officer may include, but are not limited to:

- The nature of the offense
- The behavior and actions of the subject, such as resistive actions, aggressive acts, *etc.*
- Physical size and conditioning of the subject and the officer
- The feasibility and availability of alternative responses
- The availability of additional officers

The levels of resistance by a subject include:

- Psychological Intimidation: Includes non-verbal cues indicating the subject's attitude, appearance and physical readiness.

This is often referred to as the "body language" of the subject and may influence an officer's decision on how to approach a subject, or what level of force to use if the subject starts to resist a detention or an arrest. Non-verbal intimidating actions may include, but are not limited to: clenching the fists; widening the foot stance; or wearing a blank expression, which may warn officers of an individual's emotional state. These non-verbal actions often warn an officer of a subject's potential for violence when the subject has offered no verbal threats. A subject's non-verbal intimidation should be used as information to mentally prepare officers for attack, not as justification for the use of force.

- Verbal Non-Compliance: Verbal responses indicating the subject's unwillingness to comply with direction; may include verbal threats made by the subject.

A person has a constitutionally protected right to express verbal protest to an officer. As a general rule, speech directed at an officer is protected by the First Amendment. In addition, as a general rule, fighting words are not protected speech. The appropriate reaction to verbal threats made by a subject will depend on the specific facts faced by an officer. An officer's decision regarding the level of force necessary to control the subject will be based in part on the officer's perception of the verbal threat and the subject's apparent ability and willingness to carry out that threat. An additional factor is the officer's knowledge of his or her own capabilities to manage the threat presented.

- Passive Resistance: Physical actions that do not directly prevent the officer's attempt at control.

At this level, the offender never makes any attempt to defeat the physical actions of the officer. Passive resistance is usually in the form of a relaxed or "dead weight" posture intended to make the officer lift, pull or muscle the subject to establish control.

- Defensive Resistance: Physical actions that attempt to prevent the officer's control, but make no directed attempt to harm the officer.

At this level of resistance the offender attempts to push or pull away in a manner that does not allow the officer to establish control. However, the subject never attempts to strike the officer.

- Active Aggression: Behavior that is a physical assault on the officer where the offender prepares to strike, strikes, or uses techniques in a manner that may result in injury to the officer.
- Aggravated Active Aggression (deadly force): Assaultive acts of aggression directed towards an officer or another that are likely to cause serious injury or death.

The levels of force are:

- Officer Presence: The officer is clearly identified as an officer and his/her authority is established, by presence in uniform, or by clearly displaying a badge or identification.

It is at this initial stage of police/subject contact that the officer uses presence, to the greatest extent possible, to take control of the situation and avoid escalation. The first aspect is non-verbal communication skills, starting with the officer's facial expressions. The officer should consciously attempt to maintain eye contact with

the subject. This is not only a tactically sound action but will show the officer's concern and interest.

The second form of non-verbal communication skill is body language. This may range from the officer being very relaxed in the upper body in an effort to calm the subject or showing strong muscle tension in the arms and hands in an effort to convince the subject to comply with the officer's request without physically touching the subject.

In the event that the presence of the officer does not curb or decrease the amount of resistance, or stop the violation of law, the officer must be prepared to escalate the use of force.

- Verbal Direction: Communication directed toward controlling the actions of a subject, including direction or commands.

The majority of situations can be resolved by good communication skills and verbal direction. In any verbal confrontation, fear and threat must be defused so the subject can better understand the officer's commands. This requires good communication skills and patience.

Voice control will often indicate emotional control. The slow, soft and deliberate voice of the officer will usually convey control, diffusing the hostile, verbally aggressive subject. The officer should remember that it takes a great deal of physical energy for a subject to maintain a high emotional level. The officer should attempt to maintain a lower emotional state, as the subject will often tire emotionally.

Successful communication skills may prevent many physical confrontations from escalating to higher levels. However, if resistance continues after using proper verbal and non-verbal skills, the officer must be prepared to further escalate the use of force.

- Empty Hand Control: Techniques that cover a number of subject control methods.

These may be as simple as gently guiding a subject's movement or more dynamic techniques such as strikes. They are divided into two (2) categories:

- "Soft" control techniques that present a minimal risk of injury. Generally, these techniques are used to control passive or defensive resistance. However, soft control techniques can be utilized for any level of resistance if tactically possible and legally permissible. Examples of soft

empty hand control include standard handcuffing, wrist locks, arm bar control holds, and touch pressure points.

- “Hard” control techniques that might cause minimal injury, i.e. striking techniques using the hands or feet. “Take-downs,” that is the forceful direction of the suspect to the ground, are also considered under this use of force category. Generally, these techniques are used to counter defensive resistance, active aggression, or aggravated active aggression (deadly force) and are applied when lesser forms of control have failed or are not applicable because the subject’s initial resistance is at a heightened level. In such situations, officers may risk injury to themselves or may have to utilize higher levels of force (such as intermediate weapons) if hard empty control techniques are not used.
- Intermediate Weapons: The use of authorized less lethal weapons, including canines, impact weapons, chemical and OC agents, flex-batons, and other specialized less lethal munitions.

These provide a method of controlling subjects when deadly force is not justified and when empty hand control techniques are either not sufficient or not tactically the best option for the safety of others, the suspect and/or officer. When intermediate weapons are used, injury is likely and appropriate medical care shall be provided.

The following are types of intermediate weapons:

- Oleoresin Capsicum (OC) Spray – OC spray can provide a means of defense when the officer is facing resistance at the level of defensive resistance or greater.
- Impact Weapons – A straight or expandable baton can provide a means of protecting the officer or others from injury. Escalating to an impact weapon is a means of controlling subjects when the officer is facing defensive resistance, and the officer’s empty hand control is insufficient to overpower the resistance or, when the officer is facing active or aggravated active aggression (deadly force). The impact weapon may be used in lieu of chemical agents when appropriate, given the limitations on the use of the spray and the time available to the officer.
- Taser – the Taser is a less lethal conducted energy weapon that deploys an electro muscular disruption charge that affects the sensory and motor functions of the central nervous system.

- Less Lethal Munitions/CN CS Gas – These include Department approved flex batons and other specialized less lethal munitions (such as pepper balls) and the use of CN (chloroacetophenone) and CS (Orthochlorobenzal malonitrile) gas.

The goal of deploying CN or CS gas is to temporarily incapacitate the subject to attain compliance and control. Officers may utilize CN or CS gas when no other means of subject control may be asserted without endangering the life or safety of the officers or others.

The use of kinetic energy impact rounds (flex baton) is restricted to instances of subject resistance at the active aggression or aggravated active aggression (deadly force) level. These may also be used in instances where a subject is physically causing serious or life threatening injury to him or herself or is threatening to cause such injury.

- Deadly Force: A use of force that is likely to cause serious injury or death. Use of a firearm is not the only means of employing deadly force. It may become necessary for officers to protect themselves or others with means other than a firearm.

Officers may employ all the techniques outlined in this General Order, and others that may be available under the circumstances of the particular situation, including those considered deadly force, in order to protect themselves or others from the use of deadly force.

# UPDATED USE OF FORCE GENERAL ORDER 2000

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Updated and Published September 2017

## **2010 GENERAL POLICY**

In accordance with the Law Enforcement Code of Ethics and the Tucson Police Department Mission statement, it is the sworn duty of every officer to safeguard and protect human life. Members shall treat all persons with respect, professionalism, and courtesy. If the use of force becomes necessary, members shall use force proportional to the threat.

It is neither the policy of the Department nor the intent of these General Orders that officers unnecessarily or unreasonably endanger themselves or others. The force model is to be used as a general guide to using force when necessary.

A member who observes another member using inappropriate, unnecessary, or unreasonable force shall intervene to stop the use of force when there is a reasonable opportunity to do so. A member who witnesses inappropriate, unnecessary, or unreasonable use of force by another member shall report it as soon as practicable to a supervisor.

## **2020 DEFINITIONS**

### **De-Escalation**

De-escalation is taking action and/or communicating verbally or non-verbally during a potential force encounter to stabilize the situation and reduce the immediacy of a threat so that more time, options, and resources are available to resolve the situation using the least force necessary. De-escalation is also an effort to reduce or end the use of force after a threat has diminished.

When reasonable, officers will gather information about the incident, assess the risk, assemble resources, attempt to slow momentum, communicate with the subject, and coordinate a response. Officers should use advisements, warnings, verbal persuasion, and other tactics as alternatives to higher levels of force. When feasible, an officer may withdraw to a position that is tactically more secure or allows greater distance in order to consider or deploy a greater variety of force options.

### **Force**

Any physical effort by a Department member to compel compliance by an unwilling subject.

### **Lawful Purpose**

A use of force must be for a lawful purpose. Officers may use force in the performance of their duties to:

- Effect a lawful arrest, detention, or search;
- Overcome resistance or prevent escape;
- Prevent the commission of a crime;
- Defend themselves or others;
- Gain compliance with a lawful order; or
- Prevent a person from injuring himself/herself - however, an officer is prohibited from using lethal force against a person who presents only a danger to himself/herself and does not pose an imminent threat of serious bodily injury or death to another person.

### **Objectively Reasonable**

Officers must make split-second decisions regarding the use of force in circumstances that are tense, uncertain, and rapidly evolving. Reasonableness of force is based on the totality of circumstances known by the officer at the time force was used. This is an objective standard to be judged from the perspective of a reasonable officer rather than with the benefit of hindsight, and without regard to underlying intent.

There are many components that factor into an objectively reasonable decision to use of force, including:

- The purpose of the force (Was it lawful?);
- Efforts to de-escalate the situation;
- The proportionality of the force being used to the force encountered;
- The nature and seriousness of the threat being encountered;
- If the officer's actions unnecessarily contributed to the need to use force.

### **Proportionality**

Officers shall balance the totality of the circumstances, known to or perceived by the officer at the time, with the severity of the offense committed and the subject's level of resistance. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in serious physical injury or death, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.

### **Provocation**

Provocation includes conduct that may create or contribute to a need to use force that might not otherwise be necessary. This can include illegal searches, detentions, and entries to residences. It can also include unprofessional exchanges or other acts done intentionally or recklessly that provoke the subject or contributes to the need for force. This conduct must be documented and considered in determining the reasonableness of the force used.

## **Significant Injury**

A significant injury is a physical injury resulting from a use of force that creates a reasonable risk of death or causes serious disfigurement, serious impairment of health, or loss or impairment of any bodily organ or limb. Examples of significant injury include broken bones, closed head injuries, loss of consciousness, impairment of a limb and/or any injury that could result in death or disfigurement. Sutures are not by themselves considered a significant injury but extensive suturing may rise to this level depending on the circumstances.

### **2030 USE OF FORCE PROHIBITED**

An officer shall **not** use physical force:

- To punish or retaliate;
- Against individuals who only confront them verbally unless the vocalization significantly impedes a legitimate law enforcement function creating an immediate safety concern (e.g. incitement to violence or destruction of property, threats to officers or others); or
- On handcuffed or otherwise restrained subjects, except in exceptional circumstances when the subject's actions must be immediately stopped to prevent injury, escape, or destruction of property. In such circumstances, officers shall articulate:
  - Why force was necessary, and
  - Why no reasonably effective alternative to the use of force appeared to exist.

### **2040 FORCE MODEL**

This model describes levels of resistance officers may encounter and the levels of force officers may use to lawfully overcome that resistance.

Force situations are dynamic and require an officer to continually assess the subject's actions to ensure an objectively reasonable response. Officers may initiate and transition to levels or types of force, including attempts to de-escalate, in relation to the amount of resistance offered by a subject. Circumstances that influence the level of force used by the officer include, but are not limited to:

- The nature of the offense;
- The behavior and actions of the subject, such as resistive actions, aggressive acts, etc.;
- The physical size and conditioning of the subject relative to the officer;
- The feasibility and availability of alternative responses; and
- The availability of additional officers.

Officers shall consider whether a subject's failure to comply is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:

- Medical conditions;
- Mental impairment;
- Developmental disability;
- Physical limitation;
- Language barrier;
- Drug interaction;
- Behavioral crisis; and
- Hearing impairment.

When it is necessary for an officer to exercise physical control of a violent, assaultive, or resisting individual to make an arrest or protect others from harm, they shall:

- Recognize that their conduct prior to the use of force, including the display of a weapon, may influence the level of force necessary in a given situation;
- Exercise reasonable care that their actions do not precipitate an unnecessary, unreasonable, or disproportionate use of force by placing themselves or others in jeopardy, or by not following policy or training; and
- Continually assess the situation and changing circumstances, and adjust the use of force appropriately.

### ***2041 Levels of Resistance***

The levels of resistance by a subject include:

- Psychological Intimidation: Non-verbal cues indicating the subject's state of alertness, agitation, and physical readiness to resist.
- Verbal Non-Compliance: Verbal responses indicating the subject's unwillingness to comply with direction. This may include verbal threats made by the subject. A person has a constitutionally protected right to express verbal protest, and speech directed at an officer is generally protected by the First Amendment. However, threats (or "fighting words") are not protected speech. Verbal provocation alone is not justification for a use of force.
- Passive Resistance: Physical non-compliance that does not directly prevent the officer's attempt at control.

**\*\* A force response to resistance at the psychological intimidation, verbal non-compliance or passive resistance level shall be limited to verbal direction, handcuffing, escort and control holds. \*\***

- Defensive Resistance: Physical actions that attempt to prevent the officer's control, but make no direct attempt to harm the officer.

- Active Aggression: Behavior that is a physical assault on the officer where the subject prepares to strike, strikes, or uses techniques in a manner that may result in injury to the officer.
- Deadly Force: Assaultive acts of aggression directed towards an officer or another that are likely to cause serious injury or death.

### **2042 Levels of Force**

The levels of force employed by members are:

- Officer Presence: Authority is established by the officer's presence in uniform, by verbal identification as a peace officer, or by clear display of department badge or identification.
- Verbal Direction: Communication directed at a subject to control their actions. Officers will, when reasonably possible, attempt to use verbal communication skills to control subjects before resorting to physical control methods.
- Empty Hand Control: Force techniques using the officer's body without the aid of weapons or equipment. Empty hand control is divided into two (2) categories:
  - o "Soft" control - physical interaction (except strikes) meant to separate, guide, and/or control, and that does not cause injury greater than temporary pain or redness.
  - o "Hard" control – physical interaction (including strikes) meant to separate, guide, and/or control, or which are likely to result in injuries greater than temporary pain or redness.

**\*\* The use of vascular neck restraint (carotid) or choke holds are prohibited. \*\***

**\*\* Note: It is understood that the policy regarding the use of vascular neck restraint (carotid) or choke holds may not cover every situation that may arise. \*\***

- Intermediate Weapons: Weapons that provide a method of controlling subjects when deadly force is not justified and when empty hand control techniques are either not sufficient or not tactically sound. The following are types of intermediate weapons:
  - o Oleoresin Capsicum (OC) spray – Shall only be used to counter defensive resistance or greater.
  - o Pepper Balls – Capsules filled with a capsaicin powder and fired from a compressed-air powered launcher. Pepper Balls may be fired directly at a subject, or may be fired to strike near a subject to deliver a dispersed OC payload. Pepper balls shall only be used to counter defensive resistance or greater.
  - o Impact Weapon – Any object used to strike a subject in a manner that is reasonably likely to cause injury. An impact weapon shall only be used to counter defensive resistance when the officer's empty hand control is insufficient to overpower the resistance or when the officer is facing greater force. In limited circumstances an impact weapon may

be used in lieu of OC spray when the properties of OC spray would make its use ineffective or dangerous to the officer, e.g., inside a small, confined area.

- o Conducted Electrical Weapon (CEW)- Any less lethal conducted energy weapon, e.g., TASER. The use of CEWs shall be limited to counter active aggression or deadly force.
- o Less Lethal Munitions – Kinetic impact or chemical-agent munitions designed to disrupt a subject’s threatening action with minimal risk of serious injury or death.
  - Kinetic impact rounds include Department approved flex batons and other specialty munitions, e.g., 37 mm foam rounds. Generally, the use of kinetic energy impact rounds shall only be used to counter active aggression or greater. However, kinetic impact rounds may be used in instances where a subject is causing serious or life threatening injury to him or herself or is immediately threatening to cause such injury, and has the means to do so.
  - Chemical agents include o-chlorobenzylidene malononitrile (CS) and shall only be utilized during tactical team operations or similar deployments.
- Deadly Force: Force that is likely to cause serious injury or death. Use of a firearm is not the only means of employing deadly force. It may become necessary for officers to protect themselves or others with means other than a firearm.

### **2050 POINTING FIREARMS**

Officers shall not point a firearm at an individual unless it is reasonable to believe that it is necessary to protect against a potential use of physical force or deadly physical force.

Unholstering or displaying a firearm, including at a low-ready position without pointing it at a person, does not require a use of force report. Firearms shall be secured or holstered as soon as possible after the perceived threat has ended.

### **2060 DEADLY FORCE**

Deadly force is authorized when an officer reasonably perceives an imminent threat of serious physical injury or death to the officer or another person. Deadly force is a measure to be employed only in the most extreme circumstances when all lesser means of force have failed or could not be reasonably employed.

Officers shall, whenever possible, identify themselves as police officers and issue a verbal warning prior to using deadly force, unless such identification and warning would jeopardize their safety or the safety of another person.

## **2061 Use of Firearms**

Officers may discharge a firearm:

- During Department qualifications or firearms training at an approved range;
- For test firing by the Crime Lab;
- To kill a dangerous or seriously injured animal; or
- When justified in using deadly force.

Officers shall not discharge a weapon:

- As a warning shot;
- At a moving vehicle;
- From a moving vehicle.

**\*\* Note: It is understood that the policy in regards to discharging a firearm at or from a moving vehicle may not cover every situation that may arise. \*\***

Officers shall not handle a firearm in a careless or reckless manner.

## **2070 USE OF FORCE REPORTING, INVESTIGATION, AND REVIEW**

The Tucson Police Department recognizes the magnitude of the responsibility that comes with the constitutional authority to use force. This responsibility includes maintaining vigorous and transparent oversight systems to ensure accountability and maintain public trust. In order to ensure transparency and accountability, all members shall adhere to the reporting requirements and responsibilities contained in General Orders.

The requirements for reporting, investigating, and reviewing use of force incidents are separated into types based on the nature of the incident. The listed table for **Use of Force – Classifications and Review Mechanism** shall be followed when reporting and documenting the use of force.

## **2071 Chain of Command (COC) Requirements**

Generally, uses of force will be investigated by the COC. The COC will evaluate and/or respond to all reportable uses of force and will refer cases to the Office of Professional Standards (OPS) as appropriate.

- Officer Responsibilities  
Upon being involved in a reportable use of force, officers shall:
  - o Ensure that a supervisor is verbally notified of the use of force as soon as practical;
  - o Remain on scene until released by a supervisor; and
  - o Complete accurate written reports documenting the use of force by the end of the shift, unless otherwise directed by a supervisor.

- **Witness Officer Responsibilities**

A witness officer is any officer who is on scene at the time that force is used and who did not use reportable force. Witness officers shall:

- o Ensure that a supervisor is verbally notified of the use of force as soon as practical;
- o Remain on scene until released by a supervisor; and
- o Complete accurate written reports documenting the use of force by the end of the shift, unless otherwise directed by a supervisor.

- **Supervisor Responsibilities**

Upon being advised of a reportable use of force, a supervisor shall:

- o When required by GO 2080, respond to the scene of the incident;
- o Identify involved parties and witnesses;
- o Identify and preserve evidence;
- o Appropriately classify the type of force incident, making investigative and command notifications as outlined in GO 2080;
- o Ensure that involved and witness officer reports are thorough and accurate; and
- o Document investigative actions taken.

Commander notification is mandatory in the following situations:

- o Use of force resulting in significant injury, e.g., broken bones, sutures, loss of consciousness;
- o Hard control against a restrained person;
- o Police Service Dog bites;
- o Use of deadly force, regardless of the level of injury sustained by the involved officers or subjects; or
- o Use of force with evidence of unreasonable or disproportionate force, or other serious policy violations, to include constitutional violations.

- **Commander Responsibilities**

Commander response to the scene is generally at the discretion of the commander.

At a minimum, a reviewing commander shall:

- o Ensure the type of force incident is appropriately classified;
- o Ensure the on scene investigation and documentation completed by the sergeant is thorough and complete; and
- o Document their review and analysis of the use of force.

Any commander who directs or authorizes the use of force during a crowd management setting shall complete a use of force report, unless otherwise directed. The use of force type classification shall be based upon the highest level of force used during the incident.

The review of the use of force report(s) shall be conducted by the Critical Incident Review Board (CIRB) or the Force Review Board (FRB), as directed by the Chief of Police or designee.

### ***2072 Office of Professional Standards Requirements***

The Office of Professional Standards (OPS) commander shall be notified under the following circumstances:

- Use of force against a person that results in his/her transportation to a hospital for treatment/evaluation.
- Use of force resulting in significant injury.
- Any allegation of excessive use of force.
- The discovery of information that conflicts with the officer's account of the incident (e.g. witness statements, video evidence, etc.).
- Use of force prohibited by policy (e.g. carotid choke hold, strikes to the head with blunt objects, etc).
- Any indication(s) the level of force used was out of policy.
- Hard control against a restrained person.
- K-9 bites of an unintended subject.
- K-9 bites resulting in significant injury.
- K-9 bites to the head, neck or groin.

Cases involving deadly force, or other use of force incidents as directed by the Chief of Police or designee, will be reviewed by the CIRB.

**2080 USE OF FORCE – CLASSIFICATIONS AND REVIEW MECHANISMS**

Force Type	Threshold	Examples	Components of Notification, Investigation, and Review
<b>TYPE 0</b> includes soft empty hand contact	Physical interaction meant to separate, guide, and/or control that does not cause injury greater than temporary pain or redness, un-resisted or minimally – resisted handcuffing, application of tools designed to control movement or prevent attack	Arm bars and wrist locks Non-strike pressure points Push, not including impact strike Temporary redness or abrasions on wrists from appropriately-applied handcuffs <b>TARP and/or Spit Sock application<sup>1</sup></b>	<p><b><u>No BlueTeam Report required</u></b></p> Documentation required in Incident Report and/or Supplementary Reports Supervisory review of reports for thoroughness
<b>TYPE 1<sup>2</sup></b> Show of Force	Threatened use of force through the aiming of a lethal or less-lethal projectile weapon at a person, without firing, or any arcing of an CEW to gain compliance of a subject	Aiming a weapons system at a person, including: Any firearm, Flex Baton, PepperBall system, CEWs, 37mm and 40mm munitions	<p><b><u>BlueTeam Type I Report required</u></b></p> Supervisor shall be notified at time of incident but response to the scene is discretionary Documentation required in Incident Report and/or Supplementary Report(s)

<sup>1</sup> For Total Appendage Restraint Procedure (TARP) and Spit Sock applications, notification to supervisor at the time of the incident is required (response to the scene is discretionary).

<sup>2</sup> Type I involving SWAT operations will be handled by the SWAT sergeant in single report.

Force Type	Threshold	Examples	Components of Notification, Investigation, and Review
<b>TYPE II</b>	Use of force at a level of "hard" empty hand tactics, the use of Intermediate Weapons, or any use of force, to include Type 0, resulting in injury or claim	<p>Arm bars with claim of injury</p> <p>Force resulting in abrasions</p> <p>Strikes or kicks</p> <p>Impact strikes</p> <p>Hard takedowns</p> <p>Use of:</p> <p>Flex Baton, PepperBall, OC spray, baton, CEW, et cetera</p>	<p><b><u>BlueTeam Type II Reports required</u></b></p> <p>Supervisor shall investigate incident at the scene, including:</p> <ul style="list-style-type: none"> <li>• Interview with officer(s) using force;</li> <li>• Interview with witness officer(s);</li> <li>• Interview with subject(s);</li> <li>• Canvas for civilian witnesses and conduct interviews;</li> <li>• Canvas/collection/review of BWC, MVR, 3<sup>rd</sup> party video; and</li> <li>• Photos of officer and subject, whether or not injured.</li> </ul> <p>Officer(s) complete use of force (following template) in BlueTeam</p> <p>Subject to random selection by the Force Analysis Unit for review by the Division Commander or Force Review SDU officer shall notify on-duty sergeant Investigating sergeant shall respond to the scene to initiate the investigation following the Type II protocol</p> <p>Commander notification COC reviews completed Use of Force report Reviewed by Force Review Board</p>
<b>TYPE II- K9</b>	Use of force by Police Service Dog with no or minor injury	K9 bite of intended subject with no or minor injury	<p><b><u>BlueTeam Type III Reports required</u></b></p> <p>Supervisory response and screening at the scene</p> <p>OPS Commander <b>shall</b> be notified</p> <p>OPS consultation with CID for CID response and investigation</p> <p>Reviewed by the COC Reviewed by Force Review Board</p>
<b>TYPE II<sup>3</sup> K9<sup>3</sup></b>	Use of force resulting in significant injury or with indications of unreasonable or disproportional force, or other serious policy violations, to include constitutional violations	<p>Broken bones Closed head injuries Sutures</p> <p>Dislocations</p> <p>Loss of consciousness due to application of force</p> <p>Hard control against a restrained person</p>	<p><b><u>BlueTeam Type III Reports required</u></b></p> <p>Supervisory response and screening at the scene</p> <p>OPS Commander <b>shall</b> be notified</p> <p>OPS consultation with CID for CID response and investigation</p> <p>Reviewed by the COC Reviewed by Force Review Board</p>

<sup>3</sup> Force Review Board reviews all K9 bites.

Force Type	Threshold	Examples	Components of Notification, Investigation and Review
TYPE III- K9 <sup>3</sup>	Use of force by Police Service Dog upon unintended subject or resulting in significant injury	K9 bite of unintended subject K9 bite to head, neck, or groin K9 bite resulting in significant injury	SDU officer shall notify on-duty sergeant Investigating sergeant shall respond to scene to initiate the investigation following the Type III protocol above
TYPE IV	Use of deadly force, regardless of whether officers' actions resulted in injury or death	Officer discharge of firearm <sup>4</sup> Deliberate use of vehicle or other tool in a deadly force encounter Impact weapon strike to the head Use of force resulting in death Vascular neck restraint Choke hold <sup>5</sup>	<b><u>OPS BlueTeam Report required</u></b> Supervisory response and screening at the scene OPS and/or CID response and investigation Reviewed by Critical Incident Review Board (CIRB)

<sup>4</sup> Does not include the dispatching of a vicious dog or other animal, which in the absence of additional factors, will be investigated and reviewed by the member's chain of command as a Type II incident. In all such cases, the Incident Commander shall immediately notify the Chief of Staff or designee, who will determine if an OPS response and/or CIRB review is warranted in lieu of a COC investigation.

<sup>5</sup> Vascular neck restraint and choke holds are prohibited by Department policy.

## **2090 FORCE REVIEW MECHANISMS**

The Tucson Police Department employs a variety of administrative review mechanisms when evaluating use of force incidents. These reviews are intended to promote community trust, enhance transparency, and improve member safety by evaluating all aspects of an incident including policy, equipment, training, supervision, and members' actions, including those actions leading up to the use of force.

### **2091 Chain of Command (COC)**

Force Types I, II, and III will be reviewed by the COC through at least two levels above the rank of the member using force. Force types II-K9 and III-K9 will be reviewed by the COC through the level of Division Commander. The COC will prepare a written report, evaluating:

- Use of Force (reasonableness, necessity, proportionality, and circumstances leading up to the use of force);
- Tactics and decision making (including de-escalation);
- Supervision;
- Equipment;
- Policy compliance;
- Training; and
- Reporting and investigation.

### **2092 Force Review Board (FRB)**

The chain of command investigation and findings of Force Types II-K9, III, and III-K9 will be reviewed by the FRB. The FRB will review a sample of Type II investigations. The Board will prepare a written report to the Chief of Police or designee, evaluating the following:

- Proper categorization of force type;
- Thoroughness of investigation;
- Completeness of command review;
- Proper identification and handling of deficiencies; and
- Command findings.

The FRB will not make recommendations concerning discipline. In the event that the Board identifies violations of policy not previously addressed by the COC, the Board will refer the matter to the COC or OPS as appropriate for further action.

In the event that the Board identifies meritorious behavior deserving of recognition or individual training opportunities, the Board will refer the matter to the member's COC for action.

For specific details on the FRB and use of force reporting, refer to the Force Review Board Operations Pamphlet.

### ***2093 Critical Incident Review Board (CIRB)***

Force Type IV incidents will be reviewed by the CIRB. The Board will prepare a written report to the Chief of Police or designee, evaluating the following:

- Adequacy of policy;
- Potential violation of policy, General Orders or law;
- Use of Force (reasonableness, necessity, proportionality, and circumstances leading up to the event/use of force);
- Tactics and decision-making;
- Member actions and conduct;
- Communication;
- Supervision;
- Training issues and needs;
- Equipment deficiencies or needs, and
- Other issues that played a role in the incident.

For details on the CIRB, refer to the Critical Incident Review Board Operations Pamphlet.

## RELATED VIDEO LINK

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To review video associated with the incident, click [here](#).