



TUCSON POLICE DEPARTMENT

Force Review Board

Incident Information	
Case Number: 1903170080	Use of Force #: 19-0161
Date of Incident: March 17, 2019	OPS Findings and Recommendation: Within Policy
Involved Officers: Officer Silva #100960	COC Findings and Recommendation: Concur/Closed
Incident Location: E. 1st/N. Rosemont	County Attorney Findings: Justified

Level of Force	
Type IV (Officer Involved Shooting):	Use of deadly force regardless of whether officer's actions resulted in injury or death

Investigative Information	
Investigating Supervisor: Sgt. C. Mechtel #41935	
Unit [Team/Squad]: Office of Professional Standards	
Date Use of Force Investigation Complete: July 28, 2019	
Date Use of Force Investigation Follow-up [if any] Complete: None	

Board Information	
Date of Board: November 4, 2019	Board Chair: Lt. Corey Doggett #44794 – Advanced Training
Scribe: Lt. Danny Denogean	
Member: Sgt. Lorence Jove	Member: Independent Police Auditor, Mitch Kagen
Member: Sgt. Paul Sheldon	Member: Community participant, Paul Lefkowitz
Member: Officer Ray Smith	Member: Community participant, Mark Lennox
Member: Officer Mike Krammes	Member: Community Advisory Council, Pam Treadwell-Rubin
Member: Det. Jason Southard	Legal Advisor: Antonio Zapata
Date of Submission: February 24, 2020	

Topics for Review		
Tactics/Decision Making	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Equipment	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Supervision	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree
Reporting, Investigation, and Review	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Disagree
OPS Findings	<input checked="" type="checkbox"/> Agree	<input type="checkbox"/> Agree / Out of Policy <input type="checkbox"/> Disagree

ANALYSIS METHODOLOGY

The Tucson Police Department (TPD) Force Review Board (Board) reviewed this incident with a focus on department policy, tactics/decision making, supervision, equipment, reporting, internal investigation, and training. Determining administrative violations and assigning discipline resulting from the incident are the



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purview of the Office of Professional Standards (OPS) and the involved officers' chain(s) of command. Those recommendations occur independently and prior to this review.

The Board evaluated all documents, video, interviews, and associated materials generated during both the criminal and administrative investigations, in addition to department General Orders 2000 (Use of Force), 2510 (Officer Involved Shooting Protocols), and 3700 (Specialized Equipment). **The Board determined that the assembled materials were complete and sufficient for a thorough review of the incident and that no additional evidence collection or interviews were necessary.**

The Office of Professional Standards made the following materials available on October 10th, 2019:

1. OPS Investigative Summary
2. Event #190760134
3. Case Report and Supplements
4. Search Warrant Documents
5. BWC video of involved officers
6. Third Party Video (Bambi Bar)
7. Canvass efforts
8. Officer Alvaro Silva Interview
9. Civilian Interviews
10. Evidence
11. Nice Radio Transmissions
12. Crime Scene Photographs
13. Guard Duty logs, notes, and supplements
14. Miscellaneous records
15. TPD Media Release
16. TPD resume
17. TPD bulletins
18. Blue Team Use of Force
19. Firearms qualifications
20. OPS history
21. PCAO declination letter
22. Personnel Report

The above listed materials were collated and made available to all Board members on October 10, 2019. They were reviewed for content and to determine if any pertinent issues were overlooked or remained unaddressed by OPS. The Board convened on November 4, 2019 and submitted its finding on February 24, 2020.



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Event Summary

In the early morning hours of March 17, 2019, Officer Silva was driving a marked police Chevy Tahoe eastbound on Speedway when he was passed by a Kia Soul driven by Antajuan Carson. [REDACTED] Mr. Carson's girlfriend and the owner of the car, was the front seat passenger and her sister, [REDACTED] was in the back seat. Officer Silva paced the car at approximately 55 miles per hour in a 35 miles per hour zone. Mr. Carson did not slow down even when the officer pulled directly behind him. Officer Silva used his overhead red and blue lights to make a traffic stop for the speeding violation, at approximately 2:20 a.m. Mr. Carson turned south onto Rosemont, then west on 1st street before coming to a stop. Once stopped, Mr. Carson opened his driver's door immediately. Officer Silva stopped approximately 8-10 feet behind him and turned on his front-facing takedown LED lights. Suspecting the driver might attempt to run, Officer Silva exited his patrol vehicle.

Almost immediately, Mr. Carson exited his vehicle, ran towards Officer Silva's position and began firing a .40 caliber Smith and Wesson handgun in his direction. Seeing Mr. Carson rushing toward him with a gun in his hand and believing that his life was in danger, Officer Silva drew his duty weapon and began to move backward, returning fire towards Mr. Carson who had moved around to the driver's side of the police vehicle, firing several additional times towards the driver's area. At one point, Mr. Carson attempted to further open the (already open) driver's side door. It is probable that Mr. Carson could not see Officer Silva due to the brightness of the takedown lights, and was searching for him inside the police vehicle. During the exchange, Officer Silva fell to the ground just behind the rear of his police vehicle but continued to return fire. After being struck multiple times, Mr. Carson fell to the ground near the driver's door. Officer Silva was not hit by gunfire during the incident.

Based on the evidence collected at the scene and examination of Officer Silva's vehicle, fourteen spent cartridge casings were attributable to Officer Silva's weapon, and thirteen cartridge casings were attributable to Mr. Carson's. Officer Silva's patrol Tahoe was struck a total of ten times from Mr. Carson's direction. One round went through the front windshield on the driver's side, and another struck the front driver's side bumper in front of the wheel. The impact pattern continued along the driver's side, with other rounds going through the open driver's side door or frame, into the front passenger compartment, or both. The closed rear driver's side door was also struck.

After the shooting stopped, Officer Silva approached Mr. Carson, kicked his weapon away from his reach, and detained him at gunpoint. Meanwhile, [REDACTED] moved over to the empty driver's side seat of the Kia and fled westbound, with her sister in the back seat. Officers Sinclair and Frank arrived within approximately two minutes, placed Mr. Carson in handcuffs, and began rendering medical aid to him. The scene was secured, and Mr. Carson was transported to the hospital by paramedics. Due to the nature of his injuries, it proved difficult for hospital personnel to distinguish between entry and exit wounds, but it was estimated that Mr. Carson had between seven and eight gunshot wounds total.

[REDACTED] was later located and interviewed. She claimed that she had been out that night with Mr. Carson and others at a variety of locations. She reported that she noticed the police officer prior to the traffic stop and told Mr. Carson to slow down. However, she claimed that she fell asleep after the traffic stop began, and only woke up again upon hearing the gunshots. She admitted driving the car away from the scene. [REDACTED] gave a similar account, and also claimed that she was asleep in the car prior to hearing the gunshots. There were residents in the neighborhood who heard the gunshots, but no additional eyewitnesses were located. Mr. Carson survived the wounds he sustained in this incident.



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Board Findings

Based upon all provided materials and subsequent review, the Force Review Board concurs that the actions of Officer Silva were within department policy. The Board also agrees with the findings of OPS and recommends that this matter be closed.



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TACTICS / DECISION MAKING

1. Did the officer(s) employ tactics consistent with policy?

YES - Based on the documentation provided, the tactics employed appear to be consistent with policy and training.

NO - Based on the documentation provided, the tactics employed do **NOT** appear to be consistent with policy training.

If NO, please explain:

2. Did the officer(s) employ tactics consistent with training?

YES - Based on the documentation provided, the tactics employed appear to be consistent with policy and training.

NO - Based on the documentation provided, the tactics employed do **NOT** appear to be consistent with policy training.

If NO, please explain:

3. Did the involved officer(s) make reasonable efforts to de-escalate prior to using force?

YES **NO** **NOT FEASIBLE**

If NO, please explain:

4. Could additional de-escalation tactics have been used in the circumstances?

YES **NO**

If YES, please explain:

5. Did the officer's(s) action(s) contribute to the need to use force? **YES** **NO**

If YES, please explain:

Check all that apply for each officer:

- None**
- Refer officer to Chain of Command**
- Refer officer to Training**
- Refer officer/case to OPS**
- Refer officer to other:**

Comments, Explanations, and/or Recommendations:

The Board discussed training and tactics/decision making and observed that Officer Silva had reverted to his training during this incident. When first observing the speeding vehicle on Speedway, Officer Silva relayed over the radio the license plate number and then the location of the stop. In his interview, Officer Silva noted that while in the process of making this traffic stop it did not appear to be a normal one. He indicated that although the vehicle appeared to have slowed down while it made the southbound turn on to Rosemont, it was faster compared to other traffic stops and it appeared to him that the driver of the vehicle was contemplating fleeing. This thought process gave the Board the impression that Officer Silva was preparing himself mentally for some type of overt act by the driver of this vehicle.

Once the stop took place, Officer Silva implemented the tactics he had chosen through his decision-making process by turning on his takedown lights. Doing this gave him a tactical advantage and may have saved his life. Officer Silva observed that Mr. Carson immediately exited his vehicle and began moving at a very fast pace toward him with a gun. Officer Silva again made a wise decision and immediately exited his vehicle and moved toward the rear of his vehicle to provide himself with cover and concealment. Officer Silva returned



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gunfire, striking Mr. Carson several times. Once the threat was stopped, Officer Silva stopped firing his handgun. Officers Sinclair and Frank arrived on scene within two minutes, placed Mr. Carson in handcuffs, and began rendering medical aid to him. The Board found that Officer Silva acted appropriately and did exactly as he was trained to do. Furthermore, the Board found that Officers Sinclair and Frank did exactly what they were trained to do, providing medical aid to Mr. Carson, and that they acted with a great deal of professionalism.

In reviewing this incident, the Board felt that the Body Worn Camera footage from Officer Silva was very telling and displayed tactics he used that most likely saved his life. The Board felt that the Body Worn Camera footage should be released to the Academy as soon as possible to be used for training purposes.



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SUPERVISION	
<p>9. Was a supervisor present at the time force was used(s)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</p> <p>10. If so, did the on-scene supervisor(s) provide appropriate tactical guidance and support to the field during the incident? <input type="checkbox"/> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> N/A</p> <p>11. Did the supervisor(s) provide appropriate tactical guidance and support to the field after the incident? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> N/A</p> <p>If NO, please explain:</p>	<p>Check all that apply for each supervisor:</p> <p><input checked="" type="checkbox"/> None</p> <p><input type="checkbox"/> Refer supervisor to Chain of Command</p> <p><input type="checkbox"/> Refer supervisor to Training</p> <p><input type="checkbox"/> Refer supervisor/case to OPS</p> <p><input type="checkbox"/> Refer supervisor to other:</p>

Comments, Explanations and /or Recommendations:

In this incident, Sergeant Sullivan was monitoring the radio and quickly obtained information that there was a suspect on scene, a vehicle had fled the scene, officers were not in pursuit, and that Officer Silva did not appear to be injured. Sergeant Sullivan made a number of broadcasts over the radio directing resources to the scene, bullseye (defined as having patrol vehicles pull over at nearby intersections and wait to see if the suspect vehicle drives into the area), or to circulate. Upon arrival at the scene, he relayed over the radio that he had Incident Command. Sergeant Sullivan verified that Officer Silva was uninjured and then verified that the suspect was detained and receiving medical attention. He directed an officer to respond to the hospital with the suspect and keep him updated on the suspect's status. Sergeant Sullivan ensured the inner and outer perimeter were secured and that a canvass was conducted for possible witnesses. Last of all, Sergeant Sullivan conducted a briefing for the responding detective units. The Board found that Sergeant Sullivan did an excellent job of supervising this incident and ensuring a complete and thorough investigation was completed. The Board had no issues with the supervision of this incident.



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EQUIPMENT

6. Was the equipment used within policy / training guidelines? YES NO N/A

If NO, please explain:

7. What less-lethal tools were available to officer(s), and if so, were they feasible in this situation?

On officer(s) person: Conducted Electrical Weapon (CEW): Taser X2 – This Taser is effective at a distance of 9-15 feet. It would not have been viable to use this tool in this incident due to the fact that the suspect was in possession of a handgun. It is reserved for use against someone being actively aggressive while either unarmed, armed with a blunt object, or armed with an edged weapon.

In vehicles / not deployed: None

In the field not at the scene: Not Applicable.

8. What additional equipment could have been used during the incident? (e.g., shield, LRAD):

Not Applicable

The Board finds no equipment issues or deficiencies contributed negatively to the outcome of this incident. In this incident, there were several bullet strikes to the driver's side door and if Officer Silva had been inside the vehicle he could have been seriously injured or killed. The Board makes the recommendation of looking into the feasibility of installing Kevlar panels inside the doors of police vehicles.



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REPORTING, INVESTIGATION, AND REVIEW

12. Was the review thorough, complete, and supported by the evidence presented?

The Board concluded that the reporting, investigation and review were complete and thorough. No additional follow-up was needed. For those reasons, we saw no need to conduct additional interviews.

If No, please comment:

Yes - The review board finds that the investigation is thorough and complete.

No - The review board finds that the investigation is NOT thorough and complete.

Provide feedback to investigator
Describe:

Comments, Explanations, and/or Recommendations:

None

FINDINGS

13. Is the Use of Force investigation properly categorized by type?

YES Type IV was appropriate. Defined as "use of deadly force regardless of whether officer's actions resulted in injury or death." – See cover sheet.

NO

14. Was the officer's(s') use of force necessary, reasonable, and proportional?

YES Based on the documentation provided, the force used was consistent with department Use of Force policy

NO Based on the documentation provided, the force used was **NOT** consistent with TPD Use of Force policy.

Agree / Out of Policy Based on the documentation provided, the force used was **NOT** consistent with department Use of Force policy. However, the force was objectively necessary, reasonable, and proportional based on the circumstances.

Comments, Explanations, and/or Recommendations:

The Board found that the reporting, review, and investigation were complete and thorough. In this incident, Mr. Carson immediately began firing his gun at Officer Silva. This left Officer Silva with no other option but to use deadly force and discharge his weapon at Mr. Carson. Officer Silva's use of force was necessary, reasonable, and proportional to the threat.



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BOARD RECOMMENDATIONS

15. Are there any issues or lessons learned from this incident that should be communicated?

YES See additional comments below

NO

REFER TO:

Involved Officer(s) / COC

Legal

Training

Other: Executive Leadership Team

Training

In reviewing this incident, the Board felt that the Body Worn Camera footage from Officer Silva was very telling and displayed tactics he used that most likely saved his life. The Board felt that the Body Worn Camera footage should be released to the Academy as soon as possible to be used for training purposes.

Equipment

In this incident, there were several bullet strikes to the driver's side door and if Officer Silva had been inside the vehicle, he could have been seriously injured or killed. The Board makes the recommendation of looking into the feasibility of installing Kevlar panels inside the doors of police vehicles.



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INCIDENT CHRONOLOGY

3A04: Officer Silva #100960

3A07: Officer Sinclair #100393

S2: Officer Frank #50737

3U10: Sergeant Sullivan #34971

02:20:10 – 3A04 traffic at N. Rosemount BL/E. 1st BTJ3649

02:20:30 – 3A04 shots fired

02:20:41 – S2 on way to scene

02:20:51 – 3A04 suspect vehicle taking off westbound

02:21:02 – 3A04 suspect down

02:21:39 – 3U10 advised on way to scene and have air unit respond back

02:22:30 – 3A07 dispatched

02:22:31 – 3A07 on-scene

02:22:43 – S2 on-scene both 3A07 and S2 give medical attention to suspect

02:23:36 – 3A04 scene secure for meds

02:24:54 – 3A07 all officers are code four have meds move in. S2 and 3A07 providing medical assistance to suspect

02:27:03 – 3U10 arrives on scene

02:27:09 – 3U10 takes Incident Command



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1st Street and Rosemont





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1st Street and Rosemont





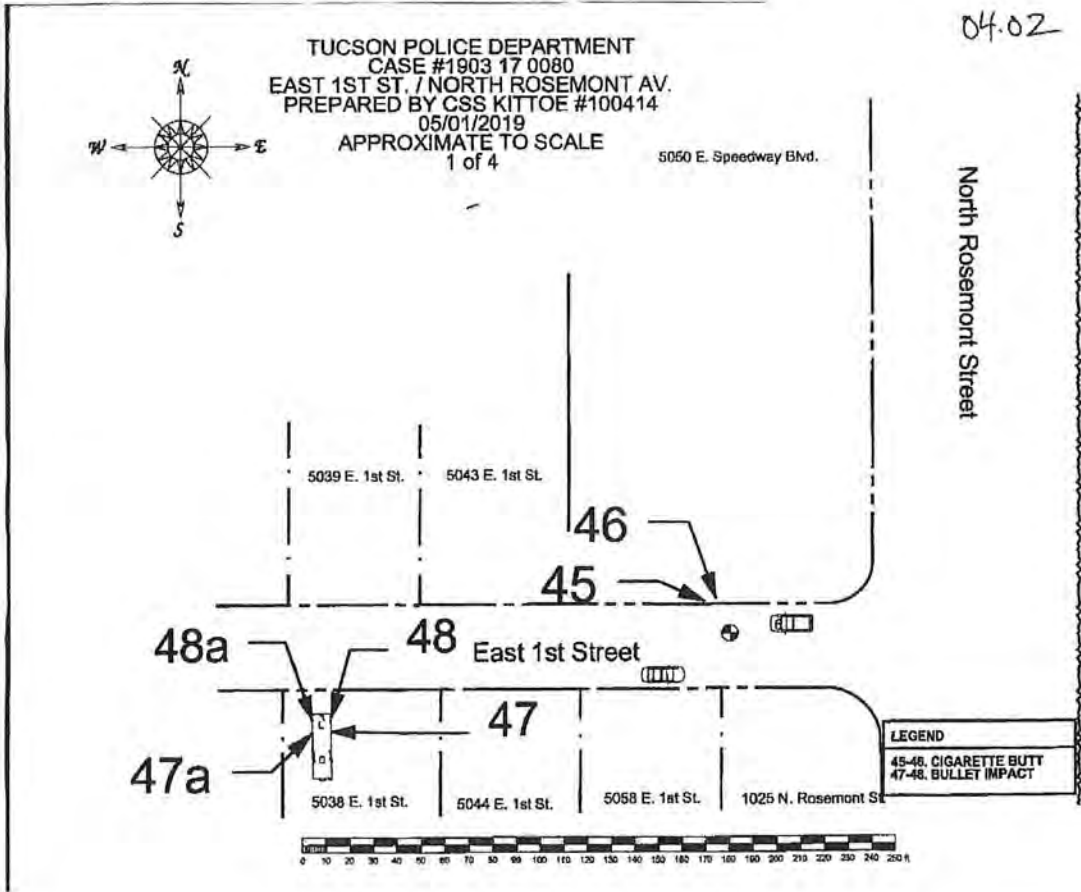
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Smith & Wesson SD40 VE Handgun – Mr. Carson's Weapon





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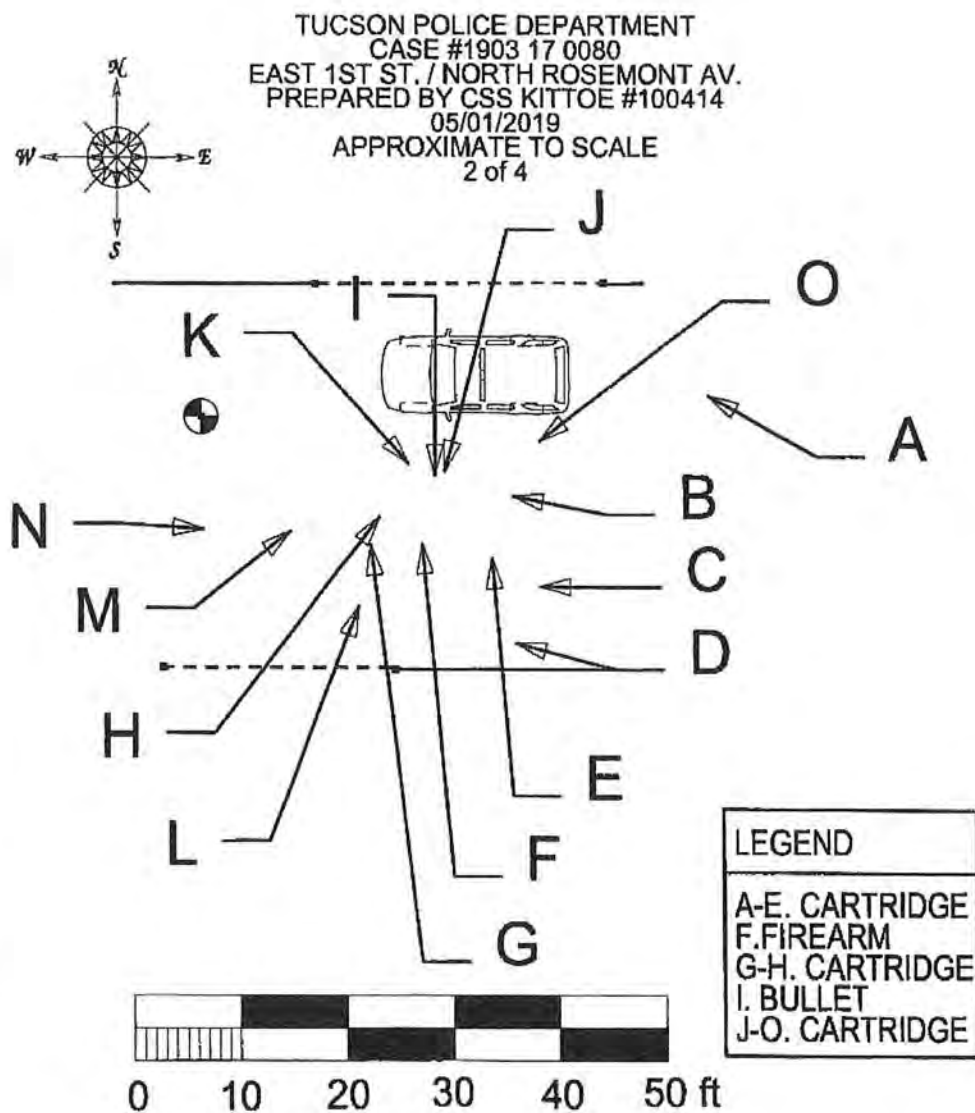


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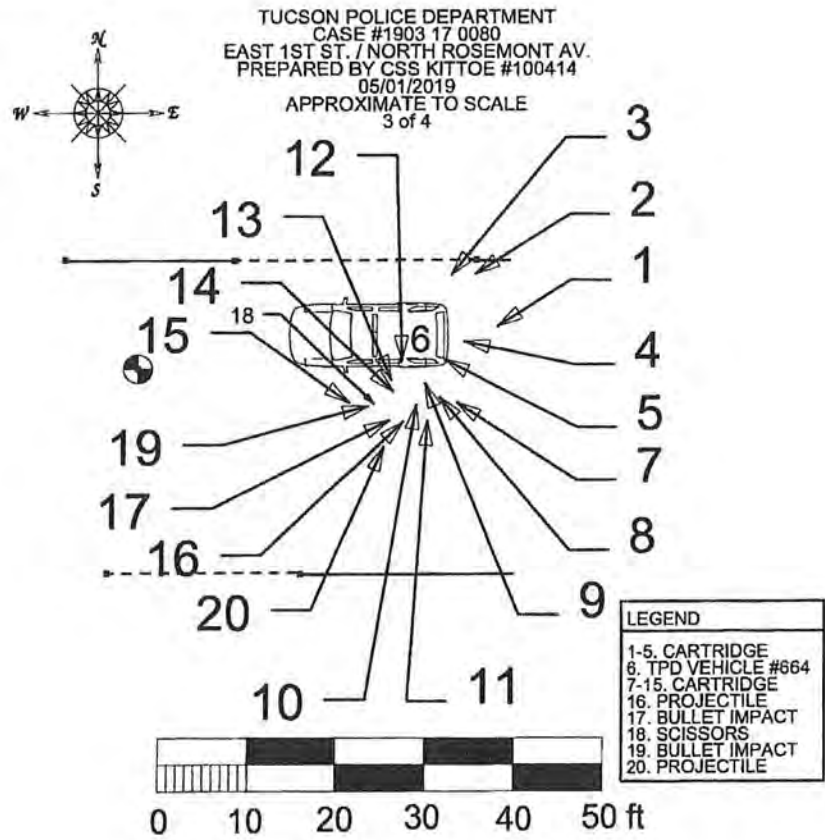
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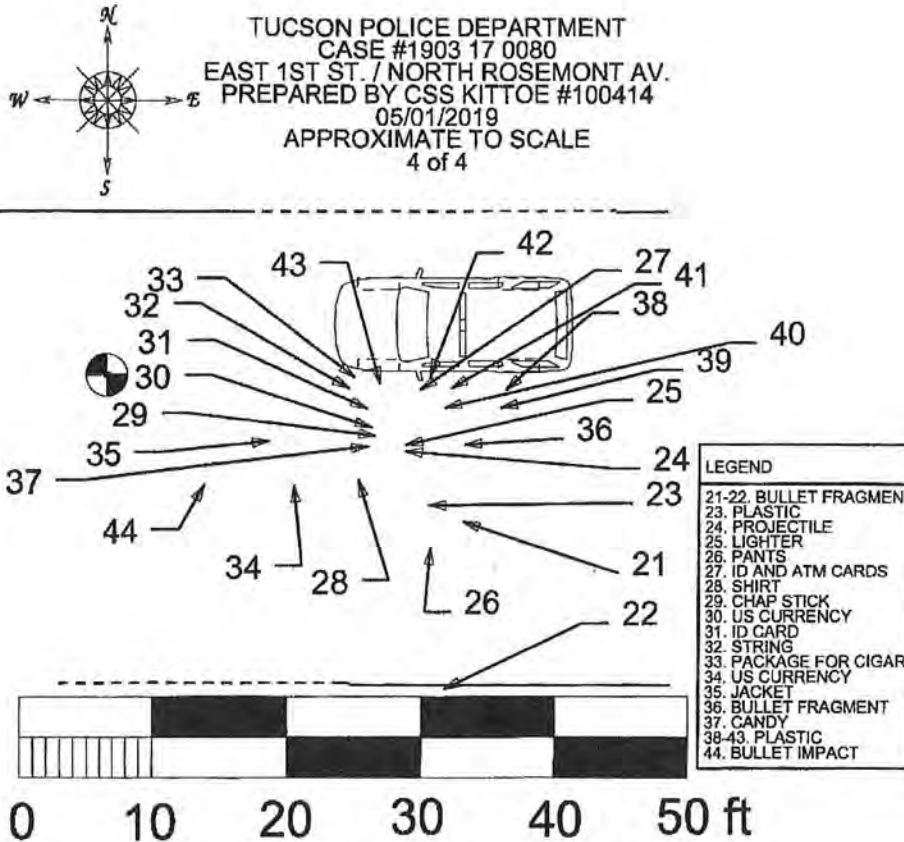
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Prepared by: [Name] Date: [Date] Report Number: [Number]



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TUCSON POLICE DEPARTMENT

Force Review Board



Pima County Attorney's Office

32 North Stone Avenue
Suite 800

Tucson, Arizona 85701-1412

Phone (520) 724-5600

Fax (520) 724-5585

www.pcao.pima.gov

Barbara LaWall

Pima County Attorney

July 1, 2019

Chief Chris Magnus
Tucson Police Department
270 South Stone Avenue
Tucson, Arizona 85701

Re: Officer-Involved Shooting Investigation/TPD Case Number 1903170080

Dear Chief Magnus,

I have reviewed the above-referenced officer-involved shooting investigation in which Officer Al Silva (#100960) shot Antajuan Carson on March 17, 2019 near the intersection of Rosemont and 1st Street. I have been asked to review whether criminal charges should be filed against Officer Silva in relation to this incident.

On the morning of the incident, I went to the scene and met with Sergeant Marco Borboa who provided an initial briefing regarding the incident and allowed me to view the area. Although several hours had passed since the shooting, Officer Silva's vehicle was still in place and various evidence was being documented by the Crime Scene Unit. Later, on March 28, I met with Detective Josh Cheek and received an updated briefing, along with written and multimedia materials regarding this case. Transcripts and additional media were provided subsequently. I have reviewed the materials provided, including police reports, transcripts, interviews, evidence forms, event chronology, scene photographs, and video from Officer Silva's body worn camera as well as video from a neighboring business.

Based on my review of the materials supplied to me by Detective Cheek as well as my scene viewing and the briefings described above, the following is my understanding of the relevant events.



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In the early morning hours of March 17, 2019, Officer Silva was driving a marked police Chevy Tahoe eastbound on Speedway when he was passed by a Kia Soul driven by Antajuan Carson. [REDACTED] Mr. Carson's girlfriend and the owner of the car, was the front seat passenger and her sister [REDACTED] was in the back seat. Officer Silva paced the car at approximately 55 miles per hour in a 35 miles per hour zone. Mr. Carson did not slow down even when the officer pulled directly behind him. Officer Silva used his overhead red and blue lights to make a traffic stop for the speeding violation, at approximately 2:20 a.m. Mr. Carson turned south onto Rosemont, then west on 1st Street before coming to a stop. Once stopped, Mr. Carson opened his driver's door immediately. Officer Silva stopped approximately 8-10 feet behind him and turned on his front-facing takedown lights. Suspecting the driver might attempt to run, Officer Silva got out of his patrol vehicle.

Based on the body camera footage, only approximately ten seconds elapsed between when Officer Silva got out of his Tahoe and when the subsequent gunfire ceased; however, the shooting event can be described as follows:

Almost immediately, Mr. Carson got out of his car, ran towards Officer Silva's position and began firing a .40 caliber Smith & Wesson handgun in his direction. Seeing Mr. Carson rushing towards him with a gun in his hand¹ and believing that his life was in danger, Officer Silva drew his duty weapon and began to move backwards, returning fire towards Mr. Carson. Mr. Carson moved around to the driver's side of the police vehicle, firing several additional times towards the driver's area. At one point he attempted to further open the (already open) driver's side door. It is probable that Mr. Carson could not see Officer Silva due to the brightness of the takedown lights, and was searching for him inside the police vehicle. During the exchange, Officer Silva fell to the ground just behind the rear of his police vehicle but continued to return fire. After being struck several times, Mr. Carson went to the ground near the driver's door. Officer Silva was not hit by gunfire during the incident.

Based on the evidence collected at the scene and examination of Officer Silva's vehicle, fourteen spent cartridge casings were attributable to Officer Silva's weapon, and thirteen cartridge casings were attributable to Mr. Carson's. Officer Silva's patrol Tahoe was struck a total of ten times from Mr. Carson's direction. One round went through the front windshield on the driver's side, and another struck the front driver's side bumper in front of the wheel. The impact pattern continued along the driver's side, with other rounds going through the open driver's door or door frame, into the front passenger compartment, or both. The closed rear driver's side door was also struck.

¹ When interviewed the following day, Officer Silva could not remember if Mr. Carson was pointing or shooting the gun as he ran towards him. Video from a nearby business confirms Mr. Carson rushing towards Officer Silva's vehicle from the Kia, but the video quality is insufficient to see if he was firing his weapon at the time. However, as discussed herein, the physical evidence strongly indicates that Mr. Carson began firing his weapon as he ran towards Officer Silva's vehicle.



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After the shooting stopped, Officer Silva approached Mr. Carson, kicked his weapon away from his reach, and detained him at gunpoint. Meanwhile, [REDACTED] moved over to the empty driver's seat of the Kia and fled westbound, with her sister in the back seat. Officers Sinclair and Frank arrived within approximately two minutes, placed Mr. Carson in handcuffs and began rendering medical aid to him. The scene was secured, and Mr. Carson was transported to the hospital by paramedics. Due to the nature of the injuries, it proved difficult for hospital personnel to distinguish between entry and exit wounds, but it was estimated that Mr. Carson had between seven and eight gunshot wounds total.

[REDACTED] was later located and interviewed. She claimed that she had been out that night with Mr. Carson and others at a variety of locations. She reported that she noticed the police officer prior to the traffic stop and told Mr. Carson to slow down. However, she claimed that she fell asleep after the traffic stop began, and only woke up again upon hearing the gunshots. She admitted driving the car away from the scene. Ms. [REDACTED] sister [REDACTED] gave a similar account, and also claimed that she was asleep in the car prior to hearing the gunshots.

Various residents were interviewed during a neighborhood canvas, many of whom heard the gunshots, but no additional eyewitnesses were located. However, of note, one neighbor indicated that the first gunshots sounded as if they were striking glass, suggesting that the round which struck Officer Silva's windshield may have been among the first rounds fired by Mr. Carson.

A.R.S. §§13-404 and 405 allow a person to use deadly physical force to protect themselves when and to the extent a reasonable person, similarly situated, would believe that deadly physical force is immediately necessary to protect themselves from another's use of deadly physical force. Additionally, A.R.S. §§13-409 and 410 permit the use of deadly physical force in law enforcement when a law enforcement officer reasonably believes the use of such force is immediately necessary to protect himself or a third person from another's use of deadly physical force.

Here, Officer Silva was justified in his use of deadly physical force against Mr. Carson. Officer Silva had lawfully stopped Mr. Carson for a traffic violation when Mr. Carson exited his car and ran towards Officer Silva's patrol vehicle firing a handgun in his direction. If Officer Silva had not already exited his vehicle when Mr. Carson began firing, some of the rounds which struck the patrol vehicle could have hit Officer Silva as well. Officer Silva's actions were immediately necessary to protect himself against Mr. Carson's unprovoked attack with a firearm. Mr. Carson's actions placed Officer Silva in fear for his own life, and the officer's actions in returning fire were justified under the law as applied to these circumstances. For these reasons, the Pima County Attorney's Office declines to file any criminal charges against Officer Silva arising from this incident.



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If additional materials are obtained at a later date, I would appreciate the opportunity to review such materials to consider whether they add to my understanding of this incident. If you have any questions or need anything else in connection with this matter, please contact me at 724-8497.

Sincerely,

A handwritten signature in black ink, appearing to read "John Edgett".

John Edgett
Deputy County Attorney

cc: Barbara LaWall, Pima County Attorney
Detective Josh Cheek, Tucson Police Department



TUCSON POLICE DEPARTMENT Force Review Board

TUCSON POLICE DEPARTMENT PERSONNEL REPORT

TO: CHIEF OF POLICE	NAME OF PERSON ABOUT	
VIA: Bureau Commander	WHOM REPORT IS WRITTEN	
VIA: Lt. Pegnato #41541	Ofc. Alvaro Silva	PR#: 100960
	Div/Sq: ODM/10	Hours: 2100-0700 D.O.: TWR

EXECUTIVE REVIEW

DIVISION COMMANDER	CHIEF OF POLICE	BUREAU COMMANDER
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Reference: OPS OIS Investigation 19-0161

Details:

Synopsis

In the early morning hours of March 17, 2019, Officer Alvaro Silva #100960 stopped a Kia Soul for speeding in the area of Speedway/Rosemont. After he initiated the stop, the vehicle turned southbound on Rosemont from Speedway, and westbound on 1st St., before coming to a stop. When the Kia stopped, Officer Silva exited his patrol vehicle. The driver of the Kia got out, drew a handgun, and began firing at Officer Silva. Officer Silva returned fire, striking the driver. There were other occupants inside the Kia, one of which got into the driver's seat and drove away from the scene. The driver was transported to the hospital with life-threatening injuries. Officer Silva was not struck.

Fourteen (14) spent nickel-plated cartridge casings (Federal 40 S&W) and thirteen (13) brass-plated spent cartridge casings (Federal 40 S&W) were recovered at the scene. A round count determined Officer Silva was deficient fourteen (14) rounds. Officer Silva's vehicle (a marked Chevrolet Tahoe, vehicle #664) sustained ten (10) bullet strikes. A fifth wheel travel trailer parked in a drive way (5038 E. 1st St.) across the street from the shooting sustained two (2) bullet strikes.

In the roadway next to the patrol vehicle, the following was located: three (3) bullet impacts into the asphalt, bloody clothing, a Smith & Wesson SD 40 pistol, spent projectiles, bullet fragments, cash, pieces of plastic and identification belonging to Antjuan Carson.

Methodology

This administrative review included all aspects of the criminal investigation, which are included in the case file. The Office of Professional Standards' administrative investigation also includes the following components:

- Event chronology
- 1903170080 case report
- Body worn camera footage from involved officers
- Analysis of surveillance footage from Bambi Bar
- Criminal interview of sworn victim
- Crime scene photographs
- Radio transmissions
- 911 calls
- Declination letter

INSTRUCTIONS:
 Maker shall sign and date report immediately after last sentence and then draw a line across page below maker's signature. Subsequent endorsements will be made in inverse rank order with each endorser drawing a line across page immediately below the endorser's signature. Back side of page will be used if more space is needed.

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THIS REPORT IS CONFIDENTIAL – FOR OFFICIAL USE ONLY

TPD 642 (1-87)



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Force Review Board

NARRATIVE (Continued)

Suspect

Antajuan Stewart Carson:

Initially, Mr. Carson was in life-threatening condition and unable to speak. As his condition improved, he invoked his right to remain silent and retained an attorney. On April 20, 2019, Mr. Carson expressed remorse to Detective Doug Wilfert during the time Detective Wilfert was guarding him at the hospital. He told Detective Wilfert he was "sorry", he was glad the officer involved was ok, and he was glad he was the one who was injured, and not the officer.

Witnesses

There were no other officers present when Officer Silva encountered Mr. Carson. Officers canvassed the neighborhood for witnesses but only identified people who had heard the shots fired. There were two females who were in the vehicle with Mr. Carson, but they fled the scene in the vehicle after the shooting. The vehicle was located unoccupied in an apartment complex parking lot at 79 [REDACTED] E. Stella. Later that day, detectives located the females, who are twin sisters. The Kia Soul Mr. Carson was driving is registered to one of the females, [REDACTED]

[REDACTED] has been Antajuan's girlfriend for nine (9) years. She, [REDACTED] and Antajuan had been out partying all night. They left TD's East at about 2:00 a.m., and Antajuan was driving her car. She was in the front passenger seat and [REDACTED] was in the back seat. As they were driving on Speedway, Antajuan was arguing with her. Antajuan made a U-turn and the wheels spun out, slightly. He sped past a patrol car on Speedway, and [REDACTED] told him to slow down and pointed out the officer. The officer pulled behind them and initiated a traffic stop. At that point, she fell asleep. She awoke to gunshots. She jumped over to the driver's seat and sped off. She admits she should have called 911. She drove to some apartments close to her house and backed into a parking space. They got a ride from [REDACTED]. She left the car there because she didn't want the police to take it. She didn't know why Antajuan had a gun. She said he's on parole and is not supposed to have a gun.

[REDACTED] and Antajuan had been out partying. At about 1:30 a.m., they were in the parking lot of TD's East and she was drunk, so she got into the back seat of the Kia and fell asleep. She woke up when she heard gunshots. The vehicle was stopped and Antajuan was not in it. [REDACTED] jumped over from the front passenger seat into the driver's seat, closed the driver's door, and drove off. She asked [REDACTED] what was going on, and [REDACTED] said she did not know. They drove to the parking lot of an apartment complex, went to [REDACTED] apartment and hung out. They did not tell anyone what happened. They fell asleep on the couch, then left and drove around for a while. They drove to apartments near Pantano/Stella and slept in the car. They woke up around 8:00 a.m. and called their sister, [REDACTED] and asked to be picked up. Their mother previously told them the police were looking for them, so they left the vehicle in the parking lot and went with [REDACTED] who eventually took them home. They only told their mother a small portion of what had happened.

Focus Officer

Officer Alvaro Silva (Criminal Interview):

Officer Silva submitted to a criminal interview on March 18, 2019, with his attorney present. He stated the following:

He was driving eastbound on Speedway, approaching Rosemont, en route to a call. He was traveling in the number one lane, and a vehicle sped by him in the middle lane, and then changed to the third lane. The speed limit was 35 mph, and he increased his speed to 55 mph to pace the vehicle. He activated his lights; he does not know if he gave a burst from his air horn. The vehicle was going too fast, as if the driver was debating whether or not to stop for him. The vehicle made a right turn onto Rosemont, and then turned right onto 1st St. He called out the stop, providing the license plate and location. He put his vehicle into park and activated the take-down lights to provide a wall of light. The driver's door of the vehicle flung open, and he (Officer Silva) got out of his vehicle quickly, thinking the driver might try to run. The driver ran towards him and had a gun. He (Officer Silva) began firing at the driver. He does not remember the suspect shooting, but believed his life was in danger.

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TUCSON POLICE DEPARTMENT

Force Review Board

NARRATIVE (Continued)

He felt threatened because Antajuan was running at him with a gun. Officer Silva fired rounds until his primary gun magazine was empty, however he does not remember how many shots he fired. During the incident, Officer Silva fell to the ground. When he stood up, he activated his body-worn camera. The suspect tried to open the door to Officer Silva's patrol vehicle and turned towards the driver's seat looking for him (Officer Silva). The suspect was next to the driver's door of his patrol vehicle, and about five (5) to six (6) feet away from Officer Silva where he was on the ground at the rear of his patrol vehicle. The suspect fired his gun into the patrol vehicle. Officer Silva returned fire striking the suspect. The suspect fell to the ground and the vehicle then fled westbound.

The suspect's gun was on the ground left of the suspect, which Officer Silva moved with his foot to prevent the suspect from accessing it. He then coordinated the response to the scene. Sergeant Sullivan responded and Officer Silva provided him information about the fleeing vehicle. Medical personnel were requested to the scene to treat the suspect.

Officer Alvaro Silva (Administrative Interview):

Since Officer Silva submitted to a criminal interview, only a few clarifying questions were asked for the administrative investigation.

Body-worn Camera:

Officer Silva was asked about training he received specific to body-worn camera. He said he was trained prior to being issued the camera as to its operation, categorizing videos, and the differences between what the human eye sees versus what the camera sees.

He was also asked what training he received regarding body-worn camera activation. He is aware of the activation requirements and indicated he is supposed to activate it when responding to emergencies (including priority one and two calls), after arriving on-scene to a call, any contact with the community for investigative purposes, and for evidence collection purposes. During this incident he stated the events unfolded rapidly and he was not able to activate his BWC prior to the incident. (He did activate it immediately after the incident, and it captured the gun fight.)

Training:

Officer Silva was asked what training he has received regarding lethal encounters. He said he has been trained to "get off the X", or out of the kill zone, and separate from where the suspect may think he is. Additionally, to use time, distance and shielding by maneuvering to a position of cover or concealment behind takedown lights as well as to identify the kind of threat he is facing (i.e. knife versus gun). Officer Silva indicated the training he has received thus far greatly benefited him during his encounter with Mr. Carson. He further indicated training in this area with greater frequency would be beneficial.

Use of Force

Lawful Purpose

Officer Silva was responding to a call for service when he observed a traffic violation on Speedway Blvd. He lawfully initiated a traffic stop based on his observations of the driver's speed (55 mph in a 35 mph zone).

Provocation

Officer Silva was conducting a traffic stop and prior to making contact, the driver started shooting at him. When the suspect vehicle stopped, the driver immediately exited the vehicle and began firing shots at Officer Silva. Based on the investigation, none of Officer Silva's actions provoked the incident, other than his presence. The mere presence of an officer does not constitute provocation.

De-escalation

Officer Silva did not have an opportunity to de-escalate this situation; he only had time to react to actively being shot at. He appropriately reacted by returning fire.

Proportionality

Officer Silva reacted proportionally to the actions of the suspect. The suspect presented a deadly force threat to Officer Silva by firing a handgun at him. He responded with deadly force to protect himself. He immediately ceased firing when the suspect was no longer a threat.



TUCSON POLICE DEPARTMENT Force Review Board

NARRATIVE (Continued)

Use of Force Analysis

Officer Silva was conducting a traffic stop when he was confronted by Mr. Carson, who was armed with a handgun. Without any warning, Mr. Carson immediately exited his vehicle after an abrupt stop, and advanced on Officer Silva while firing a handgun at him. Officer Silva's patrol vehicle sustained ten (10) bullet strikes (not including additional damage caused by each projectile as it traveled through the vehicle), including bullet holes to the windshield, driver's door, roof, and steering column. Officer Silva returned fire as he moved to cover. Officer Silva ceased firing when Mr. Carson fell to the ground and was no longer a threat. The Pima County Attorney's Office reviewed this incident and determined, "Mr. Carson's actions placed Officer Silva in fear for his own life, and the officer's actions in returning fire were justified under the law as applied to these circumstances."

Policy/Procedure Violations

Officer Silva's body-worn camera was not activated until after the lethal encounter; however, Officer Silva activated it immediately afterward, and the entire incident was captured. I find it reasonable that Officer Silva did not have time to activate his body-worn camera, as the driver immediately advanced on him while firing a handgun. Therefore this was not identified as a policy violation.

Incident Command/Supervision

Officer Silva took control of the incident as it unfolded. As soon as he neutralized the threat, he transmitted on the radio that shots had been fired, that he was not hit, and continued giving commands to the suspect. As the vehicle fled, he transmitted critical information, provided a direction of travel for the fleeing vehicle, and requested medical attention for the suspect. Sergeant Sullivan copied the call, advised he was en route and requested the air unit to respond to Officer Silva. Sergeant Sullivan gave direction to responding units, coordinated the response, and took incident command. When other units arrived, they rendered aid to the suspect utilizing their IFAK equipment. Once on-scene, Sergeant Sullivan ensured Officer Silva was not injured, assigned him a cover officer, provided officer-involved shooting cards, assigned an Operations Chief, had the Crime Scene Unit process Officer Silva, made command notifications and gave a briefing to investigative personnel. The scene was well coordinated.

Conclusion

As determined by the Pima County Attorney's Office, the use of deadly force by Officer Silva is **Justified**. Based on the administrative review, I have determined the use of deadly force to be **Within Department Policy**.

Sergeant Cindy Mechtel #42316

07/28/19

I have reviewed Sgt. Mechtel's investigative summary and find that it accurately and thoroughly documents the facts and circumstances of this incident. The Pima County Attorney's Office Deputy County Attorney John Edgett determined Officer Silva was **Justified** under the circumstances in the use of deadly force. I concur with Sgt. Mechtel's findings that Officer Silva's use of deadly force in this incident was **Within Department Policy**.

Lt. Jennifer Pegnato #41541

August 26, 2019



TUCSON POLICE DEPARTMENT Force Review Board

ADVANCED TRAINING SECTION COMMANDER AND DEPUTY CHIEF SIGNATURE

Lieutenant:

Lt. Corey Daggert

Signature

Date: February 24, 2020

I agree with the Force Review Board's Findings

I disagree with the Force Review Board's Findings

Comments / Additional Recommendations:

Deputy Chief:

V-32623 KILBANE For PE PRESS

Signature

Date: 7.14.2023

I agree with the Force Review Board's Findings

I disagree with the Force Review Board's Findings

Comments / Additional Recommendations:



TUCSON POLICE DEPARTMENT

Force Review Board

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Specific Recommendations and Assignments for Follow-Up

1. **OPS Referrals**
 - a. **Officer name and PR:**
 - b. **General reason for referral (for each officer):**
 - c. **FRB to initiate referral by direct entry into IA Pro:**

2. **Individual officer training recommendations / Individual referrals**
 - a. **What unit will address follow-up:**
 - b. **What follow-up is requested:**
 - c. **When a response is due:**

3. **Department training recommendations**
 - a. **What unit will address follow-up:**
 - b. **What follow-up is requested:**
 - c. **When a response is due:**

4. **Policy change or clarification recommendations**
 - a. **What unit will address follow-up:**
 - b. **What follow-up is requested:**
 - c. **When a response is due:**

5. **Procedure change or clarification recommendations**
 - a. **What unit will address follow-up:**
 - b. **What follow-up is requested:**
 - c. **When a response is due:**

6. **Equipment recommendations**
 - a. **What unit will address follow-up:**
 - b. **What follow-up is requested:**
 - c. **When a response is due:**



TUCSON POLICE DEPARTMENT Force Review Board

Tucson Police Department *Department / Function Responses to FRB Recommendations*

Department / Function: Tucson Police Department

Department / Function Head: Police Chief Chris Magnus

FRB Liaison: Advanced Training Section Commander - Lieutenant Doggett

FRB Case #: 19-0161 **Incident #:** 1903170080

Rec. #	Recommendation	Action Plan / Assignments	Target Date
A	Notes:		
	Notes:		
B	Notes:		
	Notes:		



TUCSON POLICE DEPARTMENT
Force Review Board

Rec. #	Recommendation	Action Plan / Assignments	Target Date
C	Notes:		
D	Notes:		
E	Notes:		
F			



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Rec. #	Recommendation	Action Plan / Assignments	Target Date
G	Notes:		
H	Notes:		
I	Notes:		
	Notes:		