



TUCSON POLICE DEPARTMENT

Force Review Board

Incident Information		
Case Number(s): 1906100582; 1906100672; 1906100650		Use of Force #: 19-0378
Date of Incident: June 10, 2019		OPS Findings and Recommendation: Within Policy
Involved Officers: Ofc. M. Merz #41544		COC Findings and Recommendation: Concur/Closed
Incident Location: 2800 N. Oracle		County Attorney Findings: Justified
Level of Force		
Type IV (Non-firearm):	Deliberate use of vehicle or other tool in a deadly force encounter.	
Investigative Information		
Investigating Supervisor: Sgt. C. Mechtel #41935		
Unit [Team/Squad]: Office of Professional Standards		
Date Use of Force Investigation Complete: March 3, 2020		
Date Use of Force Investigation Follow-up [if any] Complete: None		
Board Information		
Date of Board: June 1, 2020		Board Chair: Lt. Corey Doggett #44794 – Advanced Training
Scribe: Lt. Doug Foster		
Secondary: Lt. Mickey Petersen		Member: Independent Police Auditor, Mitch Kagen
Member: Sgt. Luis Bustamante		Member: Community participant, Tracy Hockett
Member: Sgt. Eric Evans		Member: Community participant, Engel Indo
Member: Officer Adam Smith		Member: Community participant, Mieko Iventosch
Member: Officer Ariel Giessuebel		Member: Community participant, Craig Wilson
Member: Det. Roberto Martinez		Member: Community Advisory Council, Bennie Baker
		Member: Community Advisory Council, Dahlia Rampolla
Legal Advisor: Antonio Zapata		TPOA: Sgt. Tony Archibald
Date of Submission: July 10, 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



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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 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) 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 April 29, 2020:

1. OPS Investigative Summary
2. Event histories: E191611054, E191611143, E191611174
3. Case Report and Supplements
4. BWC video of involved officers
5. Third Party Video (AMPM Surveillance)
6. Timeline of Events
7. Officer Interviews (Merz and N. Lansdale)
8. Civilian Interviews
9. Nice Radio Transmissions
10. Crime Scene Photographs
11. Blue Team Use of Force
12. Personnel Report (OPS – Sgt. C. Mechtel)



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The above listed materials were collated and made available to all Board members on April 29, 2019. They were reviewed for content and to determine if any pertinent issues were overlooked or remained unaddressed by OPS. The Board convened on June 1, 2020 and submitted its finding on July 10, 2020.

Event Summary

On the evening of June 10, 2019, several 911 calls came in under three different case numbers. One involved a male pulling a gun on someone, one involved a black female making threats of physical violence and breaking out vehicle windows, and one involved a black female breaking into a van and threatening someone with a butcher knife. The first two calls came from an apartment complex (██████████ Apartments) located at 26███ N. Estrella, and the last call came from 1███ E. Kelso, which is near the apartment complex. The case numbers are 1906100582, 1906100672, and 1906100650.

K9 Officer Matthew Merz #41544 heard the call reference the butcher knife (1906100650) and responded to assist. He made contact with the complainant at Glenn/Castro, who described the suspect as a black female wearing a pink top and black spandex pants.

Initially, the complainant told Officer Merz the suspect had gone inside a house on Castro. As he was setting up on the house, the complainant screamed to him that she saw the suspect on Glenn, heading westbound. Officer Merz drove out to Glenn and saw a gold Cadillac pulled over on the north side of Glenn, pointing westbound. He saw the vehicle accelerate slowly and then stop again. He then saw a subject matching the suspect description. She was arguing with whoever was inside the Cadillac, as she walked westbound on the sidewalk. Officer Merz moved up and activated his overhead lights, and the Cadillac pulled into the AM PM parking lot, stopping to the west of the driveway. The suspect made a northbound turn into the AM PM parking lot, heading towards the Cadillac and yelling after it. She turned and looked at Officer Merz while doing this. She then turned westbound towards the Cadillac and produced a large butcher knife. Officer Merz accelerated towards the suspect and she turned towards him. He struck her with the center of his push bars, and she fell onto his hood and was thrown backward; the knife flew out of her hand. He got out of his vehicle and gave her verbal commands. Officer Nicole Lansdale #53509 arrived and put the suspect in handcuffs.

The Cadillac left the scene during the detention of the suspect. The suspect was uncooperative and initially refused to give any identifying information to Officer Lansdale, but then advised she was the person they were looking for. When asked if she was injured, she said her body and leg hurt, and paramedics were requested. Paramedics advised that she didn't need to be transported, but when Officer Lansdale contacted the suspect's mother on the phone (suspect is thirteen years old), she requested the suspect be taken to Banner University Medical Center (BUMC) on Campbell.



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Officer Lansdale accompanied the suspect to BUMC, in the back of the ambulance. The suspect had a minor abrasion on her left palm (approximately 1 cm x .5 cm) and a contusion on her head (per hospital discharge paperwork); she was released from the hospital later that night. She was subsequently arrested for three counts of Threaten/Intimidate, three counts of Disorderly Conduct, and two counts of Criminal Damage.

Board Findings

Based upon all provided materials and subsequent review, the Force Review Board concurs that the actions of Officer Merz 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

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:



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If NO, please explain:

Comments, Explanations, and/or Recommendations:

The Board discussed training and tactics/decision making and observed that Officer Merz made a calculated, tactical, and appropriate decision under the circumstances. The fact that Ofc. Merz is a 19-year veteran, with considerable experience in tactical field situations, has provided him with a broader variety of options to consider than possibly an officer of lesser tenure and experience. Ofc. Merz's awareness of his available options and justification for the course of action he chose was further confirmed in his OPS interview by virtue of his ability to articulate his reasoning. There was considerable discussion among Board members regarding the use of this tactic among other potentially available options. Although the threat of the deadly weapon may have warranted the use of a firearm to stop the threat of harm to members of the public, the fact that there were people downrange contributed to the choice made by Ofc. Merz. Additionally, less-lethal options, such as the Taser, were not appropriate in the scenario given the lack of appropriate lethal cover options. Board members discussed at length the thought process of Ofc. Merz and the available options in this scenario. Ultimately, it was agreed that in this set of circumstances – based on time, distance, threat, available tools, etc. – the use of a vehicle in this manner was appropriate and effective. Some equated the method used to that of a "PIT" (Pursuit Intervention Technique) maneuver used to disable a suspect vehicle. Similar to deploying a PIT, the force used by Ofc. Merz was enough to disable and disrupt the threat presented by the suspect, without rising to the level of force that would cause death or serious injury.

The Board encourages debriefings of incidents such as this to improve officer awareness as to their range of options in order to improve tactical decision making.



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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: N/A

In vehicles / not deployed: The officer's K-9 partner could not be deployed in a timely and safe manner due to the rapid evolution of events and need for quick action with the aggressive armed subject. The edged weapon being wielded by the suspect did not allow for safe deployment of a K-9 without significant risk of death or serious injury to the animal.

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. The Board discussed the use of a vehicle in an instance like this and whether the application of force in this instance amounted to deadly force. There was discussion among the Board regarding potential use of other options/tools, but the Board's ultimate finding reflects that under the circumstances, Ofc. Merz's use of his vehicle was justified and created the least risk of injury or death to the officer, victims, or suspect. As mentioned above in the tactics section, other possible equipment options, such as less-than-lethal or firearm, were not appropriate or viable under the circumstances.



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SUPERVISION

Check all that apply for each supervisor:

9. Was a supervisor present at the time force was used(s)?

YES NO

None

Refer supervisor to Chain of Command

Refer supervisor to Training

10. If so, did the on-scene supervisor(s) provide appropriate tactical guidance and support to the field during the incident?

Refer supervisor/case to OPS

Refer supervisor to other:

YES NO N/A

11. Did the supervisor(s) provide appropriate tactical guidance and support to the field after the incident?

YES NO N/A

If NO, please explain:

Comments, Explanations and /or Recommendations:

Sgt. Bustamante was not on-scene, as the incident was dynamic and occurred rapidly. He did, however, respond in a timely manner upon the request of Ofc. Merz and appropriately handled the initial use of force investigation, follow up, and notifications.



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REPORTING, INVESTIGATION, AND REVIEW

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

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

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.

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

If No, please comment:

Provide feedback to investigator

Describe:

Comments, Explanations, and/or Recommendations:

None



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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:

In this dynamic instance, Ofc. Merz was presented with a knife-wielding individual who was actively and aggressively approaching a vehicle with potential victims. Presented with a situation that can be defined and interpreted as a lethal force scenario, he utilized an alternative to his firearm to disrupt the suspect’s actions and prevent her from accessing any victims with the deadly weapon. Although a vehicle is typically defined as an instrument used only in deadly force situations, he used his vehicle in such a manner that the Deputy County



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INCIDENT CHRONOLOGY

BWC

- 1737-BWC starts Vehicle at 3█ West Glenn as Cadillac pulls into Beacon Lot and moves up
- 9 seconds later Cadillac moves to AM/PM as he approaches
- 15 seconds later he pulls into AM/PM behind Cadillac and suspect
- 17 seconds he opens door to get out
- 21 seconds hits suspect
- 22 seconds puts vehicle in park and gets out of vehicle

AM/PM Video

- 1734:41-Cadillac pulls into lot with Merz behind it, suspect female walking northbound along east corner of entrance
- 1734:44-Cadillac pulls to right to stop and Merz comes across sidewalk, suspect makes quick turn westbound on foot towards the Cadillac
- 1734:47-Merz opens car door and suspect continues direct route towards the Cadillac
- 17:34:48-Merz turns into and strikes suspect while car door is still open. Suspect approximately one car length away from Cadillac
- 1734:50-Merz stops and gets out to approach suspect
- 1734:55-Cadillac drives away towards the pumps as Merz approaches suspect, and Officer Lansdale arrives
- 1735:13-Cadillac leaves AM/PM through same entrance after making U-Turn by the pumps
- 1735:28-Third officer arrives on scene

Radio Transmissions

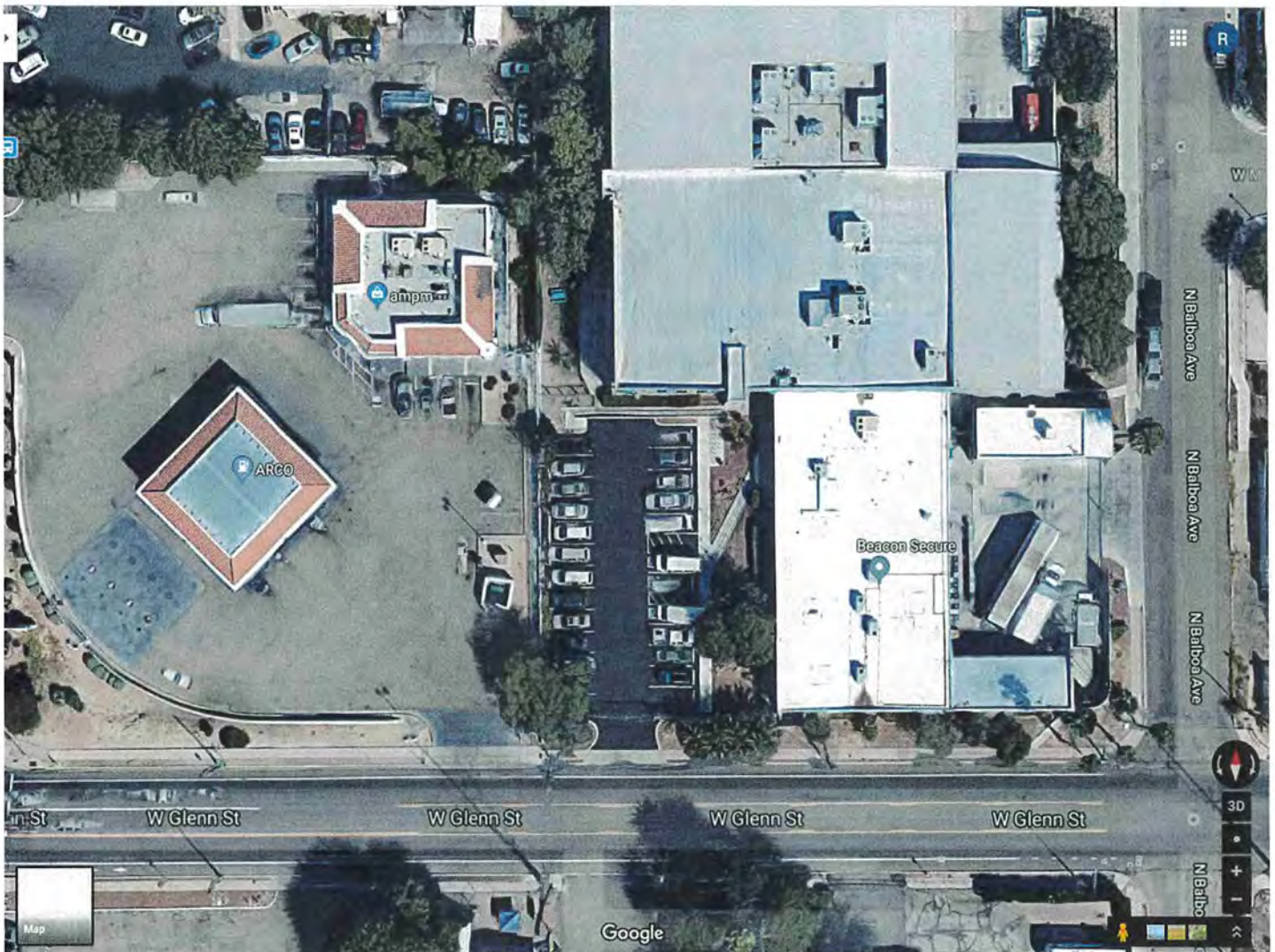
- 1731:37-2L5 requests knife call says ENRT from St. Marys
- 1731:43-Dispatch advises 10-39 suspect has butcher knife confronting complainant
- 1731:50-Black female pink hoodie, black pants with knife westbound on Kelso
- 1732:00-Tone starts
- 1732:49-Suspect northbound Castro from Glenn
- 1732:59-Is comp still following her
- 1733:05-We have multiple complainants on this, verifying is cop is still following
- 1733:52-Complainant no longer following, suspect going into a house at 27█ North Castro



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Aerial view of AM/PM 2800 N. Oracle



Suspect with knife at side as Ofc. Merz approaches. Intended victim vehicle is seen in upper right corner of this view.



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After impact, suspect is immediately able to sit up. Knife was dislodged from her hand and can be seen lying on ground within the “o” of “Mon” of the video’s graphics.





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Location of knife in relation to Ofc. Merz's vehicle and spot of suspect apprehension.





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TUCSON POLICE DEPARTMENT PERSONNEL REPORT

TO: CHIEF OF POLICE	NAME OF PERSON ABOUT	
VIA: Bureau Commander	WHOM REPORT IS WRITTEN	
VIA: Lt. Pegnato	Ofc. Matthew Merz	PR#: 41544
	Div/Sq: ODW/SDU	Hours: 1800-0400 D.O.: UMT

EXECUTIVE REVIEW

DIVISION COMMANDER	CHIEF OF POLICE	BUREAU COMMANDER
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Reference: OPS Investigation 19-0378

Details:

Synopsis

On June 10, 2019, at 4:33 p.m., a 911 call came in from 26 [redacted] N. Estrella, under TPD case #1906100582. This address is for [redacted] Apartments. The complainant reported a male named [redacted] pulled a gun on her and her uncle, and she "can't be around guns" because she's on probation. Officers responded but were unable to locate anyone. The complainant refused to identify herself, but was described by Communications as a 13-year-old boy (complainant was arrestee, [redacted]).

At 5:19 p.m., another 911 call came in from the same address, under TPD case #1906100672. [redacted] reported that about twenty minutes prior she was working on her car when she was threatened with physical violence by a neighbor, whom she was forced to retreat from. She described the suspect as a black female, 5'6", heavyset, wearing a white tank top, black pants, and white sneakers. She said the suspect and the suspect's family appeared to be arguing. [redacted] called back at 5:25 p.m. and reported the suspect had broken out two windows on her car about five minutes prior. There were two additional complainants who called 911 about this incident; one was [redacted] mother, who said the suspect was [redacted] (apt. [redacted]) and described her as a black female, 17-years-old, wearing a pink windbreaker and black pants. She also reported [redacted] broke out a window on another vehicle before heading northbound on Estrella.

At 5:30 p.m., 911 calls came in from 1 [redacted] E. Kelso under TPD case #1906100650. The first caller reported a black female had a butcher knife and pulled it out on someone; the suspect was breaking into a van and the owner of the van was trying to confront her. The suspect was described as being in her twenties, wearing a pink hoodie and black pants. Another caller, [redacted] advised the suspect was a black female, 5'4", wearing a pink shirt, and had gone inside a house at 27 [redacted] N. Castro. She said she would wait for officers at the stop sign at Glenn/Castro.

At 5:37 p.m., Officer Matthew Merz #41544 made contact with [redacted] at Glenn/Castro. She directed him towards the house on Castro. She told him the suspect was a black female wearing a pink top and black spandex pants. After positioning his vehicle in front of the residence, Ms. Rosthenhausler screamed to him that she saw the suspect on Glenn, and pointed towards the west.

As he waited for traffic to pull out onto Glenn, he saw a gold Cadillac pulled over on the north side of Glenn, pointing westbound. When Officer Merz drove out onto Glenn, he saw the Cadillac accelerate slowly and then stop again. He didn't see the suspect initially, but as the Cadillac proceeded past Balboa and pulled into the bike lane, he saw the

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.

Sept 9, 2019



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NARRATIVE (Continued)

suspect. She was a black female wearing a pink and white windbreaker with designs, and black bottoms. She was engaging in an argument with whoever was inside the Cadillac, as she walked westbound on the sidewalk. The female was walking back and forth, towards the Cadillac. Officer Merz moved up and activated his overhead lights, and the Cadillac pulled into the AM PM parking lot, stopping to the west of the driveway. The suspect made a northbound turn into the AM PM parking lot, heading towards the Cadillac and yelling after it. She turned and looked at Officer Merz while doing this. She then turned westbound towards the Cadillac and produced a large butcher knife. Officer Merz accelerated towards the suspect and she turned towards him. He struck her with the center of his push bars, and she fell onto his hood and was thrown backward; the knife flew out of her hand. He got out of his vehicle and gave her verbal commands. Officer Lansdale arrived and put the suspect in handcuffs.

The Cadillac left the scene during the detention of the suspect. The suspect was uncooperative and initially refused to give any identifying information to Officer Lansdale, but then advised she was person they were looking for. She said her body and leg hurt when asked if she was injured, and paramedics were requested. Paramedics advised she didn't need to be transported, but when Officer Lansdale contacted the suspect's mother on the phone (suspect is thirteen years old), she requested the suspect be taken to Banner University Medical Center (BUMC) on Campbell. Officer Lansdale accompanied the suspect to BUMC, in the back of the ambulance. The suspect had a minor abrasion on her left palm (approximately 1cm x .5 cm) and a contusion on her head (per hospital discharge paperwork); she was released from the hospital later that night. She was subsequently arrested for three counts of Threatening/Intimidating, three counts of Disorderly Conduct and two counts of Criminal Damage.

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:

Interviews of focus and witness officers
Event chronology
1906100650 case report
Body worn camera footage from involved officers
Analysis of surveillance footage from AM PM
Crime scene photographs
Radio transmissions
911 calls
Declination by PCAO

Suspect

██████████

██████████ stated the following:

She was not injured, and only her left forearm was hurting. She was at her apartment complex with her uncle, when she heard ██████████ (black male, about 14 years old) had pulled a gun. She saw ██████████ point a handgun at her uncle, and say, "This is Crip Town". She punched ██████████ in the face, took his gun, and hit him in the mouth with the gun. ██████████ started bleeding and told ██████████ not to pull the trigger. She threw the gun at him and told him to leave. ██████████'s girlfriend told ██████████ she was going to call a bunch of people to fight with her. During this incident, someone dropped a large kitchen knife with a brown handle. ██████████ picked up the knife and put it in her right, front pants pocket, with the blade pointing down.

After obtaining the knife, she got into an argument with her stepfather because she had hit ██████████. She started walking through the apartment complex and saw neighbors pointing at her and laughing. That made her mad, so she threw a rock at their car, breaking the window. She didn't know how many car windows she broke.



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NARRATIVE (Continued)

█████ walked away after breaking the window, and a dog started chasing her. She jumped into a large, brown van to get away from the dog. The female owner of the van came out to confront her. A male came out to the parking lot and started calling █████ "blood". Another male was also screaming in the complex. █████ exited the van and ran away and the female got into her van and followed █████. The female asked █████ why she jumped in the van and she explained that a dog was chasing her. The female exited the van, approaching █████ and said she was calling the police. █████ pulled out the kitchen knife, pointing it at the female, and told her to back off. █████ was about ten feet from the female when she pulled the knife. The female retreated and got back into her van.

After the female got into her van, █████ ran, heading toward the AM PM. A "busted up, grayish, silverish" car pulled up next to her; two males were inside. The passenger was talking to her, calling her "blood", and saying something like, "I'm gonna get you". The car pulled into the AM PM parking lot about the same time she walked into the parking lot. The males inside the car started calling █████ over to them, and the passenger had something in his hand; █████ didn't know if it was a bandana (showing gang colors) or a weapon. She had the knife out initially, but started putting the knife back into her pocket as she approached the car. Then she was hit by a patrol car; she didn't see the patrol car prior to that. She didn't know if the officer saw her carrying the knife and thought she might be trying to hurt the people in the car she was approaching. She took about four steps toward the car when she was struck. The car knocked her onto the ground and the knife flew out of her right hand. A male officer got out of the vehicle and yelled at her, "Get down!" A female officer also responded. The officers handcuffed her and paramedics came.

Witnesses

████████████████████

████████████████████ stated the following:

She heard yelling outside and a neighbor told her someone was breaking into her vehicle. Her son, █████ went outside to see what was happening. She followed the suspect. She described her as a black, teenaged female, 5'02", wearing black pants and a pink hooded sweatshirt. The suspect went west on Kelso, and she followed in her vehicle. As she approached (remaining inside her vehicle), the suspect pulled out a knife. She was about ten feet away from the suspect. The suspect said something to her, but she can't remember what. The knife had a black handle and a chrome blade. The suspect went northbound on Castro from Kelso, and put the knife in her waistband (left side). The suspect then crossed Castro and went inside a house, where █████ lost sight of her. She called █████ and he told her the suspect was westbound on Glenn, towards Oracle. Her neighbor, █████ said that another neighbor, █████ confronted the suspect who pulled on knife and swung at him. She indicated there was no damage to her vehicle and nothing was missing. She feared if the suspect would have come any closer, she would have "got" her with the knife.

████████████████████

████████████████████ was uncooperative with detectives; he stated the following:

He saw someone breaking into a car and that person was located at the AM PM. He did not want to give a statement or his name on paper. He was not injured. He was asked if a weapon was directed at him and he said he saw it "when she pulled it"; he wouldn't confirm whether she pulled it on him or if he just saw it in her hand. When asked if he saw her get hit, he replied, "Possibly". He confirmed that he was driving the gold Cadillac when the incident occurred. The Cadillac was parked at his address when detectives arrived.

Focus Officer

Officer Matthew Merz (Criminal Interview):

On June 10, 2019 Officer Merz met with his attorney and declined to participate in a criminal interview.



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NARRATIVE (Continued)

Officer Matthew Merz (Administrative Interview):

On June 11, 2019 at 12:11 a.m., I met with Officer Merz at the Office of Professional Standards (OPS). Sgt. Don Jorgenson with the Tucson Police Officers Association (TPOA) was with him as a union representative. I served Officer Merz with a Notice of Administrative Internal Investigation, which he signed. We agreed to meet later on June 11th at 6:30 p.m. at OPS, for the administrative interview.

On June 11, 2019, Sgt. Belinda Morales #50479 and I met with Officer Merz and his union representative, Sgt. Steven Simmers #44535, at OPS. Below is a synopsis of the interview:

Officer Merz is assigned to the Service Dog Unit and works 1800-0400. On June 10th, 2019, he started work at 1:00 p.m. at the academy, as their unit was conducting a selection process for new dog handlers. He was there until about 3:30 p.m. and then responded to an armed robbery incident in Operations Division Midtown, at 5th/Alverson. Afterward, he headed towards the K9 office in Operations Division West to change into his normal uniform shirt. He was at Oracle/Miracle Mile when he heard the call dispatched to 1█ W. Kelso, and did U-turn to respond and assist. Information was broadcast over the radio that a black female in a pink top, armed with a butcher knife, had gone after someone and there was possibly a burglary of a vehicle involved. The suspect, who was being confronted by the owner of the van, walked away northbound on Castro at Glenn, and had gone into a property. Officer Merz read the call text while en route to the call. His intention was to go to the suspect location and set up containment. This was level 2 call, the emergency tone was on, and officers were responding Code 3.

When he arrived, he saw a female on the east side of Castro, south of Glenn; she was talking on cell phone, waving at him. He heard her ask the person on the phone if she could hang up because she was out with officers. He believed her to be the 911 caller. He asked her to point out the residence the suspect went into. She told him the suspect was black female wearing a pink top and black spandex pants. She pointed to a property with an open driveway gate that was next to a beige, closed pedestrian gate. She said she thought she knew where she threw the knife, possibly under a vehicle, and pointed south on Castro. He stopped his vehicle facing west on Castro, pointing toward the open gate driveway. His plan was to set up containment after confirming the address. The complainant then started screaming that the suspect was on Glenn. He returned to his car and pulled up next to the complainant. She told him she was on the phone with either her brother or son (he doesn't remember which) and they told her the suspect was on Glenn. She then pointed west on Glenn, telling him, "She's right there!"

He could not see down Glenn so he pulled forward; he had to wait for traffic. He did not see anyone on foot, but saw a gold, four-door Cadillac that was pulled over on the north side of Glenn, and it was about mid-block between Castro and Balboa. It was blocking the bike lanes and possibly part of the sidewalk. As soon as he pulled out, the Cadillac accelerated down to Balboa, and stopped near a house with a "For Sale" sign. Initially, he thought that maybe the complainant's brother or son was inside the Cadillac while talking to her on the phone, so he was thinking the suspect went into the abandoned property. As he passed the location, he was looking for the female suspect; he did not see anyone. The Cadillac proceeded past Balboa and then pulled over back into the bike lane and stopped. He then saw the female. She was wearing a pink top; a windbreaker-type jacket with pink and white designs, and black bottoms; she matched the suspect description. He saw her walk out towards the sidewalk, having a confrontation with whoever was inside the Cadillac. He assumed the person in the Cadillac was some type of witness, because he was following the suspect. She continues to walk westbound on the sidewalk. It appeared that she was yelling at the car but he was unable to hear what was being said over his running vehicle and air conditioning. He was several car lengths away (estimates 75-100 feet) from the Cadillac and the female. Neither the Cadillac nor the female stopped moving; the female kept walking away from and then back towards the Cadillac.

At one point the vehicle moved past her, straddling the bike lane, and was partially in the driveway for Beacon Group. The female again moved towards the vehicle. Officer Merz moved up and activated his overhead lights. The Cadillac then moved out of the Beacon Group driveway and pulled into the AM PM driveway. It pulled west of the driveway, along the block wall, and stopped. He believed it was pulling over for him. The female was still looking at the Cadillac, grabbed the left side of her windbreaker and pulled it up, while making a northbound turn into the AM PM parking lot.



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Force Review Board

NARRATIVE (Continued)

When she turned, he could not see her left side. She was still yelling at the Cadillac, and turned and looked at Officer Merz in his patrol car.

He planned to pull into the entrance, get out, tell her to sit on the curb, and have the responding units come and investigate. However, the female then changed direction, turned to her left (westbound) towards the Cadillac, and produced a large butcher knife (8-10 inch blade). She was yelling something at the Cadillac from within 20-25 feet. He believed her intent was to assault the occupant or occupants of the Cadillac. He assumed the passenger side window was down, based on his observations of the female yelling at someone inside the vehicle as it was driving.

Based on the information he had at the time, and that she had already tried to assault someone with the knife, he believed she presented a risk to the occupants of the vehicle. He felt her intent was to harm whoever was inside the Cadillac. He did not have time to get out of his vehicle to stop her, as she would have already made it to the Cadillac, and believed he may have had to potentially shoot her. He thought about getting his dog out, but decided that would also take too much time. At that point, he decided to use his vehicle to run into her, to prevent her from getting to the Cadillac and assaulting the occupants. He put his vehicle into gear and accelerated. He estimates he traveled 10-15 feet at 5 to 10 mph. She turned towards him as he accelerated and he hit her with the center of his push bars. As he hit her, she fell onto the hood of his vehicle and was thrown back and the knife went flying out of her hand approximately 40 feet north of her. He slammed on his brakes as he made contact with her. He got out of his vehicle, and gave her verbal commands to get her hands out and roll her onto her stomach. Officer Nicole Lansdale #53509 pulled into the parking lot at that time and assisted with placing her into handcuffs. Once the female was detained, he turned around and saw the Cadillac was gone.

He asked the female if she was injured; initially she refused to identify herself and was uncooperative. She said her body hurt but didn't indicate anything specific. He requested medical attention.

He did not know who had incident command when he located the female, but Sgt. Bustamante took I.C. upon his arrival to the scene. He requested a sergeant's response to the scene because he used force.

Based on his work experience, he believed the speed he was going would knock the female down, but not seriously injure or kill her. His intention was to disarm her and prevent the assault. If the maneuver had failed, it would have put his car between her and the potential victim and bought him more time to decide his next step. He determined that if he got out of his vehicle instead of knocking her down it would have taken too much time; she would have been at the Cadillac door stabbing someone and he would have had to shoot her.

Witness Officer

Officer Nicole Lansdale (Administrative Interview):

I met with Officer Lansdale #53509 as a witness officer on June 11, 2019 at 6:39 p.m., in the Office of Professional Standards. Sergeant Steven Simmers was present as her union representative. Sergeant Belinda Morales assisted me.

A call came out reference a black female in her twenties, wearing black pants and a pink shirt. The complainant said she had threatened a couple of people and tried to break into a vehicle. Officer Barker was the primary unit dispatched and she was his back-up officer. She was at Balboa/Glenn when she briefly saw the K9 unit (Officer Merz) going westbound on Glenn, towards Oracle. He advised he was going to be out with a female matching the suspect's description. She broadcast that she would be out with him.

She pulled into the south entrance to the AM PM, which is where Officer Merz was parked. When she exited her car, he was addressing the female. He was about three (3) yards from the front of his patrol car. He was giving her commands and she was not listening. She walked up, detained her in handcuffs, and sat her up. She tried to obtain her biographical information but the female was not being forthcoming. The female advised she was thirteen (13) and her name was [REDACTED]. She kept trying to get up so she had to re-direct her to remain sitting. She made comments that Officer Merz hit her with his patrol car. The female eventually calmed down and was more receptive. When she told the female she matched the description of a suspect, the female told her something like, "It's me who you're looking for".



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NARRATIVE (Continued)

They asked if the suspect needed any medical attention and she said her whole body hurt, and her leg hurt to put pressure on it. The Tucson Fire Department (TFD) responded and she provided her with water. TFD advised she did not need to be transported to the hospital and it would be up to her mother and officers to have her evaluated. Officer Lansdale contacted the female's mother, who advised she wanted her daughter to go to Banner University Medical Center (BUMC). They requested TFD again, who transported her to BUMC; Officer Lansdale rode in the ambulance with her. After their arrival to BUMC, Officer Lansdale read the female her Miranda rights and asked her what happened.

X-rays (left wrist) did not show a break. She did not see any injuries on the suspect on-scene or at the hospital.

Officer Barker was the incident commander on the call. He went to the incident location. Sergeant Bustamante responded to the AM PM and took incident command.

Use of Force

Lawful Purpose

Officer Merz was responding to a call reference an aggravated assault with a knife. He located the suspect walking westbound along Glenn, arguing with the occupants of a Cadillac. As he activated his overhead lights to affect a stop of both the vehicle and the suspect in the AM PM parking lot, the suspect advanced towards the vehicle while pulling out a butcher knife and yelling at the occupants.

Provocation

Officer Merz was conducting a stop of both a vehicle, and a suspect in an aggravated assault with a knife. As he activated his overhead lights, the suspect turned towards the vehicle he was stopping, pulled out a butcher knife, and advanced on the vehicle. Based on the investigation, none of Officer Merz' actions provoked the incident. The mere presence of an officer does not constitute provocation.

De-escalation

Officer Merz did not have an opportunity to de-escalate this situation. The suspect was within 25 feet of the Cadillac when she pulled out a butcher knife and quickly walked toward the passenger side of the vehicle and its occupants. He appropriately reacted using his patrol vehicle to hit the suspect, disarming her and preventing her from injuring or killing the people inside the vehicle.

Proportionality

Officer Merz reacted proportionally to the actions of the suspect. The suspect presented a deadly force threat to the occupants of the Cadillac by quickly walking towards them with a butcher knife. The suspect had already threatened others with the knife, prompting calls to 911. Officer Merz responded with deadly force by hitting the suspect with his patrol vehicle, to protect the occupants of the Cadillac. He immediately deployed his brakes after striking the suspect, when the suspect was disarmed and no longer a threat.

Use of Force Analysis

Officer Merz was conducting a traffic and pedestrian stop in the AM PM parking lot when the suspect, armed with a butcher knife, advanced on the occupants of the vehicle he was stopping (Cadillac). Officer Merz had knowledge that a subject matching the suspect's description had threatened someone with a butcher knife, and had witnessed her yelling at the occupants of the Cadillac as she walked down Glenn.

AM PM video surveillance shows the incident unfold within seven (7) seconds: The Cadillac pulls into the AM PM parking lot with Officer Merz behind it, as the suspect walks northbound into the lot. The suspect, swinging a large



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NARRATIVE (Continued)

knife in her right hand, makes a quick turn towards the Cadillac and Officer Merz opens his car door. The suspect continues towards the Cadillac and Officer Merz strikes the suspect with his patrol vehicle, while his car door is still open. Officer Merz then stops his patrol car after disarming the suspect, as she was no longer a threat. The suspect was approximately one car-length away from the Cadillac.

This case was presented to Chief Trial Counsel Jonathan Mosher at the Pima County Attorney's Office and he declined to pursue criminal charges. He advised Officer Merz did not use deadly force, and the use of force was justified.

Conclusion

As determined by the Pima County Attorney's Office, the use of force by Officer Merz is **Justified**. Based on the administrative review, I have determined Officer Merz' actions to be within policy, and his use of force to be **Exonerated**.

A handwritten signature in black ink, appearing to be "C. Mechtel", written over a horizontal line.

Sergeant Cindy Mechtel #42316 01/13/20

I have reviewed the investigation and I concur with Sergeant Mechtel. Based the facts of the investigation, I have determined the use of force in this case to be **Exonerated**.

Lt. Jennifer Pegnato #41541

A handwritten signature in black ink, appearing to be "Jennifer Pegnato", written over a horizontal line.

February 14, 2020



TUCSON POLICE DEPARTMENT
Force Review Board

**ADVANCED TRAINING SECTION COMMANDER AND
DEPUTY CHIEF SIGNATURE**

Lieutenant:

Lt. Corey Duggan

Signature

Date: July 10th, 2020

I agree with the Force Review Board's Findings

I disagree with the Force Review Board's Findings

Comments / Additional Recommendations:

Deputy Chief:

[Signature] For D.C. [Signature]

Signature

Date: 7.14.2023



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I agree with the Force Review Board's Findings

I disagree with the Force Review Board's Findings

Comments / Additional Recommendations:



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Specific Recommendations and Assignments for Follow-Up

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

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

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

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

5. **Procedure change or clarification recommendations**



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1. **What unit will address follow-up:**
 2. **What follow-up is requested:**
 3. **When a response is due:**
-
6. **Equipment recommendations**
 1. **What unit will address follow-up:**
 2. **What follow-up is requested:**
 3. **When a response is due:**



TUCSON POLICE DEPARTMENT
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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 #: 19-0378

Incident #: 1906100582; 1906100672; 1906100650

Rec. #	Recommendation	Action Plan / Assignments
A		



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Rec. #	Recommendation	Action Plan / Assignments	Target Date
B	<p>Notes:</p>		
C	<p>Notes:</p>		
D	<p>Notes:</p>		



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



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