



TUCSON POLICE DEPARTMENT

Force Review Board

Incident Information

Case Number: 1907170552 **Use of Force #:** 19-0463
Date of Incident: July 17, 2019
Involved Officers: Officer Anaya #52771
 Officer Tapia #53504
 Officer Reilly #100044
 Sergeant Hackett #48352
 Officer Lopez #100616
 Officer Weeks #100624
Incident Location: 5225 S. Palo Verde

Level of Force

Level of Force **Type IV** Use of deadly force regardless of whether officer's actions resulted in injury or death
OPS Findings and Recommendation: Not within Department Policy
COC Findings and Recommendation: Operations Division East did not concur with OPS. ELT did concur with OPS.
County Attorney Findings: Justified

Investigative Information

Investigating Supervisor: Sgt. Morales #50479
Unit [Team/Squad]: Office of Professional Standards
Date Use of Force Investigation Complete: March 5, 2020
Date Use of Force Investigation Follow-up [if any] Complete: N/A

Board Information

Date of Board: December 16, 2020 **Board Chair:** Lt. T. Hawke #46589 Advanced Training
Scribe: Lt. R. Mechtel #35798 **Member: Independent Police Auditor:** Mitch Kagen
Member: Lt. A. De La Ossa #33211 **Member: Community participant:** Mark Lennox
Member: Sgt. E. Evans **Member: Community participant:** Paul Lefkowitz
Member: Sgt. L. Gallaher **Member: Community participant:** Engel Indo
Member: Sgt. J. Cornia **Member: Legal Advisor:** Antonio Zapata

Topics for Review

Tactics	X Agree	<input type="checkbox"/> Disagree	
Decision Making	X Agree	<input type="checkbox"/> Disagree	
Equipment	X Agree	<input type="checkbox"/> Disagree	
Supervision	X Agree	<input type="checkbox"/> Disagree	
Reporting, Investigation, and Review	X Agree	<input type="checkbox"/> Disagree	
Findings	X Agree	<input type="checkbox"/> Agree / Out of Policy	<input type="checkbox"/> Disagree
Other Board Recommendations	X Agree	<input type="checkbox"/> Disagree	



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EXECUTIVE SUMMARY

INVESTIGATIVE CASE INFORMATION

Use of Force Number: 19-0463
TPD Case Number 1907170552
Date of Incident: July 17, 2019
Location of Incident: 52 S. Palo Verde

Methodology

The Tucson Police Department (TPD) Force Review Board (FRB) convened to review this incident with a focus on department policy, tactics, supervision, equipment, use of force, decision-making, reporting, review and investigation, and training. Force Review Board evaluation included the following modes of inquiry: document and video review, review of interviews and review of associated materials relevant to the incident. The Board determined that the associated materials were complete and sufficient for a thorough review of the incident. No additional interviews or evidence collection was necessary.

OPS provided the following materials on October 23, 2020:

1. Administrative Documents
2. OPS Investigative Summary
3. Investigative Documents
4. Audio (911, PSO, Patrol)
5. Photographs
6. Civilian Witness Interviews
7. Commissioned Witness Interviews
8. Focus Employee
9. OPS Personnel Report
10. COC Personnel Reports
11. Discipline Documents
12. Miscellaneous Documents
13. BWC Video
14. 3rd Party Video
15. Legal Hold
16. E-mails
17. Exhibits
18. Training Documents
19. Other Correspondence
20. Miscellaneous Recordings

The above listed materials were collated and made available to all Board members on November 20, 2020. They were reviewed for content and to determine if any pertinent issues were overlooked or remained unaddressed by OPS. The Board convened on December 16, 2020 and submitted its finding on January 14, 2020.



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Summary

On July 17th, 2019, at approximately 3:30 p.m., the Community Response Team (CRT) in Operations Division South (ODS) conducted mobile surveillance on a red Chevrolet Malibu leaving a known target house. The driver of the Malibu was later identified as Vincent Linarez and the passenger was [REDACTED] Linarez' girlfriend. The residence was associated to a southside gang called the *Southside Murder Gang Killas* (SMGK). SMGK gang members were identified as violent individuals involved in weapons misconduct and drug sales. In fact, on June 16, 2019, ODS patrol officers were involved in a shooting that resulted in the death of a SMGK gang member after he pointed a gun at a responding officer. Another individual involved in the incident, also determined to be associated with SMGK, assaulted a TPD K-9 officer when he placed her in a headlock in his attempt to escape.

CRT officers followed the red Malibu after having watched Linarez enter 50 [REDACTED] South 11th Avenue and return to his vehicle a short time later. CRT officers articulated brief contacts such as this to be consistent with narcotics sales activities. CRT officers were concerned Linarez knew he was being followed due to his erratic driving behavior and frequent stops. CRT officers followed Linarez for approximately ten minutes before Officer Anaya observed Linarez commit a civil traffic infraction, *Arizona Revised Statute 28-856 (1), Emerging from Alley, Driveway or Building*. Linarez eventually parked in the McDonald's parking lot at 52 [REDACTED] South Palo Verde Road and Herrera entered the establishment while Linarez remained in the car.

Officer Tapia, a member of the ODS CRT, initiated a traffic stop of Linarez' Malibu in a fully marked patrol vehicle and police uniform. He made contact with Linarez at the open driver's side door and Officer Weeks approached the passenger side of the vehicle as a back-up unit. Officer Tapia signaled to Officer Weeks to assist him on the driver's side. Linarez placed the key in the ignition and attempted to shut the driver side door. Officer Tapia unholstered his duty weapon, used his firearm to jab Linarez' on the left side of his head multiple times, and said, "*I am going to kill you motherfucker.*" Officer Weeks reached into the driver's side of the vehicle in an attempt to pull Linarez out. Linarez placed the vehicle in drive and accelerated forward. Officer Tapia eventually removed himself from the A pillar of the vehicle and Officer Weeks said he felt the vehicle hit him on his side, which knocked him to the ground.

As Officer Anaya approached the Malibu, he witnessed Officer Weeks fall to the ground and then watched as Linarez sped toward two unmarked CRT units and maneuvered around them. Officer Anaya yelled out, "*Shoot him! Shoot him!*" as he ran toward the fleeing vehicle. Officer Anaya then said, "*Ram him! Ram him! He tried to run us over! Ram him!*" on the CRT radio frequency.

Officer Tapia, Officer Weeks, and Officer Anaya chased Linarez' vehicle as it sped toward South Palo Verde Road, where it collided with a white van that was travelling northbound on Palo Verde Road. The impact spun Linarez' vehicle around and it landed in the dirt lot in front of Arby's, facing eastbound. Officers Anaya and Tapia approached the vehicle at a rapid pace with Officer Weeks close behind. Officer Anaya moved closer to the driver side door where Linarez was seated and yelled, "*Get on the ground, motherfucker!*" Almost simultaneously, Officer Reilly drove his unmarked surveillance vehicle into the front passenger wheel well of Linarez' vehicle in order to disable it. Linarez' actions inside of the vehicle in the moments following the collision are unknown.

Officer Anaya then discharged his firearm, approximately two seconds after he issued his verbal command to get on the ground. He fired a total of six times. Five of his rounds hit the driver side door area and one round hit the ground. Two of the rounds fired hit Linarez in the lower body. Linarez opened the door and Officer Tapia pulled him out of the vehicle with his duty weapon in his right hand and directed Linarez to the ground. Officer Tapia yelled, "*Hey! Put your hands up! I'm gonna fucking kill you!*" Officer Tapia struck Linarez in the back of the head at least three times with his firearm and



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said, *"We fucking told you! We fucking told you! We fucking told you! Didn't we fucking tell you?"*

Linarez suffered two gunshot wounds, one to his left knee area and one to his left buttock. Linarez also suffered injuries to the left side of his face and the back of his head from Officer Tapia's gun barrel.



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Issues Identified and Examined by FRB

The FRB examined the areas of tactics, decision making, equipment, supervision, reporting, investigation and review. Upon review, the Board identified the below issue(s) as needing to be addressed further:

The FRB did not determine that anything needed to be addressed further. The FRB agreed that the investigation into this incident was complete and thorough. Several topics that were addressed in the investigation were discussed in the FRB meeting. This discussion clarified standard operating procedure as far as tactics, decision making, equipment, supervision, reporting, the investigation, and review. The discussion was to elaborate for the civilian members of the FRB.

The following topics were discussed:

Tactics:

- Officers did not position vehicle to give a safe egress
- Officer Tapia approached with no cover or concealment
- Officer Weeks reached into vehicle causing him to be knocked to the ground
- Officer Tapia used his gun as impact weapon on stop
- After the shooting, Officer Tapia pulled suspect out of the car while holding his duty weapon
- Officer Tapia struck the suspect with his handgun, risking an accidental discharge
- Officer Anaya shot at the vehicle while Officer Reilly was pinning it- putting Reilly in danger

Decision making:

- Officers did not know the driver's identity at the time of the stop. This was an investigative stop disguised as a civil traffic stop
- The suspect may have been able to recognize the officers, causing a confrontation
- Operational momentum got the best of decision making. Officer Anaya perceived a threat after seeing Officer Weeks get knocked to the ground
- The collision was not intentional so the shooting was essentially firing at a hit and run driver

Training:

- Officer Tapia used bad traffic stop positioning contrary to training
- Officer Tapia used his gun as an impact weapon on the stop contrary to training
- Officer Weeks reached into the vehicle contrary to training- officers should have detached and let vehicle go per training
- Officer Tapia removed the suspect from the vehicle while holding his duty weapon, contrary to training
- Officer Reilly used SWAT training to pin vehicle- the FRB agreed that was a good choice

Supervision:

- There was no supervisor on scene
- There was no operational plan for field sergeant to take over if needed
- There was no field sergeant briefed that CRT was conducting an investigative stop
- The officers were on the CRT frequency so no field sergeant was monitoring

De-escalation:

- None to speak of



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Equipment:

- No issues

Policy:

- FRB discussed the change in policy to take out totality of circumstances- FRB members would like to see totality of the circumstances AND immediacy of the threat
- FRB agreed Officer Anaya shooting was out of policy
- FRB agreed Officer Tapia using his handgun to hit suspect in the head, and swearing, out of policy
- FRB agreed Officer Reilly was in policy using a SWAT technique to pin the vehicle

The FRB addressed Officer Tapia's statement about "blacking out" under stress, during his OPS interview. A FRB asked why Officer Tapia would be allowed to be assigned to the CRT unit if he was having issues like blacking out. Commissioned members of the board explained that Officer Tapia would not be deployable in an enforcement capacity if this situation had been brought to light. A past critical incident was referenced in the interview. The FRB was told that Officer Tapia has been involved in a critical incident in the past, and that he may have been using that information as an excuse to explain his actions. Officer Tapia's chain of command, co-workers, and BSU had no indication that he was experiencing black outs under stress. There had been no documentation of this condition and it was only brought up in an interview following a critical incident where he was being questioned about his actions. Officer Tapia did not return to full duty in an enforcement capacity following this incident.

Recommendations

The FRB, after review of this case, makes the following recommendations:

The only recommendation the FRB made was to change the wording on the use of force policy to include totality of the circumstances AND immediacy of the threat.



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TACTICS

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

YES NO

If NO, please explain:

Officers made an investigative stop, without the proper positioning of a marked patrol vehicle. The officers believed the suspect to be armed, based on his gang affiliations. Officer Tapia had his issued firearm unholstered while trying to remove the driver from the vehicle, contrary to training. Officer Tapia used his firearm as an impact weapon, striking the suspect in the head with his handgun.

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

YES NO

If NO, please explain:

Officer Weeks reached inside the violator vehicle as it attempted to flee. This caused him to be knocked to the ground.

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

YES NO NOT FEASIBLE

If NO, please explain:

Operational momentum developed, causing officers to perceive a lethal threat from the suspect, to each other. There was no de-escalation used.

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

YES NO NOT FEASIBLE

If YES, please explain:

When the violator began to flee, the officers could have relied on their training and detached from the vehicle and allowed it to occur.

5. Did the officer's(s') action(s) contribute to the need to use force?

YES NO

If YES, please explain:

The officers attempted to stop the violator, reaching into the vehicle, and one of them being knocked to the ground. That caused the other officers on scene to perceive a lethal threat and over react.

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:

Officers in this case have been disciplined, prior to the Force Review Board convening.

REVIEW OF TACTICS:

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

Disagree: Based on the documentation provided, the tactics employed do **NOT** appear to be consistent with policy and training.



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The officers were conducting an investigative stop on a vehicle that just came from a residence associated with known gang members. The gang members in question had recently threatened these officers on social media. The officers did not want to compromise their unmarked vehicles, so they approached the suspect vehicle in a parking lot. The officers did not have a marked unit properly positioned behind the violator vehicle, which is an important tactic to provide safety for the officer on the traffic stop. Officer Tapia approached the suspect vehicle in a manner that provided no cover, or concealment. If Officer Tapia had placed his marked patrol vehicle behind the suspect vehicle, he would have had a reasonably safe area to approach. If the violator put his vehicle in reverse, a properly positioned patrol vehicle would stop the violator vehicle from being able to strike the approaching officer. If the suspect vehicle fled forward, the officer would not be in immediate danger. The officers contacted the driver and asked for identification. The reasonable suspicion for the stop at that point was failure to come to a complete stop exiting a private drive, a civil traffic violation. The officers did not know the identity of the driver at this point. The driver of the suspect vehicle attempted to flee. Officer Weeks reached inside the vehicle to prevent the driver from fleeing. This is contrary to training, and a poor tactic. Officer Tapia used his handgun as an impact weapon and struck the driver in the head with it, in an attempt to prevent him from fleeing. This is contrary to training and a poor tactic. The suspect accelerated forward, knocking Officer Weeks to the ground. Officer Anaya perceived a lethal threat to the officers on scene as a result of these actions, and broadcast to other officers on scene, "Shoot him Shoot him, Ram him Ram him, He tried to run us over!" Officer Anaya then shot the driver. Poor tactics contributed to the incident unfolding in the way that it did. Officer Anaya shot at the suspect vehicle as Officer Reilly used his unmarked vehicle to make contact with the vehicle, to "pin" the vehicle to prevent it from moving. Officer Reilly was inside his vehicle in close proximity to where the suspect was sitting in the driver's seat. Shooting at the suspect vehicle while Officer Reilly was close to the line of fire was a poor tactic. After the shooting, Officer Tapia pulled the suspect from the car, while holding his duty handgun. This was a poor tactic that is dangerous. Officer Tapia then hit the suspect in the head several times with his handgun. This action was contrary to policy and resulted in a criminal investigation into Officer Tapia's use of force.



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Decision Making

6. Was the decision employed by the officer(s) consistent with policy? YES NO

If NO, please explain:

The officers were conducting an investigative stop on a vehicle coming from a residence with known gang affiliations. That particular gang, had make threats to these specific officers. Additional surveillance to determine who the occupant of the vehicle was would have been appropriate. If the stop was to be treated like a typical traffic stop, it should have been executed as such, with proper vehicle positioning.

7. Was the decision employed by the officer(s) consistent with training? YES NO

If NO, please explain:

Officer Tapia approached the vehicle from a position that provided no safe egress. Officer Weeks then reached into the vehicle as it attempted to flee.

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

YES NO NOT FEASIBLE

If NO, please explain:

The Force Review Board agreed that the officers escalated the situation.

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

YES NO NOT FEASIBLE

If YES, please explain:

Proper vehicle placement would have provided a safe place to egress in the event that the traffic stop became dangerous. Detaching from the vehicle when it attempted to flee is what is trained, and recommended to prevent injury to the officers on scene.

10. Did the officer's(s') action(s) contribute to the need to use force?

YES NO

If YES, please explain:

The officers put themselves in a situation where they risked injury. They then over reacted to the danger they were faced with.

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:

Officers in this case have been disciplined, prior to the Force Review Board convening.

REVIEW OF DECISIONS:

Agree: Based on the documentation provided, the decisions employed appear to be consistent with policy and training.



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Disagree: Based on the documentation provided, the decisions employed do NOT appear to be consistent with policy and training.

The Force Review Board agreed that the officers on scene were conducting an investigative stop on a possibly armed, gang affiliated subject. The same gang that had threatened these officers. Additional surveillance would have been appropriate. The officers did not know the identity of the driver of the suspect vehicle. The likelihood of the suspect recognizing the officers that had been threatened during a traffic stop was probable.

When the decision to contact the vehicle occupant was made, a traffic stop with proper vehicle placement, and tactics should have been deployed. When the suspect attempted to flee, reaching into the vehicle is contrary to policy, and very dangerous. At the time that Officer Weeks reached into the vehicle, the suspect was only legally detained for a civil traffic violation.

Specific mandatory training has been instructed at the Southern Law Enforcement Training Center covering this scenario. Officers are trained to not reach into vehicles during traffic stops, especially when the driver is attempting to flee.

Officer Tapia using a firearm as an impact weapon is contrary to policy, and very dangerous. Striking a suspect with a firearm is contrary to policy and very dangerous, as it could result in an accidental discharge.

Officer Anaya saw Officer Weeks fall to the ground and perceived a threat to all officers on scene. He broadcast to other officers to "shoot him" and "ram him". The other officers on scene in good faith believed the situation to be a lethal force situation, based on Officer Anaya's perception and broadcasts. The suspect unintentionally collided with a civilian vehicle while attempting to flee. Officer Anaya perceived the collision to be intentional and shot the suspect. Without the clear intent that the collision was on purpose, the Force Review Board agreed that the suspect was shot for an unintentional collision. The decision Officer Tapia made in pulling the suspect from the car while holding his duty handgun was a poor choice. He ultimately struck the suspect in the head several times with his handgun, which is contrary to training and could have caused an accidental discharge. This action resulted in a criminal investigation into Officer Tapia's use of force.



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EQUIPMENT

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

If NO, please explain:

Officer Tapia struck the suspect several times with his duty handgun. This is not the intended use of this piece of equipment, and is very dangerous. Using his duty handgun as an impact weapon resulted into a criminal investigation into his actions.

12. What less lethal tools were available to officer(s), if applicable?

On officer(s) person: N/A

In vehicles / not deployed: N/A

In the field not at the scene: N/A

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

Comments: The officers on scene were working in the Community Response Team. They commonly do not carry flex batons, pepperball guns, shields, and spikes. Officer Tapia was in uniform and had his issued Taser. The use of the Taser would not have been appropriate in this instance. The Force Review Board found no deficiencies in equipment, or the use of equipment in this incident, with the exception of Officer Tapia using his handgun as an impact weapon.

REVIEW OF EQUIPMENT:

Agree: Based on the documentation provided, equipment employed appear to be consistent with policy and training.

Disagree: Based on the documentation provided, equipment employed does **NOT** appear to be consistent with policy and training.



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SUPERVISION

14. Was there an on-scene supervisor(s)? YES NO

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

YES NO

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

YES NO N/A

If NO, please explain:

The supervisor was not present during this incident. The Force Review Board agreed that the supervisor should have been present if the squad was going to go work a known gang that had been making threats to members of this squad. There was also no operational plan in the event that another supervisor would have to step in.

Check all that apply for each supervisor:

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

The supervisor of the Community Response Team was not present. OPS recommended discipline in this case, and the COC recommended a 40-hour suspension. The supervisor has been removed from the Community Response Team.

REVIEW OF INCIDENT SUPERVISION (For each on scene supervisor)

Agree: The review board finds that the supervision and direction of the incident appears to be within policy and training

Disagree: The review board finds that the supervision and direction of the incident does **NOT** appear to be consistent with policy and/or training.

The Force Review Board agreed that a Community Response Team (CRT) supervisor should be present on operations, because the radio transmissions made on the operation are not on the division frequency. This means there is no supervision if no other sergeants can monitor the operation. In the event that the CRT supervisor is not able to be in the field, an operational plan should be completed, and a patrol field supervisor should be briefed. This would be in a surveillance operation where the plan would be to not make contact with suspects. For an apprehension or pre planned contact with suspects, the CRT supervisor being present is mandatory.

In this instance, the board agreed that if the squad was going to do surveillance on a known gang that has threatened these officers, a supervisor should have been present. Contacting the suspect in the car, not knowing his identity, was a very high risk operation. The Force Review Board, as well as OPS and the Chain of Command agreed that Sergeant Hackett should have been present.



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REPORTING, INVESTIGATION, AND REVIEW

<p>17. Are there any problems or issues with the investigation?</p> <p>The Force Review Board found no problems or issues with this investigation.</p>	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p><input type="checkbox"/> No action. Explanation sufficient</p> <p><input type="checkbox"/> Refer to Legal</p> <p><input type="checkbox"/> Refer to Other:</p>
<p>18. Is the investigation complete?</p> <p>The FRB found the investigation to be complete.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Provide feedback to investigator</p> <p>Describe:</p>
<p>19. Was the review thorough, complete, and supported by the evidence presented?</p> <p>Yes, the investigation was thorough, complete, and supported by the evidence presented.</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Provide feedback to investigator</p> <p>Describe:</p>
<p>20. Did the Chain of Command (COC) address all pertinent issues?</p> <p>Yes</p>	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p><input type="checkbox"/> Provide feedback to COC</p> <p>Describe:</p>
<p><input checked="" type="checkbox"/> Agree: The review board finds that the investigation is thorough and complete.</p> <p><input type="checkbox"/> Disagree: The review board finds that the investigation is NOT thorough and complete, for the following reasons:</p>	



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FINDINGS

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

YES NO

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

YES NO

23. Was the officer's(s') use of force compliant with TPD Use of Force Policy?

YES NO

REVIEW OF USE OF FORCE POLICY COMPLIANCE:

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

Officer Anaya- The FRB finds that Officer Anaya fired at a vehicle that was fleeing from a civil traffic stop. The vehicle did not intentionally try to run over officers, and accidentally collided with a civilian vehicle while attempting to flee. Officer Anaya direct other officers to shoot the driver, and to ram the vehicle, based on his perception of an ongoing threat to other officers on scene. Officer Reilly used his vehicle to pin the suspect vehicle. Officer Anaya shot at the suspect vehicle, while Officer Reilly was in close proximity of the suspect vehicle. Officer Reilly was not in Officer Anaya's backdrop, but he was very close, and based on the shot placement, put him in danger. Officer Anaya's backdrop was a busy roadway with several passing vehicles.

Officer Tapia- The FRB finds that Officer Tapia was out of policy using his handgun as an impact weapon on the traffic stop. After the shooting, Officer Tapia then violated policy as he pulled the suspect from the vehicle while holding his handgun. This can commonly result in a sympathetic reflex, causing an accidental discharge. Officer Tapia then repeatedly jabbed his gun barrel into the suspect's head while putting him on the ground. This could have resulted in an accidental discharge. These actions resulted in a criminal investigation into his use of force.

Officer Reilly- The FRB finds that the use of force by Officer Reilly was necessary, reasonable, and proportional in this situation. Officer Reilly, acting in good faith, used a vehicle pinning tactic he was taught in Special Weapons and Tactics (SWAT). He used his vehicle from preventing the suspect from fleeing, following the collision with a civilian. The FRB finds Officer Reilly's actions within Tucson Police Department General Orders.



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OTHER BOARD RECOMMENDATIONS

24. Were there any other issues raised by this incident that should be addressed?

- YES
- NO

If YES, please comment:

- Refer issue to Training
- Refer issue to Chain of Command
- Refer issue to Other:

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

- YES
- NO

If YES, please comment:

REFER TO:

- Involved Officer(s) / COC
- Legal
- Training
- Other:

Additional Comments and/or Follow-up Recommendations:

The Force Review Board discussed the change in Tucson Police Department General Order 2200. The General Order was changed shortly after this incident, and largely due to this investigation that followed. The term "Totality of the Circumstances" has been removed. The verbiage for the need to use force is "Immediacy of the Threat."

The Force Review Board, specifically the civilian members, feel that the totality of the circumstances is extremely important, and give a complete picture as to necessity, reasonableness, and proportionality. The recommendation of the board is that the policy should be crafted to say both, totality of the circumstances AND the immediacy of the threat.

If AGREE, no additional comments necessary. Board Chair signs and forwards to Deputy Chief.

If DISAGREE, Board drafts written report with findings and forwards to Chain of Command.

Incident Timeline

The following timeline was created using the information from Event Chronology E1919801096 and a timeline audio wave clip using multiple views of body worn camera footage. The timeline clip was created by Video Unit Supervisor, Sergeant Chris Andreacola.

- 16:51:53:07 Officer Tapia is standing at Linarez' driver side door
- 16:51:58:19 Officer Weeks approached the passenger side door
- 16:52:11:11 Officer Tapia writes down Linarez' name and date of birth



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16:53:00:22 Officer Tapia requests Officer Weeks assist him at the driver side
16:53:05:00 Linarez turns on the ignition and attempts to close door
Officer Tapia unholsters his duty weapon
16:53:05:19 Officer Tapia said, *"I'm gonna kill you motherfucker!"* and repeatedly jabbed Linarez on the left side of his head with his firearm
16:53:08:16 A struggle ensued with Linarez, Officer Tapia, and Officer Weeks
16:53:09:04 Linarez' tires screech as he sped away
Officer Weeks is attached to Linarez' vehicle and Officer Tapia is running parallel to the vehicle
16:53:09:22 Officer Anaya yelled, *"Shoot him! Shoot him!"*
16:53:09:23 Officer Weeks fell forward
16:53:11:07 Linarez accelerated southbound in the parking lot around Officer Lopez' unmarked vehicle
16:53:13:15 Officer Tapia chased Linarez through the parking lot and Officer Anaya said, *"Ram him! Ram him! He tried to run us over! Ram him!"* on the CRT frequency
16:53:18:19 Linarez collides with a white Dodge van traveling northbound on Palo Verde Road
Officer Anaya said, "Call it out on 91" via police radio
16:53:23:09 Officer Anaya yelled, *"Get on the ground, motherfucker!"*
16:53:24:00 Linarez' vehicle spun around and was facing southbound Palo Verde Road
16:53:23:28 Officer Reilly struck Linarez' vehicle in the area of the front passenger wheel
16:53:25:29 Officer Anaya advanced on the vehicle and fired six (6) rounds
16:53:28:24 Officer Anaya yelled, *"Get on the ground!"* and Officer Tapia yelled, *"Hey, keep your hands up I'm gonna fucking kill you!"*
16:53:30:02 Linarez opened the car door and is heard crying
16:53:33:00 Officer Tapia yelled, *"Get out motherfucker!"* and pulled Linarez out of the vehicle using his left arm
16:53:35:10 Officer Tapia directed Linarez to the ground and said, *"Get out motherfucker! We fucking told you!"*
16:53:37:02 Officer Tapia repeatedly struck Linarez in the back of his head with his duty weapon
16:53:40:27 Officer Tapia's firearm is placed directly against Linarez' head and Officer Anaya's left knee is on Linarez back
16:53:53:00 Linarez said, *"I'm shot, man"*
16:53:58:01 Officer Weeks handcuffed Linarez
16:53:59:23 Officer Reilly donned his tactical vest and made contact with Linarez
16:54:11:20 Officer Reilly requested an Individual First Aid Kit (IFAK) and administered medical care
16:54:21 EVENT REMARK: BR13 [Officer Sproule] - - HAS DRIVER DETAINED
16:54:31 EVENT REMARK: BR13 - - ONE SUBJ OUTSTANDING AT THE 5225 S PALO VERDE
16:54:49 UNIT UPDATED: 1U4 [Sergeant Soltero] - - DISPATCHED
16:54:55 UNIT UPDATED: BR10 [Sergeant Hackett] - - DISPATCHED
16:55:48 EVENT REMARK: BR17 [Officer Tequida] - - NEG OFFICERS INJURED
16:56:42 EVENT REMARK: USING IFAK ON SUBK
16:58:08 EVENT REMARK: BR11 [Officer Reilly] - - DEALING W/2 GUNSHOT WOUNDS
16:58:18 EVENT REMARK: BR11 - - OFFICERS ARE C4
16:59:32 EVENT REMARK: RFD ADVISED TO MOVE IN
16:59:36 EVENT REMARK: BR10 A/C [Air Cleared]
16:59:38 Lieutenant Howell is dispatched to the scene
17:01:17 EVENT REMARK: BR10 - - CONFIRMED OIS
17:03:04 Sergeant Hackett assumed Incident Command
17:12:41 Lieutenant Howell arrived on-scene



TUCSON POLICE DEPARTMENT

Force Review Board



Pima County Attorney's Office

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Barbara LaWall
Pima County Attorney

January 24, 2020

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

**Re: *Officer-Involved Shooting Investigation/TPD Case Number 1907170552/
Officer Alfred Anaya #52771***

Dear Chief Magnus,

I have reviewed the above-referenced officer-involved shooting investigation in which Officer Alfred Anaya shot Vincent Linarez on July 17, 2019 at 5225 South Palo Verde Road. I have been asked to review whether criminal charges should be filed against Officer Anaya in relation to this incident.

Around midnight on July 18th, 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. Later on the same day, Detective Scott Ahlskog provided multimedia materials regarding this case including body-worn-camera and surveillance footage. On July 22nd, I met with Detective Ahlskog, Sergeant Borboa, and others for an updated briefing and discussion of the media.

On August 26th, I met with Detective Ahlskog, discussed the case, and was provided with additional multimedia and written materials regarding this case. I have reviewed the materials provided, including police reports, transcripts, interviews, evidence forms, event chronology, scene photographs, body-worn-camera videos, video from neighboring businesses, and research materials with reference to a residence at 50███ S. 11th Avenue and the Southside Murder Gang Killas Gang (SMGK).

Based on my review of the materials supplied and briefings described above, the following is my understanding of the relevant events.

Within the last year, Operations Division South Community Response Team (hereafter, "ODS CRT") officers investigated eight separate incidents at 50███ S 11th



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Avenue, which resulted in felony arrests related to weapons and narcotics. The residence was affiliated with SMGK members who had been involved in multiple violent crimes over the last year.

On July 17, 2019, ODS CRT conducted surveillance at 50 [REDACTED] S. 11th Avenue. Officers saw a red Chevrolet Malibu parked outside around 3:30 p.m. [REDACTED] the girlfriend of Mr. Linarez, was in the passenger seat. Mr. Linarez approached the residence but left after a few minutes. At that time, Mr. Linarez was the subject of an outstanding felony failure-to-appear warrant. ODS CRT officers were aware of the arrest warrant and had searched for Mr. Linarez two days before the incident. Officers, though, were not aware that Mr. Linarez was the Malibu driver until he was actually taken into custody.

Officers watched the Malibu leave the residence and followed it. The Malibu made frequent stops and turns which suggested to the officers that Mr. Linarez was trying to detect if he was being followed. Mr. Linarez drove into the McDonalds parking lot at 52 [REDACTED] S. Palo Verde Rd. Officers then observed the Malibu commit a civil traffic infraction under A.R.S. §28-856(1) when it failed to stop as if left the parking lot and turned onto S. Palo Verde Rd. Mr. Linarez then immediately drove back to the same McDonalds and parked. Ms. Herrera then emerged from the passenger side door and walked inside the McDonalds.

Officer Tapia was in uniform and pulled his marked patrol car behind the Malibu. He walked toward the Malibu and watched Mr. Linarez open the driver side door. Officer Tapia told Mr. Linarez to remain seated, and he complied. Officer Weeks walked to the passenger side of the Malibu. Mr. Linarez provided his name and birthdate. Officer Tapia wrote the information on his notepad. Officer Tapia asked Officer Weeks to come to the driver's side and radioed for an additional unit. Mr. Linarez asked, "What's going on," then started the ignition and attempted to shut the driver's door. Officer Tapia drew his weapon, pointed it at Mr. Linarez's head, and stated, "I'm going to kill you motherfucker." Officer Weeks rushed up to the driver's door and tried to grab Mr. Linarez, who accelerated. Officer Weeks tried to keep pace with the accelerating Malibu but the vehicle's forward momentum caused the officer to tumble forward and roll onto the ground as Mr. Linarez sped away.

The Malibu, driven by Mr. Linarez, sped through the parking lot, jumped a curb, and narrowly avoided collisions with two unmarked vehicles. Officer Anaya shouted, "Shoot him, shoot him," as he ran after the Malibu and made a radio transmission of, "Ram him, ram him. He tried to run us over." Mr. Linarez failed to stop when driving out of the parking lot into oncoming traffic on Palo Verde Rd. and struck the passenger side of a white van with civilian occupants. The white van stopped in the middle of Palo Verde Rd. After the collision, the Malibu spun and moved southbound in the northbound lanes. Officer Reilly, in his unmarked car, drove his vehicle forward and struck the Malibu head on.



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Meanwhile, Officers Anaya, Tapia, and Weeks ran toward the Malibu across an empty dirt lot between the McDonalds parking lot and Palo Verde Rd. Dust stirred up by the Malibu and other vehicles settled as Officer Anaya approached the Malibu with his gun drawn. As Officer Anaya moved toward the Malibu he issued a loud verbal command to "get on the ground". Officer Anaya then advanced about ten feet closer to the Malibu and then stopped. His body worn camera does not record any movement of the driver's door nor any verbal response from Mr. Linarez. Officer Anaya then fired six shots; five shots struck the driver's door while one shot hit the ground. Mr. Linarez was struck in the left buttock and in the left knee. After the shots were fired, and after another verbal command to "get on the ground", Mr. Linarez opened the driver's side door and was then taken into custody and medically treated.

A.R.S. §§13-404, 405 and 406 allow a person to use deadly physical force to protect himself when and to the extent a reasonable person, similarly situated, would believe that deadly physical force is immediately necessary to protect himself or a third person 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 Anaya was justified in his use of deadly physical force. The manner in which Mr. Linarez operated the Malibu created a "substantial risk of causing death or serious physical injury" and therefore constituted the use of deadly physical force under A.R.S. §13-105 (14). Based upon what he had just observed, it was reasonable for Officer Anaya to believe that Mr. Linarez would continue his effort to evade police officers by driving away from the scene at high speed. Such driving was capable of creating a substantial risk of death or serious physical injury to the arresting officers, pedestrians or motorists in the area. Officer Anaya's use of deadly physical force was reasonably calculated to eliminate those risks.

For these reasons, the Pima County Attorney's Office declines to file any criminal charges against Officer Anaya arising from this incident. 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 724-5630.

Sincerely,

A handwritten signature in blue ink that reads "Soo Conatser".

Soo Conatser
Deputy County Attorney

cc: Barbara LaWall, Pima County Attorney
Detective Scott Ahlskog, Tucson Police Department



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Barbara LaWall

Pima County Attorney

January 24, 2020

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

**Re: Officer-Involved Use of Force Investigation/TPD Case Number 1907170552/
Officer Jesus Tapia, #53504**

Dear Chief Magnus,

I have reviewed the above-referenced investigation in which Officer Jesus Tapia used physical force and threatened to use deadly physical force moments before and during the arrest of Vincent Linarez on July 17, 2019 at 52 [REDACTED] South Palo Verde Road. I have been asked to review whether criminal charges should be filed against Officer Tapia in relation to this incident.

Around midnight on July 18th, 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. Later on the same day, Detective Scott Ahlskog provided multimedia materials regarding this case including body-worn-camera and surveillance footage. On July 22nd, I met with Detective Ahlskog, Sergeant Borboa, and others for an updated briefing and discussion of the media.

On August 26th, I met with Detective Ahlskog, discussed the case, and was provided with additional multimedia and written materials regarding this case. I have reviewed the materials provided, including police reports, transcripts, interviews, evidence forms, event chronology, scene photographs, body-worn-camera videos, video from neighboring businesses, and research materials which concern a residence at 50 [REDACTED] S. 11th Avenue and the Southside Murder Gang Killas Gang (SMGK).

Based on my review of the materials supplied and briefings described above, the following is my understanding of the relevant events.



TUCSON POLICE DEPARTMENT

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Within the last year, Operations Division South Community Response Team (hereafter, "ODS CRT") officers investigated eight separate incidents at 50 [REDACTED] S. 11th Avenue, which resulted in felony arrests related to weapons and narcotics. The residence was affiliated with SMGK members who had been involved in multiple violent crimes over the last year.

On July 17, 2019, officers with ODS CRT conducted surveillance at 50 [REDACTED] S. 11th Avenue. Officers saw a red Chevrolet Malibu parked outside around 3:30 p.m. [REDACTED] the girlfriend of Mr. Linarez, was in the passenger seat. Mr. Linarez approached the residence but left after a few minutes. At that time, Mr. Linarez was the subject of an outstanding felony failure-to-appear warrant. ODS CRT officers were aware of the arrest warrant and had searched for Mr. Linarez two days before the incident. Officers, though, were not aware that Mr. Linarez was the Malibu driver until he was actually taken into custody.

Officers watched the Malibu leave the residence and followed it. The Malibu made frequent stops and turns which suggested to the officers that Mr. Linarez was trying to detect if he was being followed. Mr. Linarez drove into the McDonalds parking lot at 52 [REDACTED] S. Palo Verde Rd. Officers then observed the Malibu commit a civil traffic infraction under A.R.S. § 28-856(1) when it failed to stop as it left the parking lot and turned onto S. Palo Verde Rd. Mr. Linarez then immediately drove back to the same McDonalds and parked. Ms. Herrera then emerged from the passenger side door and walked inside the McDonalds.

Officer Tapia was in uniform and pulled his marked patrol car behind the Malibu. He walked toward the car and watched Mr. Linarez open the driver's side door. Officer Tapia told Mr. Linarez to remain seated, and he complied. Officer Weeks walked to the passenger side of the Malibu. Mr. Linarez provided his name and birthdate. Officer Tapia wrote the information on his notepad. Officer Tapia asked Officer Weeks to come to the driver's side and radioed for an additional unit. Mr. Linarez asked, "What's going on," then started the ignition and attempted to shut the driver's door. Officer Tapia drew his weapon, pointed it at Mr. Linarez's head, and stated, "I'm going to kill you motherfucker." Officer Weeks rushed up to the driver's door and tried to grab Mr. Linarez, who accelerated. Officer Weeks tried to keep pace with the Malibu but the vehicle's forward momentum caused the officer to tumble forward and roll onto the ground as Mr. Linarez sped away.

The Malibu sped through the parking lot, jumped a curb, and narrowly avoided collisions with two unmarked vehicles. Officer Anaya shouted, "Shoot him, shoot him," as he ran after the Malibu and made a radio transmission of, "Ram him, ram him. He tried to run us over." Mr. Linarez failed to stop when driving out to Palo Verde Rd. into oncoming traffic and struck the passenger side of a white van with civilian occupants. The white van stopped in the middle of Palo Verde Rd. After the collision, the Malibu spun and moved southbound in the northbound lanes. Officer Reilly, in his unmarked car, drove his vehicle forward and struck the Malibu head on.



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Meanwhile, Officers Anaya, Tapia, and Weeks ran toward the Malibu across an empty dirt lot between the McDonalds parking lot and Palo Verde Rd. Dust stirred up by the Malibu and other vehicles settled as Officer Anaya approached the Malibu with his gun drawn. As Officer Anaya moved toward the Malibu he issued a loud verbal command to "get on the ground". Officer Anaya then advanced about ten feet closer to the Malibu and then stopped. His body worn camera does not record any movement of the driver's door nor any verbal response from Mr. Linarez. Officer Anaya then fired six shots; five shots struck the driver's door while one shot hit the ground. Mr. Linarez was struck in the left buttock and in the left knee. After the shots were fired, and after another verbal command to "get on the ground", Mr. Linarez opened the driver's side door and was then taken into custody and medically treated.

Mr. Linarez then opened the driver's door. Officer Tapia said, "Get on the ground motherfucker. I'm going to kill you," as the door was opening. Officer Tapia reached into the vehicle and grabbed Mr. Linarez. Officer Tapia's weapon was drawn and he made a jabbing motion with his right arm into the car. A sound is heard in sequence with two jabs, which appears to indicate the barrel of the officer's gun tapped Mr. Linarez's head twice as he was pulling Mr. Linarez out of the vehicle. Officers Tapia and Anaya together pulled Mr. Linarez out of the car and placed him prone on the ground. Officer Tapia said, "We fucking told you. Didn't we fucking tell you," as he pushed his weapon against the back of Mr. Linarez's head 3 to 4 times. Mr. Linarez was placed in handcuffs.

At the hospital, Detective Josh Cheek noted two wounds on the left side and back of Mr. Linarez's head which most likely were made by the gun barrel tapping his head or being pushed against his head. Mr. Linarez was treated and survived his gunshot wounds from the shots fired by Officer Anaya. Mr. Linarez was interviewed and said he had a phobia about police officer encounters and admitted that he purposefully drove away from the officers. He also admitted that he tried without success to re-start the Malibu after he was rammed by the patrol car driven by Officer Reilly.

A.R.S. §13-409 permits a person to use or threaten physical force to make or assist a lawful arrest or detention or to prevent the escape after arrest or detention so long as a reasonable person believes such force is immediately necessary to effect the arrest or detention or prevent the escape. A.R.S. §13-410(A) permits officers to threaten the use of deadly physical force against suspects who actually resist the discharge of a legal duty with deadly physical force or with the apparent capacity to use deadly physical force.

Mr. Linarez was lawfully detained pursuant to the civil traffic stop. Officer Tapia pointed his gun at Mr. Linarez and issued a verbal threat to shoot him when Mr. Linarez escaped from that lawful detention and nearly ran over Officer Weeks. When Mr. Linarez drove away at high speed from the officers he created a substantial risk of causing death or serious physical injury to Officer Weeks and other persons in the immediate area. Mr. Linarez's actions meet the definition of "deadly physical force" under A.R.S. 13-105(14). Because of this, Officer Tapia was authorized to threaten the use of deadly physical force to prevent the escape of Mr. Linarez from the lawful detention. Officer Tapia's act of using



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Force Review Board

the barrel of his handgun to jab Mr. Linarez in the head and to press the barrel of his gun against Mr. Linarez's head was not a use of deadly physical force because it created no substantial risk to cause death or serious physical injury. The jabbing and pressing meets the definition of "physical force" under A.R.S. 13-105(32). Officers are justified in the use of physical force to effect arrests or detentions or prevent escapes under A.R.S. §13-409. Officer Tapia was engaged with effecting the arrest of Mr. Linarez for the aggravated assault of Officer Weeks when the jabs and pressure occurred. This use of force was calculated to assist with the arrest, to deter Mr. Linarez from further attempting escape, and was reasonable.

For these reasons, the Pima County Attorney's Office declines to file any criminal charges against Officer Tapia arising from this incident. 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 724-5630.

Sincerely,

A handwritten signature in blue ink, appearing to read "Soo Conatser".

Soo Conatser
Deputy County Attorney

cc: Barbara LaWall, Pima County Attorney
Detective Scott Ahlskog, Tucson Police Department



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Barbara LaWall
Pima County Attorney

January 24, 2020

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

**Re: Officer-Involved Shooting Investigation/TPD Case Number 1907170552/
Officer John Reilly #100044**

Dear Chief Magnus,

I have reviewed the above-referenced officer-involved use of deadly physical force investigation in which Officer John Reilly used his unmarked patrol vehicle to initiate a collision with a passenger vehicle operated by Vincent Linarez on July 17, 2019 at 52 South Palo Verde Road. I have been asked to review whether criminal charges should be filed against Officer Reilly in relation to this incident.

Around midnight on July 18th, 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. Later on the same day, Detective Scott Ahlskog provided multimedia materials regarding this case including body-worn-camera and surveillance footage. On July 22nd, I met with Detective Ahlskog, Sergeant Borboa, and others for an updated briefing and discussion of the media.

On August 26th, I met with Detective Ahlskog, discussed the case, and was provided with additional multimedia and written materials regarding this case. I have reviewed the materials provided, including police reports, transcripts, interviews, evidence forms, event chronology, scene photographs, body-worn-camera videos, video from neighboring businesses, and research materials reference a residence at 50 S. 11th Avenue and the Southside Murder Gang Killas Gang (SMGK).

Based on my review of the materials supplied and briefings described above, the following is my understanding of the relevant events.



TUCSON POLICE DEPARTMENT

Force Review Board

Within the last year, Operations Division South Community Response Team (hereafter, "ODS CRT") officers investigated eight separate incidents at 50 [REDACTED] S. 11th Avenue, which resulted in felony arrests related to weapons and narcotics. The residence was affiliated with SMGK members who had been involved in multiple violent crimes over the last year.

On July 17, 2019, ODS CRT conducted surveillance at 50 [REDACTED] S. 11th Avenue. Officers saw a red Chevrolet Malibu parked outside around 3:30 p.m. [REDACTED] the girlfriend of Mr. Linarez, was in the passenger seat. Mr. Linarez approached the residence but left after a few minutes. At that time, Mr. Linarez was the subject of an outstanding felony failure-to-appear warrant. ODS CRT officers were aware of the arrest warrant and had searched for Mr. Linarez two days before the incident. Officers though, were not aware that Mr. Linarez was the Malibu driver until he was actually taken into custody.

Officers watched the Malibu leave the residence and followed it. The Malibu made frequent stops and turns which suggested to the officers that Mr. Linarez was trying to detect if he was being followed. Mr. Linarez drove into the McDonalds parking lot at 52 [REDACTED] South Palo Verde Rd. Officers then observed the Malibu commit a civil traffic infraction under A.R.S. 28-856(1) when it failed to stop as it left the parking lot and turned on S. Palo Verde Rd. Mr. Linarez then immediately drove back to the same McDonalds and parked. Ms. Herrera then emerged from the passenger side door and walked into the McDonalds.

Officer Tapia was in uniform and pulled his marked patrol car behind the Malibu. He walked toward the car and watched Mr. Linarez open the driver side door. Officer Tapia told Mr. Linarez to remain seated, and he complied. Officer Weeks, wearing a police tactical vest, walked to the passenger side of the Malibu. Mr. Linarez provided his name and birthdate. Officer Tapia wrote the information on his notepad. Officer Tapia asked Officer Weeks to come to the driver's side and radioed for an additional unit. Mr. Linarez asked, "What's going on," then started the ignition and attempted to shut the driver's door. Officer Tapia drew his weapon, pointed it at Mr. Linarez's head, and stated, "I'm going to kill you motherfucker." Officer Weeks rushed up to the driver's door and tried to grab Mr. Linarez, who accelerated. Officer Weeks tried to keep pace with the Malibu but the vehicle's forward momentum caused the officer to tumble forward and roll onto the ground as Mr. Linarez sped away.

The Malibu sped through the parking lot, jumped a curb, and narrowly avoided collisions with two unmarked vehicles. Officer Anaya shouted, "Shoot him, shoot him," as he ran after the Malibu and made a radio transmission of, "Ram him, ram him. He tried to run us over." Mr. Linarez failed to stop when driving out to Palo Verde Rd. into oncoming traffic and struck the passenger side of a white van with civilian occupants. The white van stopped in the middle of Palo Verde Rd. After the collision, the Malibu spun and moved southbound in the northbound lanes. Officer Reilly, in his unmarked car, drove his vehicle forward a short distance at low speed and struck the Malibu head on.



TUCSON POLICE DEPARTMENT

Force Review Board

Meanwhile, Officers Anaya, Tapia, and Weeks ran toward the Malibu across an empty dirt lot between the McDonalds parking lot and Palo Verde Rd. Dust stirred up by the Malibu and other vehicles settled as Officer Anaya approached the Malibu with his gun drawn. As Officer Anaya moved toward the Malibu he issued a loud verbal command to "get on the ground". Officer Anaya then advanced about ten feet closer to the Malibu and then stopped. His body worn camera does not record any movement of the driver's door nor any verbal response from Mr. Linarez. Officer Anaya then fired six shots; five shots struck the driver's door while one shot hit the ground. Mr. Linarez was struck in the left buttock and in the left knee. After the shots were fired, and after another verbal command to "get on the ground", Mr. Linarez opened the driver's side door and was then taken into custody and medically treated.

A.R.S. §§13-404, 405 and 406 allow a person to use deadly physical force to protect himself when and to the extent a reasonable person, similarly situated, would believe that deadly physical force is immediately necessary to protect himself or a third person 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 Reilly was justified in his use of deadly physical force. The manner in which Mr. Linarez operated the Malibu created a "substantial risk of causing death or serious physical injury" and therefore constituted a use of deadly physical force under A.R.S. §13-105 (14). Based upon what he had just observed, it was reasonable for Officer Reilly to believe that Mr. Linarez would continue to drive at high speed to avoid capture and either collide with a pedestrian or a motorist. Either type of collision was capable of causing death or serious physical injury. Officer Reilly's use of deadly physical force by striking the Malibu head-on with his patrol vehicle was reasonably calculated to remove these threats by disabling the Malibu which was operated by Mr. Linarez.

For these reasons, the Pima County Attorney's Office declines to file any criminal charges against Officer Reilly arising from this incident. 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 724-5630.

Sincerely,

A handwritten signature in blue ink that reads "Soo Conatser".

Soo Conatser

Deputy County Attorney

cc: Barbara LaWall, Pima County Attorney
Detective Scott Ahlskog, Tucson Police Department



TUCSON POLICE DEPARTMENT

Force Review Board

AUDIT AND BEST PRACTICES COMMANDER AND DEPUTY CHIEF SIGNATURE

Lieutenant:

[Handwritten signature]

Signature

Date: 07/14/23

- I agree with the Force Review Board's Findings
- I disagree with the Force Review Board's Findings

Comments / Additional Recommendations:

Deputy Chief:

[Handwritten signature: K. HALL, 3/26/23, For DC, Puerto]

Signature

Date:

- 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:**



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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:



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



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