

# TUCSON POLICE DEPARTMENT Force Review Board

Incident Information	
Case Number: 2010280141	OPS #: 20-0530
Date of Incident: 10/28/2020	OPS Findings and Recommendation: Within policy
Involved Officers: OIS: Ofcs. Barker (#100394), Knowlton (#043760); Sgts. Hackett (#048352), Landau (#052789); Flex baton: Sgt. Bredehoft (#046581), Ofc. Barker (#100394)	COC Findings and Recommendation: Concur/closed
Incident Location: Desert wash near Calle Santa Cruz and Valencia	County Attorney Findings: Justified/closed
Level of Force	
Type IV – Officer-involved shooting (OIS)	
Type II – Flex baton	
Investigative Information	
Investigating Supervisor: Sgt. Michael Gannon	
Unit [Team/Squad]: TPD Office of Professional Standards	
Date Use of Force Investigation Complete: May 28, 2021	
Date Use of Force Investigation Follow-up [if any] Complete: N/A	
Board Information	
Date of Board: 8/16/21	Board Chair: Assistant Chief Kevin Hall, TPD
Scribe: Lisa Markkula, TPD	Member: Lt. Mikeal Allen, TPD
Member: Ofc. Ryan Azuelo, TPD	Member: Sgt. Matt Brady, TPD
Member: Sgt. Jesse Cornia, TPD	Member: Sgt. Leslie Gallagher, TPD
Member: Ofc. Mike Gamez, TPD, TPOA	Member: Ofc. Ariel Giessuebel, TPD
Member: Lt. Thomas Hawke, TPD	Member: Traci Hockett, Community Member
Member: Mitch Kagen, Independent Police Auditor	Member: Ofc. Michael Krammes, TPD
Member: Lt. Ray Mechtel, TPD	Member: Jimmy Muñoz-Cano, Community Member
Member: Ofc. Robert Quesnel, TPD	Member: Adria Santa Anna, Community Member
Member: Cedric Smith, Community Member	Member: Craig Wilson, Community Member
Date of Submission: October 6, 2021	Legal Advisor: Antonio Zapata, TPD
Topics for Review	
<b>Tactics/Decision Making</b>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Equipment</b>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Supervision</b>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree
<b>Reporting, Investigation, and Review</b>	<input checked="" type="checkbox"/> Agree <input type="checkbox"/> Disagree



# TUCSON POLICE DEPARTMENT

## Force Review Board

OPS Findings

Agree

Agree / Out of Policy

Disagree

### Analysis Methodology

The Tucson Police Department (TPD) Force Review Board (Board) reviewed this incident with a focus on department policy, tactics/decision making, supervision, equipment, reporting, internal investigation, and training. Determining administrative violations and assigning discipline resulting from the incident are the 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 photographs, video, documents, interviews, reports, training records, and associated materials generated during the criminal and administrative investigations of this incident, in addition to Department General Orders. **The Board determined that the assembled materials were sufficient for a thorough review of the incident and that no additional evidence collection or interviews were necessary.**

On July 15, 2021, The Office of Professional Standards made extensive materials available to FRB members, including:

- Administrative documents
- Office of Professional Standards Investigative Summary
- Investigative documents, including
  - Autopsy Report
  - Case Reports
  - Crime Lab Reports
- 911 call audio
- Crime scene photographs
- Body-worn camera video
- Witness and Officer Interviews
- Personnel Reports
- Training documentation
- Pima County Attorney's Office declination letter

### Event Summary

On October 28, 2020 at approximately 1525 hours, officers responded to the 1500 block of West Valencia regarding an armed male suspect who shot an occupied vehicle. Officers spoke with the driver/victim and learned that, as he was attempting to pull out of the parking lot, he was confronted by an unknown male suspect armed with a handgun. The suspect fired his weapon, striking the victim's vehicle before fleeing east on foot. Responding officers began searching the immediate area for the suspect.

During their search, officers were flagged down by a second victim. He advised that the suspect approached him and pointed a handgun at him before running toward the dry bed of the Santa Cruz River. Officers Fernandez and Guzman responded to the west side of the river (Calle Santa Cruz and Valencia). While on the walking path at the river they heard gunshots and believed they were being shot at. Officer Fernandez called



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"Shots fired" over the radio. Sgt. Landau called a "10-99" on the radio and responded to Officers Fernandez' and Guzman's location. The suspect, later identified as Charles Arviso, was seen walking east into the dry riverbed (wash), armed with a handgun. Responding officers set up containment further north and east from Mr. Arviso's position. Officer Knowlton positioned himself with other officers north of the suspect at a marked patrol vehicle. Mr. Arviso was seen moving the firearm around, including placing it to his head.

Sergeants Archibald and Hackett responded to the east side of the wash. Sergeant Landau, Officers Fernandez Guzman were on the west side. Officers gave verbal commands to Mr. Arviso over a PA system to try to gain compliance and resolve the incident peacefully. The suspect then pointed the handgun north in the direction of Officer Knowlton and the officers who were with him. Officer Knowlton fired two rounds at Mr. Arviso from his patrol rifle, striking him in the head.

SWAT operators in the field response unit (TAC) approached Mr. Arviso, who had fallen to the ground. Officers were not able to see his hands to determine if he remained a potential lethal threat, so Sergeant Bredehoft directed Officer Barker to fire a non-lethal flex baton round at the suspect. Officer Barker flexed Mr. Arviso once in the thigh; there was no response. When TAC officers reached Mr. Arviso, he still had the handgun in his hand. Tucson Fire Department (TFD) personnel responded, but Mr. Arviso was pronounced deceased at the scene.

Sergeant Hackett conducted a round count on Officer Knowlton's rifle. Sergeant Bredehoft conducted a round count on the SWAT operators and found that Officer Roberts was down one round in the handgun magazine in his secondary pouch. Officer Kush, who was standing next to Officer Knowlton when the shooting occurred, did not have his body-worn camera activated.

Detectives from the Violent Crimes Section responded to conduct the criminal investigation. Personnel from the Office of Professional Standards responded to conduct the administrative investigation. Sergeant Landau and Sergeant Bredehoft briefed investigators on the incident.

The criminal investigation was reviewed by the Pima County Attorney, who found the use of force to be legally justified.

The administrative investigation found no policy violations on the part of Officer Knowlton, Sergeant Bredehoff, or Officer Barker, the officers who used force in the incident.

### Board Findings

Based on its review of materials, the Board concurred with the findings of the Office of Professional Standards regarding the use of force in this incident: that the officers' actions in firing rifle rounds and a flex baton were within department policy.

### 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.

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

If NO, please explain:



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

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

If NO, please explain: Using a flex baton to ascertain whether it was safe to approach a downed armed suspect was not part of training. However, the reason for doing so was sound; therefore, this was determined not to be a policy violation.

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

- YES  
 NO  
 NOT FEASIBLE

If NO, please explain: Mr. Arviso was given the opportunity to comply with police commands, including commands relayed over a loud PA system. However, he pointed a gun in the direction of officers, presenting an imminent threat of deadly force, and was shot by Officer Knowlton.

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 as to the officers who used force.  
 Refer officer to Chain of Command  
 Refer officer to Training  
 Refer officer/case to OPS  
 Refer officer to other:

**Comments, Explanations, and/or Recommendations:** Using a flex baton to ascertain whether it was safe to approach a downed armed suspect was not part of training. However, the reason for doing so was sound; therefore, this was determined not to be a policy violation. The recommendation was made to be sure officers knew that this use of force was within policy.

### Equipment

6. Was the equipment used within policy/training guidelines?

- YES  
 NO

If NO, please explain: Using a flex baton to ascertain whether it was safe to approach a downed armed suspect was not part of training. However, the reason for doing so was sound; therefore, this was determined not to be a policy violation.

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

On officer's(s') person:

In vehicles/not deployed:

In the field not at the scene:

No less-lethal tools were appropriate given the imminent threat of deadly force Mr. Arviso presented. Once he was down, a flex baton was used to ascertain whether he still posed a lethal threat.



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

- A drone would have helped maintain visual contact with the suspect, given the difficult terrain. At times, officers lost sight of Mr. Arviso in the wash. If a drone had been able to keep him in view, officers might have been able to maintain a greater distance or had more time to bring in additional resources. However, if a suspect fires at a drone, those bullets come down somewhere, posing a danger to people in the surrounding area. A drone might also have been helpful to get a close look at Mr. Arviso once he was down, so that using a flex baton to see if he responded to pain would not have been necessary before approaching him.
- A TAC unit was on its way to the scene with an armored vehicle, which would have provided officers with cover.
- Officer Knowlton had a shield in his car and told another officer to get it.
- Officer Knowlton's patrol rifle had standard optics with no magnification. Magnification is often used for intelligence gathering – such as to determine whether a suspect has a gun or something else in his/her hand. In this case, Mr. Arviso had fired and continued to fire his gun. Officers who have been issued rifles with magnification train for the specific magnification of the rifle. Rather than increasing rifle magnification solely for the purpose of intelligence gathering, binoculars may help officers ascertain where a gun is being pointed.

## Supervision

**9. Was a supervisor present at the time force was used?**

- YES  
 NO

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

- 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:

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 administrative investigation found a policy violation on the part of Sergeant Hackett, who should have waited for criminal investigators to conduct the round count on Officer Knowlton's rifle. His chain of command issued non-disciplinary restorative supervision for this violation.

**Comments, Explanations, and/or Recommendations:**



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The Board did not have any concerns with the supervision of the incident. There was discussion of how you decide who's in charge at a chaotic event with many officers responding. The person with the most information usually has incident command. A supervisor may take over, but possibly not if he/she doesn't have the same level of information. An incident commander should help ensure that officers with the most information (for example, eyes on the suspect) have priority to communicate over the radio. In an ideal situation, the incident commander is able to see where everyone is.

**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.

**NO** – The review board finds that the investigation is **NOT** thorough and complete.

**Provide feedback to investigator(s):**

A board member asked why a homeless person who was a witness had not been interviewed. That person had left.

A board member asked about audio witnesses vs. eye witnesses. Eye witnesses are interviewed. Audio witnesses are not interviewed but are listed in a supplemental report.

There was discussion on how to find what's most important in the material provided to the board. A request was made to direct board members to the most pertinent documents/evidence – perhaps with an outline of key points to address.

The administrative investigation found policy violations on the part of Sergeant Hackett, Officer Roberts and Officer Kush; however, none involved the use of force. Those violations were:

- Sergeant Hackett should have waited for criminal investigators to conduct the round count on Officer Knowlton's rifle.
- Officer Roberts should have had a full magazine in his secondary pouch.
- Officer Kush should have activated his body-worn camera.

The officers' chain of command issued non-disciplinary restorative supervision for these violations.

**Comments, Explanations, and/or Recommendations:**

The Board did not have any concerns with the investigation of the incident.

**Findings**

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

**YES**

**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 TPD's Use of Force policy.



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- YES, BUT OUT OF POLICY – Based on the documentation provided, the force used was NOT consistent with TPD's Use of Force policy; however, the force was objectively necessary, reasonable, and proportional.
- NO – Based on the documentation provided, the force used was NOT consistent with TPD's Use of Force policy.

**Comments, Explanations, and/or Recommendations:**

**Board Recommendations**

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

- YES – See additional comments below.
- NO

Refer to:

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

1. Make clear that using a flex baton to determine whether an armed suspect who is down still poses a lethal threat is within policy.
2. If and when TPD expands drone use from current crime scene mapping and missing person search to tactical situations such as barricaded subjects or subjects in tunnels or washes:
  - Gather info on how other departments are using drones
  - Conduct outreach, especially to minority communities
  - Build in oversight/transparency, so the public can see how drones are being used
3. Consider expanding binocular use (currently SWAT equipment)
4. Encourage officers with eyes on a suspect to be more aggressive on the radio, letting others know we're the ones who can see him – and encourage IC to take more control over who talks on the radio, so officers with eyes on can be heard.
5. Continue to provide the board with the material now being provided, but direct board members to the most pertinent documents/evidence. Consider creating an outline of key points to address.

**Incident Chronology**

**TPD Event E203020861 / TFD Run number F20302165**

1523: Event created regarding the civilian being fired at  
1525: Officers dispatched to the call  
1531: Officer Martinez arrived and took incident command (IC)  
1535: A witness saw the subject heading east  
1539: Two subjects seen on the west side of the wash underneath the walkway  
1543: Officers flagged down by another victim who said he was held at gunpoint by the suspect  
1546: Officer Fernandez radioed "shots fired" and the suspect was seen heading east into the wash



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1547: Sergeant Landau called a "10-99" on the radio  
1548: The suspect was seen in the wash with a gun in his hand  
1549: Officer Fernandez called a "10-99" on the radio. The suspect had his hands up and was dropping the gun.  
1550: The suspect was on his knees  
1552: The suspect picked up the gun  
1554: The suspect dropped the gun again|  
1554: Officers gave commands to the suspect  
1555: The suspect put the gun to his head  
1556: Officers gave commands to the suspect over the PA system  
1556: Sergeant Archibald took IC of the officers on the east side of the wash  
1557: Officers advised that the suspect had pointed the gun at officers and was now pointing it at his own head  
1601: At this time, 43 units were assigned to the call  
1602: Officers radioed "shots fired" and that the suspect had pointed the gun in the officers' direction  
1603: Officers advised that Officer Knowlton had fired  
1604: TFD was requested to respond  
1605: Sergeant Landau radioed that he had IC  
1605: The suspect lay in the wash, bleeding from the head  
1607: TAC Units started moving toward the suspect  
1609: Officers requested TFD move in  
1610: A flex baton was deployed on the suspect with no response  
1612: Officers requested TFD move up to the suspect  
1612: Notice was given to officers coming from across the city that they could shut down code 3  
1615: The suspect was pronounced deceased  
1624: Lieutenant Rizzi took IC and Sergeant Landau was appointed Operations Chief

**DEPARTMENT**



# TUCSON POLICE DEPARTMENT Force Review Board

**Laura Conover**  
Pima County Attorney



(520) 724-5600  
pcao.pima.gov  
32 N. Stone Avenue, Tucson, AZ 85701

Administration Division

August 16, 2021

Chief Chris Magnus  
Tucson Police Department  
270 S. Stone Ave.  
Tucson, AZ 85701-1917

Re: Officer-involved shooting, TPD case number 2010280141

Dear Chief Magnus:

The Pima County Attorney's office has reviewed the above referenced officer-involved shooting investigation in which Officer John Knowlton fatally shot Mr. Charles Arivso on October 28, 2020 in the east bank of the Santa Cruz River wash near Valencia Road and Calle Santa Cruz Road. We reviewed this matter to determine whether any criminal charges should be filed against Officer Knowlton.

Deputy County Attorney Chris Ward received the materials in in early April from the originally assigned prosecutor. Detective Scott Ahlskog briefed him on April 9, 2021 as they toured different areas of the incident scene. The investigation materials included the case report and supplements, property sheets, the autopsy, scene photographs, incident call text, witness interview transcripts, and body worn camera footage. Based on review of the above materials, we understand the key facts to be as follows: The chain of events which culminated in the shooting started at 3:23 p.m. on Wednesday, October 28, 2020. A man<sup>1</sup> called 911 and reported that an unknown Hispanic male fired multiple shots at his car as he drove away from Big 5 Sporting Goods at 6441 S. Midvale Park Rd. A witness said that the shooter was a Hispanic male in his 20s who was walking east toward the nearby Santa Cruz River wash carrying a silver handgun.

About thirty Tucson Police Department (TPD) patrol officers responded and searched for the suspect. At 3:43 p.m., a second victim told officers that he was confronted by a man who fit the description of the suspect who fired at the first victim. The second victim said he was on the west side of the wash walking when a Hispanic male with a silver gun pointed it at him and said, "help me get out of here." The second victim started to walk with the suspect but ran away to safety when the suspect lost his footing and fell.

Officers encountered Mr. Arviso in the wash after they heard gunshots. Officers Fernandez and Guzman were standing on the bike path when they heard the report about the first victim. Three minutes later, someone fired a gun near them, prompting the officers to take cover behind their patrol vehicle. Officer

<sup>1</sup> The victims' names are withheld in this document to protect their privacy.



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Fernandez saw the suspect, later identified as Mr. Arviso, walk east through the wash. Body worn camera video from Officer Fernandez shows Mr. Arviso in the distance at the ramp on the east side bank. Mr. Arviso walked up the ramp at 3:48 p.m. Several TPD officers chased him on foot and commanded him to drop his gun. Mr. Arviso quickly moved into an eroded ditch and crouched low to the ground.

Two patrol vehicles were stopped about thirty yards from Mr. Arviso. Officer Knowlton and four other officers positioned themselves directly north of Mr. Arviso and used one patrol vehicle as cover. Officer Knowlton aimed his department-issued patrol rifle at Mr. Arviso. Officer Mendoza, Officer Azuelo, and several other officers positioned themselves northeast of Mr. Arviso behind the second patrol vehicle. Officer Mendoza identified herself as a Tucson Police Officer and over the next ten minutes, repeatedly commanded Mr. Arviso to surrender using a loudspeaker. Officer Azuelo also identified himself as a Tucson Police Officer and issued loud commands to Mr. Arviso, explaining that that he could guarantee Mr. Arviso's safety if he would put down his gun and walk out with his hands raised.

Mr. Arviso put his gun down at one point but then quickly picked it back up. Officers also saw him aim the gun at his own head and to the south. Mr. Arviso extended his right arm and pointed the gun to the south toward Valencia Road, which TPD officers had cleared as a safety measure. After he pointed the gun to the south, Mr. Arviso, as observed by several officers<sup>2</sup>, pointed the gun in a clockwise sweeping motion ending at Officer Knowlton and the officers behind the patrol vehicle. Officer Kush then heard Officer Knowlton release the safety on his rifle and fire the first of his two shots.

Due to the terrain, none of the available body worn cameras captured an image of Mr. Arviso pointing the gun at Officer Knowlton, and Mr. Arviso was not always visible. However, statements captured by the body worn camera immediately before and after the shooting corroborate that Mr. Arviso had pointed his gun at officers before they fired. The body worn camera recorded Officer Knowlton saying that he intended to fire if the suspect pointed the gun at them. Just before the first shot was fired, Officer Fehringer said the suspect was pointing his pistol at them. Nine seconds before the first shot, Officer Knowlton said, "I see the gun, he's pointing it to the west." About seven seconds later, Officer Kush said, "[h]e's pointing the gun towards us." Officer Knowlton then fired the first shot, which missed Mr. Arviso. Officer Knowlton's second shot was fired two seconds after the first shot. Officer Knowlton said, "[s]econd one was, I believe, a hit. Did you see that gun pointed toward us?" Officer Kush replied, "yes."

Officer Fehringer said the first shot from Officer Knowlton had no effect and that the suspect was still pointing the gun at them when Officer Knowlton fired his second shot. Several officers saw the second shot strike Mr. Arviso, who dropped and stopped moving. Officers found Mr. Arviso motionless on the ground with a gunshot wound on the right side of his head. His right hand held a silver .380 pistol with black grips. Officer Kidd observed that Mr. Arviso's finger was still on the trigger. Mr. Arviso succumbed to his injury.

Three recovered spent cartridge cases from the Big 5 parking lot shooting were later determined to have been fired from Mr. Arviso's silver .380 pistol. A fourth spent cartridge case was found with Mr. Arviso and had been fired from the .380 pistol. Mr. Arviso did not fire his weapon from his concealed position in the ditch. This fourth spent cartridge case was likely caught up in Mr. Arviso's clothing after he fired two shots in the wash. Mr. Arviso's weapon contained a live round in the chamber.

<sup>2</sup> Officers Cortez, Kush, and Fehringer were standing next to Officer Knowlton and confirmed that Mr. Arviso pointed the gun at them before Officer Knowlton fired.




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Applying Arizona law to these facts, Officer Knowlton was justified in using deadly force against Mr. Arviso. A person making an arrest or detention may use physical force if: 1) a reasonable person would believe use of force is immediately necessary to effect the arrest or detention; 2) the person makes the purpose of the arrest or detention clear or believes that the purpose is known or cannot reasonably be made known to the arrestee or detainee; and 3) a reasonable person would believe that the arrest or detention was lawful. A.R.S. § 13-409. Further, law enforcement officers may use deadly force if the officer reasonably believes the suspect is "[a]ctually resisting the discharge of a legal duty with . . . the apparent capacity to use deadly physical force." A.R.S. § 13-410(A)(1). In addition, peace officers carrying out their duties may use deadly force in self-defense against an imminent threat of deadly force. A.R.S. § 13-410(C) (1).

Here, TPD officers were attempting to detain Mr. Arviso for shooting at a man who was leaving Big 5 Sporting Goods and for attempting to kidnap a pedestrian, and Mr. Arviso was actively attempting to flee. Under the circumstances, a reasonable person would believe that force was necessary to effectuate an arrest or detention. Mr. Arviso was armed and matched the description provided by the individual leaving the Big 5 Sporting Goods parking lot and the pedestrian in the wash. Mr. Arviso presumably fired two shots near the officers in the wash. Finally, Mr. Arviso ignored repeated lawful commands to stop, fled on foot, concealed himself in a ditch, failed to respond to officers' attempts to deescalate the situation, and picked his gun back up after briefly laying it down. When Mr. Arviso pointed his gun in the direction of Officers Knowlton, Kush, Cortez, and Fehringer, he presented an imminent threat of deadly force justifying Officer Knowlton's use of deadly force to protect himself and third parties. Officer Knowlton's use of deadly physical force was therefore justified under the circumstances. For the reasons set forth above, the Pima County Attorney's Office declines to file any criminal charges against Officer Knowlton.

If additional materials are obtained later, we would appreciate the opportunity to review them to consider whether they add to our understanding of this incident. If you have any questions or need anything else in connection with this matter, please contact us at 724-5600.

Sincerely,

  
Laura Conover, Pima County Attorney  
Tamara Mulembo, Chief Deputy County Attorney  
Daniel South, Chief Criminal Deputy  
Chris Ward, Deputy County Attorney

cc:

Det. Scott Ahlskog, Tucson Police Department



**TUCSON POLICE DEPARTMENT**  
**Force Review Board**

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01.01  
2010280141

**CHARLES ARVISO**

20-3647

AUTOPSY REPORT

PIMA COUNTY, ARIZONA

TUCSON POLICE DEPARTMENT

CASE # 2010280141

OCTOBER 30, 2020

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20-3647

Re: CHARLES ARVISO

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**FINAL DIAGNOSES:**

- I. Indeterminate range gunshot wound of the head with injuries to the skin, soft tissue, bone, dura, and brain; projectile fragments recovered
- II. Blunt force injuries
  - A. Abrasions of the head
  - B. Abrasions of the extremities
- III. Toxicology; see Axis Forensic Toxicology Report

**OPINION:**

In consideration of the known circumstances surrounding this death, the available medical history, and the examination of the remains, the cause of death is ascribed to gunshot wound of the head.

The manner of death is homicide.

Digitally signed by Tiffany T. Morrison, MD  
Forensic Pathologist David Winston, MD, PhD  
Date: 2021.01.26 13:08:22 -07'00'



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FORENSIC TOXICOLOGY

Testing Report  
Web: [www.axisfortox.com](http://www.axisfortox.com)  
Phone: (317) 759-4TOX

<b>Laboratory Case Number:</b> 3207871  <b>Client Account:</b> 20962 / Pima20962  <b>Report To:</b> PCOME Pathologist Fellow ATTN: EMR 2825 E District Street Tucson, AZ 85714 FX: 520-724-8610	<b>Subject's Name:</b> ARVISO, CHARLES  <b>Agency Case #:</b> 20-3647 <b>Date of Death:</b> 10/28/2020 <b>Test Reason:</b> Not Given <b>Investigator:</b> TJ <b>Date Received:</b> 10/31/2020 <b>Date Reported:</b> 11/09/2020
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<b>Laboratory Specimen No:</b> 40895277 <b>Container(s):</b> 01:RTB Blood,HEART	<b>Date Collected:</b> 10/30/2020 09:55 <b>Test(s):</b> 70530 Drugs of Abuse Panel, Blood
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Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
VOLATILES	POSITIVE					
Methanol	Negative			Not Established		
Ethanol	POSITIVE	0.301	0.02		% (w/v)	
Acetone	Negative			Not Established		
Isopropanol	Negative			Not Established		
AMPHETAMINES	POSITIVE					
Amphetamine	POSITIVE	114	50	10 - 100	ng/mL	
Methamphetamine	POSITIVE	692	50		ng/mL	
BARBITURATES	Negative					
BENZODIAZEPINES	Negative					
CANNABINOIDS	POSITIVE					
THC-COOH	POSITIVE	8.8	3		ng/mL	
HALLUCINOGENS	Negative					
MUSCLE RELAXANTS	Negative					
OPIOID ANALGESICS	Negative					
STIMULANTS	Negative					

Specimens will be kept for at least one year from the date of initial report.

ARVISO, CHARLES  
 Laboratory Case #: 3207871  
 Printed Date/Time: 11/09/2020, 10:26

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# TUCSON POLICE DEPARTMENT Force Review Board

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Testing Report  
Web: [www.axisfortox.com](http://www.axisfortox.com)  
Phone: (317) 759-4TOX

Laboratory Specimen No: 40895278	Date Collected: 10/30/2020 09:55
Container(s): 01:YTB Urine, Random	Test(s): 80080 Basic Drugs of Abuse, Urine

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
<b>AMPHETAMINES</b>	POSITIVE					
Amphetamine	POSITIVE					
Methamphetamine	POSITIVE					
MDMA	Negative					
<b>BENZODIAZEPINES</b>	Negative					
7-Aminoclonazepam	Negative					
Alprazolam	Negative					
a-OH-Alprazolam	Negative					
Lorazepam	Negative					
Nordiazepam	Negative					
Oxazepam	Negative					
Temazepam	Negative					
<b>HALLUCINOGENS</b>	Negative					
Phencyclidine (PCP)	Negative					
<b>MUSCLE RELAXANTS</b>	Negative					
Meprobamate	Negative					
<b>OPIOID ANALGESICS</b>	Negative					
6-Monoacetylmorphine	Negative					
Buprenorphine	Negative					
Codeine	Negative					
EDDP	Negative					
Fentanyl	Negative					
Hydromorphone	Negative					
Hydrocodone	Negative					
Methadone	Negative					
Morphine	Negative					
Norfentanyl	Negative					
Norbuprenorphine	Negative					
O-Desmethyltramadol	Negative					
Oxycodone	Negative					
Oxymorphone	Negative					
Tramadol	Negative					

ARVISO, CHARLES  
Laboratory Case #: 3207871  
Printed Date/Time: 11/09/2020, 10:26

Page: 2 of 4



**TUCSON POLICE DEPARTMENT**  
**Force Review Board**

Printed On: 02/24/21 Folder: INCIDENT REPORTS Page Name AABSA210209185718514.TIF Application: tucsonpd Printed By: MGannon1 For LE/CJ Purposes Only Page Number 11



Testing Report  
Web: [www.axisfortox.com](http://www.axisfortox.com)  
Phone: (317) 759-4TOX

Laboratory Specimen No: 40895278 Continued..

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
STIMULANTS	Negative					
Benzoylcegonine	Negative					

ARVISO, CHARLES  
Laboratory Case #: 3207871  
Printed Date/Time: 11/09/2020, 10:26

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# TUCSON POLICE DEPARTMENT Force Review Board

Printed On: 02/24/21 Folder: INCIDENT REPORTS Page Name AABSA210209165720536 TIF Application: tucsonpd Printed By: MGannon1 For LE/CJ Purposes Only Page Number 12



**Testing Report**  
Web: [www.axisfortox.com](http://www.axisfortox.com)  
Phone: (317) 759-4TOX

<b>Laboratory Specimen No:</b> 40895279	<b>Date Collected:</b> 10/30/2020 09:55
<b>Container(s):</b> 01:CTT Vitreous,EYE	<b>Test(s):</b>

Analyte Name	Qualitative Result	Quantitative Result	Reporting Limit	Reference Range	Units	Note
VOLATILES	POSITIVE					
Methanol	Negative			Not Established		
Ethanol	POSITIVE	0.340	0.02		% (w/v)	
Acetone	Negative			Not Established		
Isopropanol	Negative			Not Established		

The Specimen identified by the Laboratory Specimen Number has been handled and analyzed in accordance with all applicable requirements.

**Laboratory Director**  
George S. Behonick, Ph.D., F-ABFT

**ARVISO, CHARLES**  
Laboratory Case #:3207871  
Print Date/Time:11/09/2020, 10:26  
Page: 4 of 4

**Case Reviewer**

*George S. Behonick*

This individual may not have performed any of the analytical work.



# TUCSON POLICE DEPARTMENT Force Review Board

## TUCSON POLICE DEPARTMENT PERSONNEL REPORT

TO: CHIEF OF POLICE  
VIA: Bureau Commander

NAME OF PERSON ABOUT  
WHOM REPORT IS WRITTEN

VIA: Captain Puglia  
Lieutenant Petersen

Lieutenant Thomas Rizzi	PR#: 46578
Lieutenant Anthony Archibald	48026
Sergeant Todd Landau	52789
Sergeant Alon Hackett	48352
Officer John Knowlton	43760
Officer Bradley Kush	52788
Officer Chad Barker	100394
Officer Aaron Roberts	51909

ODS/Commander			
ODM	0800-1800		S, U, M
ODS/Squad 6	1400-2400		S, U, M
ODS/Squad 4	0800-1800		F, S, U
Div/Sq: ODS/Squad 4	Hours: 0800-1800	D.O.:	F, S, U
Motor/Squad 10	0900-1900		S, U, M
SOS/Force	0800-1800		S, U, M
SOS/Force	0800-1800		S, U, M

*Handwritten notes:*  
 CONCERN WITHIN USE OF FORCE...  
 POLICY...  
 FINDINGS...  
 1/24/2021

DIVISION COMMANDER	CHIEF OF POLICE	BUREAU COMMANDER
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Reference: OPS 20-0530, TPD Case 2010280141  
Details:

**Synopsis:**

On October 28, 2020 at approximately 1525 hours, officers responded to 1550 West Valencia in reference to a vehicle that was shot by a male suspect. Officers spoke with the victim and learned as he was attempting to pull out of the listed parking lot in his vehicle, he was confronted by an unknown male armed with a handgun. During the confrontation the suspect fired his weapon, striking the victim's vehicle before fleeing from the area eastbound on foot. Responding officers began searching the immediate area for the suspect.

During their search, officers were flagged down by a second victim. He advised officers the armed male approached him and pointed a handgun at him before running toward the Santa Cruz Riverbed. Officers Fernandez and Guzman responded to the west side of the Santa Cruz Wash (Calle Santa Cruz and Valencia). While on the walking path at the wash they both heard gunshots and believed that they were getting shot at. Officer Fernandez advised "Shots fired" over the radio. Sgt. Landau called a "10-99" on the radio and responded to Officer Fernandez and Guzman's location. The suspect, later identified as Charles Arviso, was seen walking eastbound into the wash, armed with a handgun. Responding officers set up containment further north and east from Arviso's position. Officer Knowlton positioned himself with other officers north

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

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# TUCSON POLICE DEPARTMENT

## Force Review Board

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### NARRATIVE (Continued)

of the suspect at a marked patrol vehicle. The suspect was moving around the firearm including placing it to his head.

While Sergeant Landau responded to the west side of the wash, Sergeants Archibald and Hackett responded to the east side. Officers provided verbal commands to Arviso utilizing a PA system in an attempt to gain compliance and resolve the incident peacefully. Arviso then pointed the handgun north at the direction of Officer Knowlton and the other officers that were with him. Officer Knowlton fired two rounds from his patrol rifle at Arviso; he was struck in the head by the gunfire. It was unknown at that time if Arviso had been immobilized.

SWAT operators in the field response unit (TAC) responded to the scene and were utilized to contact Arviso. Officers were not able to see his hands and Sergeant Bredehoft directed Officer Barker to use a non-lethal flex baton on Arviso. Officer Barker flexed Arviso once in the thigh; there was no response by Arviso. The TAC officers then moved up to him. Arviso suffered a gunshot wound to the head and still had the handgun in his hand when he was contacted by TAC officers. Tucson Fire Department (TFD) personnel responded and Arviso was pronounced deceased at the scene.

Sergeant Hackett conducted a round count on Officer Knowlton's rifle. Sergeant Bredehoft conducted a round count on the SWAT operators and found Officer Roberts was down one round in the handgun magazine located in his secondary pouch. It was determined through interviews that Officer Kush did not have his body-worn camera activated at the time of the shooting. He was standing next to Officer Knowlton when the shooting occurred.

Detectives from the Violent Crimes Section responded to conduct a criminal investigation. Personnel from the Office of Professional Standards responded to conduct an administrative investigation. Sergeant Landau and Sergeant Bredehoft briefed investigators on the incident.

During the investigation, it was learned there were multiple audible witness officers that had not been identified prior to the investigative briefing.

#### Timeline:

The following is a timeline based on information from the incident call text and body-worn camera videos.

- 1523: The event was created in reference to the civilian being fired at
- 1525: Officers were dispatched to the call
- 1531: Officer Martinez took incident command (IC) of the call and arrived on scene
- 1535: A witness observed the subject eastbound
- 1539: Two subjects were observed on the west side of the wash underneath the walkway
- 1543: Officers were flagged down by another victim who said he was held at gunpoint by the suspect
- 1546: Officer Fernandez advises "shots fired" and suspect was seen eastbound in the brush
- 1547: Sergeant Landau calls a "10-99" on the radio
- 1548: The suspect was observed in the wash armed with a gun in his hand.
- 1549: Officer Fernandez calls a "10-99". The suspect had his hands up and was dropping the gun
- 1550: The suspect was on his knees
- 1552: The suspect picked up the gun

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# TUCSON POLICE DEPARTMENT

## Force Review Board

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### NARRATIVE (Continued)

1554: The suspect dropped the gun again  
1554: Officers were giving verbal commands to the suspect  
1555: The suspect put the gun to his head  
1556: Officers utilized the PA system to give commands to the suspect  
1556: Sergeant Archibald took incident command of the eastern group of officers  
1557: Officers advised the suspect had pointed the gun at officers and is now pointing it at his own head  
1601: Forty-three units are assigned to the call  
1602: Officers advised shots fired and that the suspect had pointed the gun in the officers' direction  
1603: Officers advise Officer Knowlton had fired  
1604: TFD was requested to respond  
1605: Sergeant Landau advises on the radio that he has IC  
1605: The suspect appears motionless and bleeding from the head area  
1607: The TAC Units start moving up to the suspect  
1609: Officers request TFD to move in  
1610: Flex Baton was deployed on suspect with no response  
1612: Officers request TFD to move up to subject  
1612: Officers coming from across the city can shut down code 3  
1615: The suspect was pronounced deceased  
1624: Lieutenant Rizzi took IC and Sergeant Landau was appointed Operations Chief

### Allegations:

#### **Officer John Knowlton**

Allegation 206- Use of Force (Firearm) **WITHIN DEPARTMENT POLICY**

#### **Officer Chad Barker**

Allegation 207- Use of Force (other) **WITHIN DEPARTMENT POLICY**

#### **Officer Aaron Roberts**

Allegation 512- Policy/Procedures **SUSTAINED**

#### **Officer Bradley Kush**

Allegation 512- Policy/Procedures **SUSTAINED**

#### **Sergeant Todd Landau**

Allegation 213- Failure to Supervise **UNFOUNDED**

Allegation 512-Policy/Procedures **EXONERATED**

#### **Sergeant Alon Hackett**

213- Failure to Supervise **UNFOUNDED**

512- Policy/Procedures **SUSTAINED**

#### **Lieutenant Anthony Archibald**

213- Failure to Supervise **UNFOUNDED**

512-Policy/Procedures **EXONERATED**

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# TUCSON POLICE DEPARTMENT

## Force Review Board

NARRATIVE (Continued)

### **Lieutenant Thomas Rizzi**

Allegation 213- Failure to Supervise **UNFOUNDED**

Allegation 512-Policy/Procedures **EXONERATED**

### **Methodology:**

The investigative methodology incorporated into this OPS investigation included considerations of the following criteria:

- All interviews conducted to include both criminal and administrative.
- All written documents to include case reports, supplements and event chronologies.
- All radio transmissions associated with this call.
- Crime scene photographs, autopsy photographs, and diagram mapping.
- Body-worn camera systems worn by involved department members.
- Officer-involved shooting protocols.

### **Interview Summaries:**

These findings include a summary of Officers Knowlton's interview only. All visual witness officer interviews are summarized in the Office of Professional Standards investigative summary.

### **Officer John Knowlton**

*Focus Officer Interview*

### **Background:**

Officer Knowlton was hired by the Pima County Sheriff's Office in 1997. In 2001, Officer Knowlton then transferred to the Tucson Police Department. At the time of the incident, he was assigned to Operations Division South Squad 4 (Monday-Friday, 0800-1800). Sgt. Hackett is his current supervisor. He is a General Instructor, Firearms Instructor, Rifle Instructor, DT Instructor, High-Risk Stop Instructor and is a field training officer. He is a certified Rifle operator.

### **Equipment:**

Officer Knowlton's department-issued rifle is an AR-15 with a red dot sight. His rifle does not have enhanced optics. He has been a rifle operator for about ten years. Officer Knowlton was wearing his uniform with an outer vest carrier. He carries his body-worn camera in the center of his vest and it was activated during the incident.

### **Administrative Interview:**

Officer Knowlton was on an unrelated incident in the area of 2410 South Mission. He heard the initial call come out but did not respond at that time. He heard on officer get on the radio and advise "shots fired". Officer Knowlton responded with his overhead lights and his siren. While he was responding, officers advised they had located the suspect and were giving him commands. Officers advised he had dropped the weapon and had his hands up. An officer then advised the male picked something up. He also heard the suspect had shot at officers, but no one was hit.

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# TUCSON POLICE DEPARTMENT

## Force Review Board

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### NARRATIVE (Continued)

Officer Knowlton responded North on Calle Santa Cruz, to the east side of the wash. The vehicle closest to the suspect had a rifle operator deployed there. He saw another cluster of officers at a patrol vehicle with no rifle operator there, so he went to that location. Officer Kush took possession of a ballistic shield Officer Knowlton had in his vehicle. Officer Knowlton loaded his rifle; he had the required twenty-eight rounds in the rifle. Officer Knowlton did not originally see the suspect. Officer Fehringer used the location of a grocery cart in the wash to pinpoint the suspect's position, which was south of Officer Knowlton. Officer Fehringer told him the male was pointing the gun at his own head. He observed the suspect with a silver handgun pointed at his own head. The suspect pointed the gun toward the officers east of him. Officer Knowlton could not tell if the male was pointing the gun directly at the officers and Officer Knowlton decided not to fire at the suspect. The suspect then ducked down out of sight.

Officer Knowlton advised if the suspect pointed the firearm at them, he was going to shoot the suspect. He wanted the officers in his immediate area to be aware of his plan. It was also communicated that if Officer Knowlton fired, they would stay in their position and not rush up to the suspect. Officer Knowlton requested someone place a body-worn camera on the shield since his camera's view was behind the ballistic shield and vehicle. Officer Fehringer was giving verbal documentation to the officers of what he was seeing. Officer Kush was holding the shield to his right, Officer Fehringer was behind him and Officers Villareal and Cortez were there as well. Officer Fehringer was providing updates on the radio. The patrol vehicle was facing west and Officer Knowlton was over the hood near the windshield.

The male was out of view for a short time. Officer Knowlton could hear a female officer giving commands such as, "come out with your hands up" repeatedly for a couple minutes. Officer Knowlton did not give commands, as that was not his role at that point. He then saw the suspect going up the berm to the south. The suspect appeared to be looking down the sights of the gun, aiming it at a patrol car on Valencia. Officer Knowlton knew the car had been stopping traffic on Valencia, but believed there was no one inside the car due to line of fire issues. The suspect then turned to the west, aiming his gun across the wash. The suspect turned and pointed the gun directly at Officer Knowlton for about one to two seconds. The only thing he could see was the male's head with his arms extended with the firearm level to his chin. Officer Knowlton described being able to see down the barrel of the suspect's firearm. Officer Knowlton was in fear of his life. Officer Knowlton disengaged his safety and fired one round. He saw the cloud of dust behind the suspect and knew he did not hit the suspect. The suspect had not moved and was still pointing the firearm at him. Officer Knowlton fired another round and the male immediately dropped. At that point, Officer Knowlton could not see the male. The helicopter responded and advised they did not see the suspect moving, but could not see his hands. He advised there was a SWAT Sniper on the west side of the wash. That SWAT operator could not see any movement by the suspect and thought the suspect was bleeding.

SWAT operators took over contacting the suspect. Officer Knowlton then got off the hood of the vehicle and stood behind it. Sergeant Hackett assigned cover officers for him and the other officers. Sergeant Hackett conducted a round count of Officer Knowlton's duty rifle. The crime scene unit took photos of Officer Knowlton.

Officer Knowlton estimated he was approximately forty yards away from the suspect. He described his backdrop was the berm behind the suspect, in the erosion channel. His reasoning for deploying the rifle was due to the suspect being armed, the rifle's accuracy and the fact it allows officers to engage at a larger

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# TUCSON POLICE DEPARTMENT

## Force Review Board

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### NARRATIVE (Continued)

distance with less potential risk to the officers. The deployment of less lethal options would not have been the best option due to the subject being armed with a firearm.

The qualification course for the rifle is at different distances, up to one hundred yards. He also explained at the most recent Advanced Officer Training the officers were required to shoot their handguns at the fifty, seventy-five and one-hundred-yard mark. This demonstrated a handgun's ability to hit something at that distance. Officer Knowlton advised if they had moved further away from the suspect, there was the potential to lose sight of him.

Officer Knowlton believed Sergeant Zaugra or Sergeant Hackett had incident command. He did not recall if the sergeants were giving commands on the radio.

#### **Use of Force:**

*This portion covers both Ofc. Knowlton's use of force, as well as Ofc. Barker's use of the less-lethal flex baton.*

#### **Lawful Purpose:**

Officers responded to the area of 1550 West Valencia in reference to a male subject who had fired at a vehicle and left on foot. Officers Guzman and Fernandez assisted with searching for the suspect. While at the west side of the wash, they heard gunshots and believed that they were being fired at. The suspect then went to the east side of the wash and was still armed with a handgun. Officers set up containment on the desert and wash area as the suspect stopped in an erosion area of the wash. The suspect pointed his handgun toward officers. Officers were utilizing marked patrol vehicles and were wearing police uniforms that clearly identified them as peace officers.

In order to safely move up to the suspect to render aid and determine if the suspect was still a lethal threat to officers, Officer Barker was directed to utilize the flex baton. Officers were able to move up to the suspect quickly after the flex baton was utilized.

#### **De-Escalation:**

#### **Officer Knowlton**

A larger containment was set up around the suspect utilizing police vehicles. An Air Unit was requested for potential visual of the suspect. Officers stayed at an outer perimeter and utilized a vehicle's PA system from a patrol vehicle to give verbal commands to the suspect. Officer Knowlton explained that he had not fired at the suspect previously because he could not confirm that the suspect had pointed it at the officers. He fired when the suspect was a deadly threat to officers.

(Officer Knowlton's transcript- page 7 lines 266 -274)

*"And I know that there was a female - I believe it was an Officer, I don't know, was, uh, giving commands to my left. I couldn't see her and I - I didn't turn to look anyway because I*

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# TUCSON POLICE DEPARTMENT

## Force Review Board

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### NARRATIVE (Continued)

*was focused on the - the threat and she was giving commands, you know, you know, come out with your hands up, you know, things of that nature over and over and over again and that - that had gone on at least a couple of minutes. Um, I don't know if they were in Spanish. I know they were in English, um, but I don't know if they were doing both but there were numerous commands given, um, while we were there waiting."*

#### **Officer Barker**

A larger containment was set up around the suspect utilizing police vehicles. An Air Unit was requested for potential visual of the suspect. Officers stayed at an outer perimeter and utilized a vehicle's PA system from a patrol vehicle to give verbal commands to the suspect with no response. After the suspect had went down, and officers observed that he was bleeding, Sergeant Bredehoft and officers discussed options of to safely move up to the male to render aid to the suspect. Sergeant Bredehoft directed Officer Barker to utilize the flex baton on the suspect to check for a stimulus from the suspect to see if he was a lethal threat.

#### Objectively Reasonable

#### **Officer Knowlton**

Officer Knowlton's use of deadly force utilizing his rifle was objectively reasonable. Officer Knowlton knew that the suspect was allegedly involved in a shooting. He also knew that officers might have been shot at by the suspect after they arrived on scene. Verbal commands were being given to the suspect. The suspect pointed a handgun at Officer Knowlton and other officers, displaying deadly force towards the officers.

(Officer Knowlton's transcript-page 25- lines 1040-1058)

*"Q: And I'm gonna just be blatant with you, why did you fire your rifle?*

*A: Um, well, I - I had to look at all the information that I - that I had gotten over the, you know, that - that few minutes, ah, from when the call came out. You know, the - the subject had shot a handgun at a civilian. Um, and I believe, ah, who was that - that was, ah, Officer MARTINEZ, I think was out with that complainant. And I think it was him that said that there was bullet holes in the car. So - so we have some type of proof that, ah, a handgun or a firearm was fired at that, ah, complainant. Um, then also the Officer, ah, that came up on the air saying that there were shots fired. And I later learned that they were fired towards an Officer. Um, I don't which Officer it was. Ah, and then the subject's behavior, ah, as far as not complying with initial contact that Officers tried to make, ah, when he actually, you know, set down an object. Um, I'm kinda assuming it was the gun. And then picked it back up and then refused to comply. Um, his actions like sh- pointing the gun at himself, um, i- is definitely, ah, a factor. And then - then also pointing the gun in the direction of other Officers that were around me when I was there on the scene. And then ultimately, you know, at myself, ah, believing that there - not only was a possibility that he was shooting - that he has displayed behavior that has, ah, risen to that level that I believed that he could shoot at me or - or another Officer."*

#### **Officer Barker**

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# TUCSON POLICE DEPARTMENT

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### NARRATIVE (Continued)

Sergeant Bredehoff's direction to Officer Barker to deploy the flex baton at the suspect was objectively reasonable. The suspect was known to be armed with a firearm and the subjects' hands were not able to be seen. The use of the flex baton allowed officers to see if the suspect was still a lethal threat and to move up to the suspect to assess and render aid to the suspect.

#### Provocation:

##### **Officer Knowlton**

Officer Knowlton was on containment north of the suspect. He observed the suspect point a handgun at a patrol vehicle, then to the west, and then pointed the handgun at Officer Knowlton and the other officers that were with him. Officers set up containment on the suspect, but did not move up toward him. Verbal commands were being given to the suspect by a vehicle PA system. Based on the investigation, there was no indication the officers performed any actions to provoke the suspect and caused him to point his firearm at officers. The mere presence of an officer does not constitute provocation.

##### **Officer Barker**

Officer Barker's use of the Flex Baton was reasonable. It was not utilized to provoke or hurt the suspect. It was utilized to see if the suspect was still a lethal threat to officers. After the deployment of the flex baton when no stimulus was observed, officers were able to move up and render aid to the suspect.

#### Proportionality:

##### **Officer Knowlton**

Officer Knowlton reacted proportionally to the actions of the suspect. The suspect had been involved in an incident where he shot at a vehicle, brandished the gun at another civilian while in the wash, possibly shot at responding officers and pointed a handgun at officers. The suspect presented a deadly force threat to Officer Knowlton and other officers on scene by pointing the firearm at them. Officer Knowlton ceased firing when the suspect was no longer a threat.

(Officer Knowlton's transcript page 27- lines 1150-1164)

*"I mentioned that, you know, I was scared when he was pointin' the weapon at me - directly at me and - and just to, you know, clarify that a little bit more and explain it a little bit more, um, you know, be - due to his actions, you know, previously before I was on scene and then while I was on scene with him, you know, shooting at civilians, you know, in my understanding, he's shootin' at Officers, um, pointin' the gun at himself and then - and then pointin' the gun at other Officers prior to pointing it at me, um, when he - when he was pointin' it at me, obviously, you know, I was scared. Uh, I was in fear for my life, uh, because of his actions, um, and then, you know, obviously my knowledge of - limited knowledge of firearms and, you know, what happens when, you know, uh, individuals get shot, um, you know, I was worried that, you know, he would, you know, I could get killed if - i- if he decided*

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# TUCSON POLICE DEPARTMENT Force Review Board

NARRATIVE (Continued)

*to actually shoot at me or - or one of the Officers that were, you know, right next to me. Um, and, you know, that was one of the factors, uh, that I had to think about, um, before I actually, uh, was shooting at him."*

## **Officer Barker**

The use of the flex baton was not used to hurt the suspect but instead utilized to see if he was still a lethal threat and allow officers to move up safely to him to render aid.

### Use of Force Analysis:

## **Officer Knowlton**

Officer Knowlton's use of lethal force was appropriate. The suspect was armed with a handgun and had allegedly shot at a vehicle and possibly shot at officers. The suspect pointed a handgun at Officer Knowlton and officers that he was with, presenting a deadly threat. Multiple officers observed the suspect point the handgun at officers to the north of him. Officer Knowlton fired at the suspect when he knew the suspect was pointing the firearm at officers displaying a deadly threat to them.

### **Allegation 206- Use of Force (Firearm) WITHIN DEPARTMENT POLICY**

## **Officer Barker**

Officer Barker's use of the intermediate weapon, flex baton, was appropriate. The use of the flex baton was not used to hurt the subject but was used to see if the suspect was still a lethal threat to officers and to allow officers to provide a safe and tactical approach to the suspect. The suspect still posed a potential lethal threat to the officers. The suspect still had the handgun in his hand when officers moved up to him. This is consistent with *General Order 2042 (Level of Force and Control)*:

*"Intermediate Weapons: Weapons that provide a means of controlling subjects when deadly force is not justified and empty hand control techniques are insufficient or tactically unsound."*

*"Less-lethal Munitions—Kinetic-impact or chemical-agent munitions designed to disrupt a subject's threatening action with minimal risk of serious injury or death. Kinetic-impact rounds include department approved flex batons and other specialty munitions, e.g., 37mm and 40mm foam rounds. Generally, kinetic-impact rounds shall only be used to counter active aggression or greater. However, kinetic-impact rounds may be used when a subject is causing serious or life-threatening injury to him or herself, or is threatening to cause such injury and has the means to do so."*

### **Allegation 207- Use of Force (other) WITHIN DEPARTMENT POLICY**

### Policy/Procedure Violations:

## **Officer Kush**

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# TUCSON POLICE DEPARTMENT Force Review Board

NARRATIVE (Continued)

Allegation 512- Policy/Procedures **SUSTAINED**

Officer Kush did not activate his body worn camera until after the shooting occurred. Based on the investigation, I find that Officer Kush violated the following *General Orders*:

### 1330.2 Obedience to *General Orders*, Procedures and Policies Required

All members shall observe and obey all laws, *City Administrative Directives*, department *General Orders*, department procedures and policies, as well as any procedures and policies established by their commanders

### 3762.1 Activation Policy

The principal function of the BWC and MVR systems is to document contact between department members and members of the public. While members are not expected to jeopardize their safety or the safety of others to activate their BWC and/or MVR, these devices shall be activated as outlined in this order as soon as possible.

Members shall activate the BWC and MVR (when it is reasonable to believe the contact will be captured by the vehicle camera) to record:

Dispatched calls for service;

Upon dispatch to Level 1 and Level 2 calls for service when responding with emergency equipment activated; or

Upon arrival to all other dispatched calls for service.

I find the above listed *General Order* violations fall into the **Policy Infractions- Blue** category based on the Tucson Police Department Discipline Guide.

### Officer Roberts

Allegation 512- Policy/Procedures **SUSTAINED**

After the shooting, Officer Roberts was determined to have one round missing in a secondary magazine of his handgun. It was determined by criminal investigators at the scene after reviewing body-worn camera that Officer Roberts did not fire his handgun. Based on the investigation, I find that Officer Roberts violated the following *General Orders*:

### 1330.2 Obedience to *General Orders*, Procedures and Policies Required

All members shall observe and obey all laws, *City Administrative Directives*, department *General Orders*, department procedures and policies, as well as any procedures and policies established by their commanders

### 1415.1 Required Duty Items- General

In addition to any other authorized equipment necessary for the proper performance of their duties, officers shall carry the following:

- Badge [All]
- **Authorized firearm and ammunition [All]**
  - Body Armor [Uniformed Members]
  - Department identification card [All]
  - Arizona driver's license [All]

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# TUCSON POLICE DEPARTMENT

## Force Review Board

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### NARRATIVE (Continued)

- Notebook and pen [Uniformed Members]
  - Blue Book [Uniformed Members]
- Handcuffs and key [Uniformed Members]
  - O.C. Spray [Uniformed Members]
- Taser [Uniformed Members through the rank of sergeant]
- Impact Weapon available at the ready [Uniformed Members]
- Issue duty belt (“web gear”/“Sam Browne”) [Uniformed Members]
  - Radio [All]
- Department reporting forms and appropriate citations [Uniformed Members]

I find the above listed *General Order* violations fall into the **Policy Infractions- Blue** category based on the Tucson Police Department Discipline Guide.

#### Incident command

##### **Sergeant Todd Landau**

Sergeant Landau responded to the incident and requested resources. The scene consisted of multiple locations and a large amount of wash area. Due to his positioning, he requested Sergeant Hackett respond to assist on the other side of the wash. Other supervisors and resources also assisted with a rapidly evolving situation. He did not officially take incident command via the radio until after the shots were fired, however, he did take steps to request additional an additional supervisor due to the large operational area.

After the shooting occurred, Sergeant Landau responded to the east side of the wash and spoke with Lieutenant Rizzi. After he was briefed on the incident, Lieutenant Rizzi took over incident command. Sergeant Landau was then tasked with preparing an investigative briefing.

Regarding the concern of identifying witness and focus officers; Sergeant Landau explained he was on the west side of the wash and not in the immediate area of the shooting. He responded to the east side of the wash after the shooting and was provided a list of witness and focus officers from Sergeants Hackett and Bredehoff. Sergeant Landau had no reason to believe the list of officers' names he was provided with was inaccurate or incomplete.

There were a large number of officers at the scene of the incident when the shooting occurred. Most of these officers would have been considered, at minimum, an audible witness to the shooting. I find that the supervisors on scene utilized their resources as effectively as they could to identify the officers pertinent to the criminal investigators at that time.

Allegation 213- Failure to Supervise **UNFOUNDED**  
Allegation 512-Policy/Procedures **EXONERATED**

##### **Sergeant A. Hackett**

Sergeant Hackett responded to the incident after the 10-99 call was broadcasted. He was contacted by Sergeant Landau via phone and was tasked to go to the eastside of the wash. Sergeant Hackett arrived at the

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## NARRATIVE (Continued)

east side of the wash. When he arrived, he went to Sergeant Archibald who was already on scene. Sergeant Hackett coordinated with Sergeant Archibald and took the initiative to go to Officer Knowlton and the officers who were with him.

Sergeant Hackett conducted a round count with Officer Knowlton's rifle and the handguns of the officers in that immediate area. The round count with Officer Knowlton should have been done by the criminal investigators. During the administrative interview with Sergeant Hackett, he admitted he should not have conducted the round count and was already counseled by his Chain of Command about this prior to his interview.

Due to the number of officers in the area of the time of the shooting and most if not all of them being witness officers, I find that the supervisors on scene utilized their resources as effectively as they could to identify the officers pertinent to the criminal investigators at that time.

213- Failure to Supervise **UNFOUNDED**  
512- Policy/Procedures **SUSTAINED**

Based on the investigation, I find that Sergeant Hackett violated the following *General Order* and Officer-Involved Shooting Protocol:

### 1330.2 Obedience to *General Orders, Procedures and Policies Required*

All members shall observe and obey all laws, City *Administrative Directives*, department *General Orders*, department procedures and policies, as well as any procedures and policies established by their commanders.

### Officer Involved Shooting/In Custody Death- Scene Reference Guide

#### Primary Incident Command Responsibilities

\*\*\*Do not inspect weapons of officers who identify themselves as having fired their weapons (these weapon(s) are evidence). Under normal circumstances, do not disarm an officer. Homicide will exchange weapons later.

I find the above listed *General Order* violations fall into the **Policy Infractions- Blue** category based on the Tucson Police Department Discipline Guide.

### Lieutenant Archibald

Lieutenant Archibald responded to the call and took command over a group of officers to the east of the suspect. He was providing tactical direction to officers while within his group. After the shooting, he believed Sergeant Hackett was identifying witness and focus officers. The overall concurrent decision with Lieutenant Rizzi was to identify what officers saw the shooting or saw the suspect get shot and assign them with cover officers.

Due to the number of officers in the area of the time of the shooting and most if not all of them being witness officers, I find that the supervisors on scene utilized their resources as effectively as they could to identify the officers pertinent to the criminal investigators at that time.

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NARRATIVE (Continued)

213- Failure to Supervise **UNFOUNDED**  
512-Policy/Procedures **EXONERATED**

**Lieutenant Tom Rizzi**

Lieutenant Rizzi responded to the call. He took a position to initially block traffic. He directed SWAT officers to go to the scene due to the tactical nature of the incident. Once on scene he advised that audible witness officers could cover the visual officers. He made that decision based on the large number of officers on scene at the time of the shooting and the lack of resources to provide a cover officer to everyone.

Due to the number of officers in the area of the time of the shooting and most, if not all of them, being witness officers, I find that the supervisors on scene utilized their resources as effectively as they could to identify the officers pertinent to the criminal investigators at that time.

Allegation 213- Failure to Supervise **UNFOUNDED**  
Allegation 512-Policy/Procedures **EXONERATED**

**Conclusion:**


This incident consisted of a rapidly involving events that had many facets. There were a large number of officers on scene. The supervisors present attempted to identify both audible and visual witness officers. Officers tried to contain an armed suspect that was allegedly involved in multiple violent felonies in a short amount of time. Officers utilized de-escalation techniques to try to get the suspect detained without incident. The suspect ultimately displayed a lethal threat to officers, where Officer Knowlton utilized his firearm to stop the lethal threat to the officers.

Based upon this investigation, the force used by Officer Knowlton was found to be **within departmental policy.**

  
Sgt. Michael Gannon #49562

February 24, 2021

I reviewed Sergeant Gannon's investigation and find it to be fair and thorough. I concur with his findings for the use of force to be in department policy. In all other cases I concur with the findings. I recommend this case be sent forward to the chain of command.

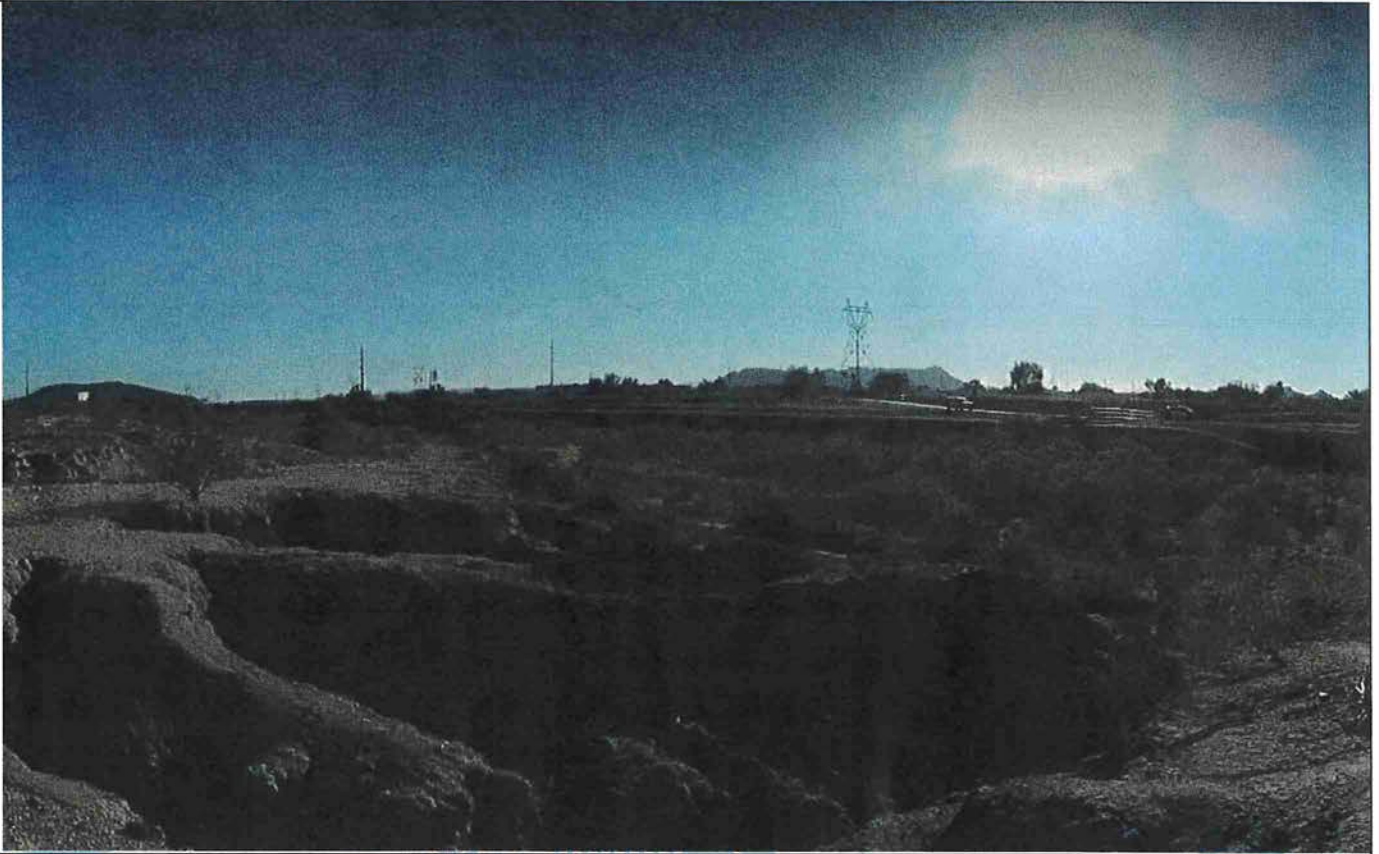
  
Lt. Mickey Petersen #37962

February 24, 2021

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Wash terrain as seen from Officer Fehringer's body-worn camera

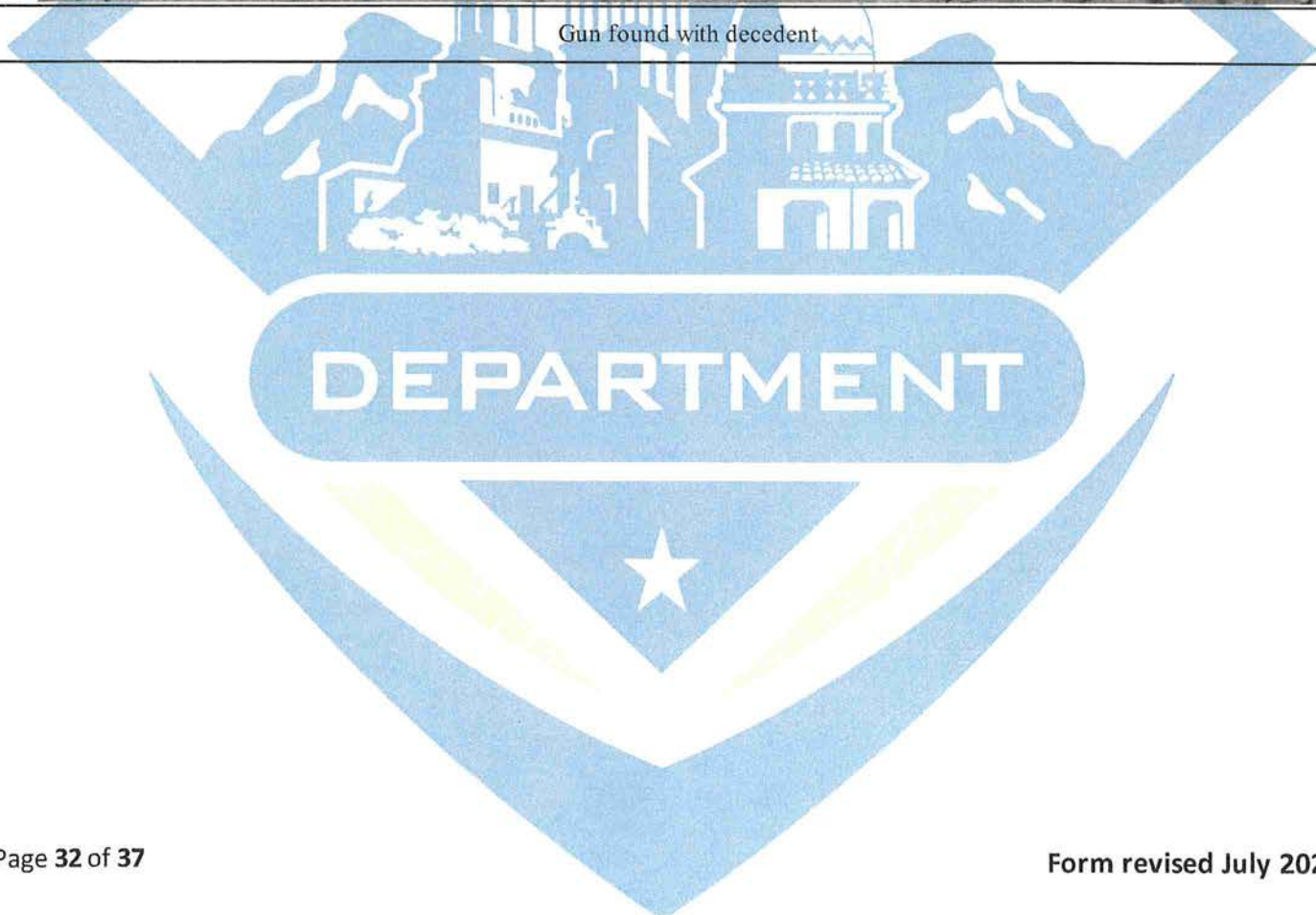
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Gun found with decedent





TUCSON POLICE DEPARTMENT  
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Advanced Training Section Commander and Deputy Chief Signature



Lieutenant Signature

07.14.23

Date

- I agree with the Force Review Board's findings.
  - I disagree with the Force Review Board's findings.
- Comments/Additional Recommendations:

  
32603  
K. H. H.

Assistant Chief Signature

7.14.2023

Date

- I agree with the Force Review Board's findings.
  - I disagree with the Force Review Board's findings.
- Comments/Additional Recommendations:



Deputy Chief Signature

7-18-2023

Date

- I agree with the Force Review Board's findings.
  - I disagree with the Force Review Board's findings.
- Comments/Additional Recommendations:

DEPARTMENT



# TUCSON POLICE DEPARTMENT Force Review Board

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## Specific Recommendations and Assignments for Follow-Up

1. **OPS Referrals** None
  - a. **Officer Name and PR**
  - b. **General reason for referral (for each officer)**
2. **Individual officer training recommendations/Individual referrals** None
  - a. **What unit will address follow-up?**
  - b. **What follow-up is requested?**
  - c. **When is a response due?**
3. **Department training recommendations**
  - a. **What unit will address follow-up?** Advanced Training Section
  - b. **What follow-up is requested?**
    - i. Make clear that using a flex baton to determine whether an armed suspect who is down still poses a lethal threat is within policy.
    - ii. Encourage officers with eyes on a suspect to be more aggressive on the radio, letting others know we're the ones who can see him – and encourage IC to take more control over who talks on the radio, so officers with eyes on can be heard.
  - c. **When is a response due?** This was done in Advanced Officer Training the first half of this year
4. **Policy change or clarification recommendations**
  - a. **What unit will address follow-up?** Patrol Services Bureau is looking at this.
  - b. **What follow-up is requested?**
    - i. Consider expanding drone use from current crime scene mapping and missing person search to tactical situations such as barricaded subjects, subjects in tunnels or washes. If and when that happens:
      1. Gather info on how other departments are using drones
      2. Conduct outreach, especially to minority communities
      3. Build in oversight/transparency, so the public can see how drones are being used
  - c. **When is a response due?** N/A – contingent on drone use being expanded
5. **Procedure change or clarification recommendations**
  - a. **What unit will address follow-up?** Lt. Hawke has been working with the Office of Professional Standards on this.
  - b. **What follow-up is requested?**
    - i. Continue to provide the board with the material now being provided, but direct board members to the most pertinent documents/evidence. Consider creating an outline of key points to address.
  - c. **When is a response due?** This is under consideration.
6. **Equipment recommendations**
  - a. **What unit will address follow-up?** Patrol Services Bureau



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- b. **What follow-up is requested?** 1. Consider expanding drone use. See 4 above. 2. Consider binocular use.
- c. **When is a response due?** 1. N/A – Contingent on drone use being expanded. 2. Under consideration; contingent on budget.





# TUCSON POLICE DEPARTMENT Force Review Board

## Department Responses to FRB Recommendations

Rec. #	Recommendation	Action Plan/Assignments	Target Date
1.	Make clear that using a flex baton to determine whether an armed suspect who is down still poses a lethal threat is within policy.	Advanced Training Section	Done
2.	Consider expanding drone use from current crime scene mapping and missing person search to tactical situations such as barricaded subjects, subjects in tunnels or washes. If and when that happens: <ul style="list-style-type: none"> <li>• Gather info on how other departments are using drones</li> <li>• Conduct outreach, especially to minority communities</li> <li>• Build in oversight/transparency, so the public can see how drones are being used</li> </ul>	Patrol Services Bureau	N/A – Contingent on drone use being expanded
3.	Consider expanding binocular use (currently SWAT equipment)	Patrol Services Bureau	Contingent on budget
4.	Encourage officers with eyes on a suspect to be more aggressive on the radio, letting others know we're the	Advanced Training Section	Done



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	<p>ones who can see him – and encourage IC to take more control over who talks on the radio, so officers with eyes on can be heard.</p>		
<p>5.</p>	<p>Continue to provide the board with the material now being provided, but direct board members to the most pertinent documents/evidence. Consider creating an outline of key points to address.</p>	<p>Advanced Training Section/Office of Professional Standards</p>	<p>This is under consideration.</p>

