

Memorandum

To: Chief M. Sappal
From: Captain A. Roth *AR*
Date: 2/15/19
Subject: Use of Force Memo 18-1232

I have reviewed Sgt. Muncher's memo regarding this use of force, as well as the police report. Based on everything I have reviewed, I believe this use of a takedown to control the suspect and keep him from continuing to hold onto Ofc. Breinig's arm was within policy and reasonable for the circumstances.

The MDT messages sent between officers for several hours prior to the incident and after have been submitted by Sgt. Muncher and are attached to his memo. There does not appear to be any mention of this incident in the messages.

To: Captain Roth
From: Sergeant Muncher
Date: 11/27/2018
Subject: Use of force 18-1232

This memo is regarding the use of force by Officer Breinig on 5/28/2018 at 2117 hrs. The suspect was taken into custody and transported to Contra Costa County Regional Medical Center for treatment prior to being booked into MDF

On 5/28/18 at 2117 hours, Officer Breinig was traveling east bound on Escobar Street approaching the intersection of Escobar and Estudillo Streets. He observed a vehicle abruptly exit the parking lot at 735 Escobar Street and begin traveling west bound on Escobar Street. The vehicle had loud exhaust and was traveling at a high rate of speed as it approached the controlled intersection of Escobar and Estudillo Street. The vehicle traveled through the intersection without stopping at the posted stop sign and continued west bound on Escobar Street passing Officer Breinig traveling in the opposite direction. The vehicle made a right hand turn and began traveling north bound on Castro Street. Castro Street is one way in this area in the opposite direction the vehicle was traveling. Believing the vehicle was attempting to flee, Officer Breinig initiated a traffic enforcement stop on the vehicle as it made a left hand turn onto west bound Marina Vista. During the course of the traffic stop, Officer Breinig was notified via MPD Dispatch that the vehicle he had stopped was most likely associated with a hit and run collision that occurred in the parking lot of the marina Market at 735 Escobar Street. The suspect vehicle was described as a dark gray, Nissan with a loud muffler which was occupied by a white, male, adult driver and a white, female, adult passenger.

Officer Breinig contacted the driver, Coronado-Aguilar on the passenger side of the vehicle following a traffic enforcement stop. He spoke with Coronado-Aguilar and his passenger Perez from the passenger side of the vehicle. While Officer Breinig was conducting his investigation, Perez began to speak telling him someone had been chasing them. Officer Breinig knew this was not likely as he had not observed any other subjects in the area. Officer Breinig told Coronado-Aguilar to exit the vehicle and speak with him toward the rear of the car. While Officer Breinig was attempting to understand what had happened, Perez began to exit the vehicle from the passenger side.

He told Perez to sit down and get back in the vehicle. Perez became increasingly agitated that Officer Breinig was speaking with Coronado-Aguilar and refused to get back in the vehicle. Believing Perez was intentionally distracting him, he instructed Perez approximately four times to get back in the vehicle and sit down without compliance. Perez continued to argue and question as to why he was speaking with Coronado-Aguilar while refusing to get back in the vehicle. Due to the inherent risk in dealing with two subjects outside the vehicle on a traffic enforcement stop as a solo officer, Officer Breinig believed Perez was attempting to aid Coronado-Aguilar. He told Perez she was under arrest and forced her over the hood of the

vehicle as she began to pull away from him. Perez became increasingly agitated and began yelling that Officer Breinig was hurting her. While arresting Perez, Coronado-Aguilar approached Officer Breinig and grabbed him by the left arm at the bicep.

Officer Breinig thought Coronado-Aguilar was attempting to aid Perez, and possibly attempting to hurt him. Officer Breinig quickly grabbed both of Coronado-Aguilar arms and spun him around. He forced Coronado-Aguilar to the ground in a nearby grassy area in order to gain better control of his aggressive movements. As Coronado-Aguilar hit the grassy area, he turned his head to the right which resulted in the left side of his face striking the ground. Coronado-Aguilar briefly lost consciousness. He placed Coronado-Aguilar in handcuffs behind his back then he was placed in a recovery position on his left side.

On 5/28/18 at approximately 2118 hours, Officer Montano responded to Marina Vista and Alhambra Ave to cover Officer Breinig on a traffic stop. On arrival, Officer Breinig, Perez and Coronado-Aguilar were all standing on the passenger side of the vehicle. While she was approaching on foot, Perez and Coronado-Aguilar were yelling at Officer Breinig as she saw him placing Perez in handcuffs.

Officer Montano saw Coronado-Aguilar grab Officer Breinig's left upper arm. Officer Breinig grabbed both of Coronado-Aguilar's arms and spun him around. Officer Breinig took him down into a grassy area. When she arrived at their side, Coronado-Aguilar was unconscious. Officer Breinig placed him in handcuffs, then into the recovery position.

Officer Breinig had a rider, Anthony Velasquez, with him that night. I asked Velasquez if he saw what happened. He told me that he saw Officer Breinig placing the female in handcuffs. He saw the male grab Officer Breinig left arm. Velasquez thought the male was going to batter Officer Breinig. Velasquez saw Officer Breinig grab the male and force him to the ground.

I talked to the passenger, Perez, about the incident. I asked her why she refused to stay in the car as Officer Breinig had instructed her. She told me that she was getting out car because Officer Breinig was hurting her boyfriend. I explained to her that her boyfriend was not in any peril until he grabbed Officer Breinig by the arm as she was being placed in handcuffs. She appeared confused and insisted she only got out of the car to help her boyfriend.

I attempted to get a statement from Coronado-Aguilar but he had no recollection of the incident.

Coronado-Aguilar was transported to the Contra Costa County Regional Medical Center where he was medically evaluated prior to booking. Coronado-Aguilar injuries consisted of redness to the left side of his face and left shoulder. Coronado-Aguilar was also diagnosed with a hairline fracture to his jaw. He was booked into MDF.

Based on the fact that Officer Breinig was alone and thought Coronado-Aguilar was going to batter him, I believe the use of force was justified and falls within department policy.

MOBILE MESSAGE
From: L126 to ASHTON

Sent: 05/28/2018 19:18:22

159 is 10-10

MOBILE MESSAGE

From: ASHTON to L126

Sent: 05/28/2018 19:18:34

From: ASHTON

Date: Monday, May 28, 2018

Time: 19:18:34

COPY

MOBILE MESSAGE

From: ASHTON to L126

Sent: 05/28/2018 19:18:47

From: ASHTON
Date: Monday, May 28, 2018
Time: 19:18:47

NRT FOR HIM

MOBILE MESSAGE

From: L108 to ASHTON

Sent: 05/28/2018 20:51:12

can you put me on npaa safeway 3

MOBILE MESSAGE

From: L155 to ASHTON

Sent: 05/28/2018 21:15:59

AIDEN IS POSEIDON HAAAAHA TOO CUTE..

MOBILE MESSAGE

From: L155 to ASHTON

Sent: 05/28/2018 21:16:40

NAAAAHHHH LOL

ASHTON wrote:

From: ASHTON
Date: Monday, May 28, 2018
Time: 21:16:26

HAHAHA! I WONDER IF THEY ARE TRYING TO DROWN SOMEONE THO....

MOBILE MESSAGE

From: L155 to ASHTON

Sent: 05/28/2018 21:16:50

LMAOOOO YASSSS

ASHTON wrote:

From: ASHTON
Date: Monday, May 28, 2018
Time: 21:16:38

AND I HAD TO SCHOOL HER ON AQUAMAN

MOBILE MESSAGE
From: ASHTON to K92

Sent: 05/28/2018 21:44:03

From: ASHTON
Date: Monday, May 28, 2018
Time: 21:44:03

WHAT ARE THE CHARGES FOR YOUR CH'S?

MOBILE MESSAGE

From: L108 to ASHTON

Sent: 05/28/2018 21:48:37

I WOULD ATTEMPT TO CLEAR THE HAZZARD CALL BUT I HAVE A COLD AND CANT SMELL ANYTHING

MOBILE MESSAGE

From: ASHTON to L108

Sent: 05/28/2018 21:49:01

From: ASHTON

Date: Monday, May 28, 2018

Time: 21:49:01

OH DANG... OK WE TRANS THEM TO FIRE TOO

MOBILE MESSAGE

From: L108 to S21

Sent: 05/28/2018 22:07:57

FROM: L108
DATE: 05/28/2018
TIME: 22:07:57

49

S21 wrote:

FROM: S21
DATE: 05/28/2018
TIME: 22:07:50

nob hill

L108 wrote:

FROM: L108
DATE: 05/28/2018
TIME: 22:07:28

98

MOBILE MESSAGE

From: L155 to ASHTON

Sent: 05/28/2018 22:37:20

AFFIRM

ASHTON wrote:

From: ASHTON

Date: Monday, May 28, 2018

Time: 22:37:04

can i brother you for a quick break

MOBILE MESSAGE

From: ASHTON to L155

Sent: 05/28/2018 22:37:30

From: ASHTON

Date: Monday, May 28, 2018

Time: 22:37:30

THANK YOU!!!

MOBILE MESSAGE

From: L108 to L126

Sent: 05/28/2018 22:53:37

FROM: L108
DATE: 05/28/2018
TIME: 22:53:37

49

L126 wrote:

FROM: L126
DATE: 05/28/2018
TIME: 22:29:15

WE ARE THE ONLY ONES 10-8...4OD

MOBILE MESSAGE

From: L155 to ASHTON

Sent: 05/29/2018 00:48:34

hey girl can you please message me the website for our work email

MOBILE MESSAGE

From: L155 to ASHTON

Sent: 05/29/2018 00:52:17

THANKS

ASHTON wrote:

From: ASHTON

Date: Tuesday, May 29, 2018

Time: 00:48:54

<https://192.168.0.12/OWA>
setting up outlook, 192.168.0.12

MOBILE MESSAGE

From: ASHTON to L155

Sent: 05/29/2018 00:52:26

From: ASHTON
Date: Tuesday, May 29, 2018
Time: 00:52:26

welcome!



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440
CRIMINAL COLLISION REPORT

Case
18-1232

OFFENSES	Offenses	Description	Fel/Misd	Date Occurred	Time Occurred	Incident #
	20002(A)(1) VC	Hit&run Prop Damag:locate	Misd	05/28/18-05/28/18	2117 - 2134	1805280064
	12500(A) VC	Drive W/O License	Misd	Date Reported	Time Reported	
	148(A)(1) PC	Obstruct Public Officer	Misd	05/28/2018	2117	
	243(B)(1) PC	Battery on Peace Officer	Misd	Related Cases		
			Date Printed	Time Printed	Printed By	
			02/20/2019	11:13:45	1069	
			Latitude	Longitude		
			38.017500	-122.139230		

Location	Beat	Area	Disposition	Dispo Date	
Marina Vista/Alhambra Av, Martinez, CA 94553	1	02	Cred By Adult Arrest	05/28/2018	
Location Type	Location of Entry	Method of Entry	Point of Entry	Alarm System	Means of Attack (Robbery)
Street/Highway					

Victim	Drivers License	Cell Phone	Email			
Residence Address	Notified of Victim Rights	Residence Phone	DOB	Age	Sex	Race
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
Assistance Rendered/Victim Disposition		Transporting Agency	Means of Attack (Assaults)			
Description of Injuries	Other Information					

Witness	Drivers License	Cell Phone	Email			
Residence Address		Residence Phone	DOB	Age	Sex	Race
Business Name and Address		Business Phone	Height	Wt	Hair	Eyes
			5'11"	145	BRO	BRO

Suspect Arrested	Action Taken	Charges				
Coronado-Aguilar, Cristian	BOOKING	12500(A) VC, 148(A)(1) PC, 20002(A)(1) VC				
Residence Address	Residence Phone	DOB	Age	Sex	Race	
		06/21/1999	18	M	H	
Business Name and Address	Business Phone	Height	Wt	Hair	Eyes	
		5'8"	130	BRO	BRO	
Identifying Features	Cell Phone	Drivers License		Arrest Number		
Build: Slender Complexion: Pock Marked Facial Hair: None				12069		
Aliases						

VEHICLES	Status	Vehicle Make and Model	License/State	VIN
	Involved Damaged	2006 Gold Niss Sentra 2013 White Acur TI	5WJC470 CA 6YXZ175 CA	

OFFICERS	Prepared By	Date	Assisted By	Approved By	Date
	123 - Breinig, Tom	05/28/2018		101 - Estanol, Mike	09/10/2018
	Routed To	Date	Routed To	Date	Notes
	CHP City Engineering Direct File				



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440
CRIMINAL COLLISION REPORT

Case
18-1232

Suspect Arrested Perez, Alexis Melissa		Action Taken BOOKING	Charges 148(A)(1) PC			
Residence Address [REDACTED]		Residence Phone [REDACTED]	DOB 11/14/1996	Age 21	Sex F	Race W
Business Name and Address Vicente		Business Phone	Height 5'4"	Wt 118	Hair BLK	Eyes BRO
Identifying Features		Cell Phone [REDACTED]	Drivers License [REDACTED]		Arrest Number 11343	
Aliases						

Veh Owner [REDACTED]		Drivers License [REDACTED]	Cell Phone	Email		
Residence Address [REDACTED]		Residence Phone [REDACTED]	DOB [REDACTED]	Age 25	Sex M	Race
Business Name and Address		Business Phone	Height 5'10"	Wt 155	Hair BRO	Eyes HAZ



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440

Case
18-1232

CRIMINAL COLLISION REPORT

Location Marina Vista/Alhambra Av, Martinez, CA 94553			Type of Locality Parking Lot
Injury Severity No Injuries	No. of Minor Injuries 0	No. of Major Injuries 0	No. of Fatal Injuries 0
Cause of Accident Driver Error	Traffic Signal Not Applicable	Weather Clear	Light Conditions Street Lights
Road Type Private Property	Road Conditions Clear	Collision Type Vehicle-Vehicle	Collision Direction Side Swipe
Speed Limit	Driving Under the Influence? No	Caused by Juvenile? No	Primary Collision Factor



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440
NARRATIVE

18-1232

CONTROLLED DOCUMENT - RELEASED BY MARTINEZ POLICE DEPARTMENT

Notification:

On 5/28/18 at 2117 hours, I was traveling east bound on Escobar Street approaching the intersection of Escobar and Estudillo Streets. I observed a vehicle (license plate number 5WJC470) abruptly exit the parking lot at 735 Escobar Street and begin traveling west bound on Escobar Street. The vehicle had loud exhaust and was traveling at a high rate of speed as it approached the controlled intersection of Escobar and Estudillo Street. The vehicle traveled through the intersection without stopping at the posted stop sign (violation of CVC 22450) and continued west bound on Escobar Street passing me traveling in the opposite direction. The vehicle made a right hand turn and began traveling north bound on Castro Street. Castro Street is one way in this area in the opposite direction the vehicle was traveling (violation of CVC 21657). Believing the vehicle was attempting to flee I initiated a traffic enforcement stop on the vehicle as it made a left hand turn onto west bound Marina Vista and approached the intersection with Alhambra Avenue. During the course of the traffic stop I was notified via MPD Dispatch that the vehicle I had stopped was most likely associated with a hit and run collision that occurred in the parking lot of the marina Market at 735 Escobar Street. The suspect vehicle was described as a dark gray, Nissan with a loud muffler which was occupied by a white, male, adult driver and a white, female, adult passenger.

It should be noted at the time of this incident I was accompanied by a civilian ride along, [REDACTED]

Scene:

The collision occurred in the private parking lot to 735 Escobar Street. This parking lot is constructed of well traveled asphalt. It has multiple parking stalls and has a downward slope as it progresses to the south. I did not observe any unusual conditions for the parking lot. The collision occurred during night time hours, with commercial and street lights illuminating the area. As this is a private parking lot, there are no posted speed limits.

Parties:

D#1 Coronado-Aguilar, identified via California Identification Card, was found at the scene of the traffic stop. He told me he was the driver at the time of the collision. The vehicle was at the scene of the traffic stop and had minor damage to the rear bumper. Damage consisted of moderate rear intrusion.

R/O [REDACTED], identified via CDL, was contacted via telephone several hours after the initial collision. R/O [REDACTED] advised the damage consisted of moderate intrusion/deformation to the passenger side front door.

Statements:

R/O [REDACTED] told me he parked his vehicle outside the Marina Market and was standing near it when he observed Veh#1 rapidly backing from a parking stall and colliding with the passenger side front door of his vehicle. R/O [REDACTED], observing the collision, approached D#1 at the drivers window of Veh#1 and told him he had hit his vehicle. R/O [REDACTED] wanting to make sure he had visible damage to his

Prepared By: 123 BREINIG, TOM	Date: 05/29/2018	Approved By: 101 ESTANOL, MIKE	Date: 09/10/2018
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CONTROLLED DOCUMENT - RELEASED BY MARTINEZ POLICE DEPARTMENT

vehicle quickly left Veh#1 and checked his vehicle. At that point Veh#1 abruptly sped out of the parking lot off the nearby curb to Escobar Street and rapidly accelerated west bound on Escobar Street. R/O [REDACTED] observed new damage to the passenger side front doors of his vehicle, which was not there prior.

D#1 Coronado-Aguilar was read his Miranda Rights per my department issued Miranda card at approximately 2250 hours at which time he indicated that he understood his rights and implicitly waived his rights as he began to speak with me. I asked D#1 Coronado-Aguilar what happened at the Marina Market. D#1 Coronado-Aguilar told me "I'm not going to lie." D#1 Coronado-Aguilar said he was arguing with his girlfriend and passenger Perez when he attempted to back out of his parking stall. D#1 Coronado-Aguilar told me "It was a bit of a road rage." D#1 Coronado-Aguilar stated he backed into Veh#2 on the passenger side and "panicked." D#1 Coronado-Aguilar indicated that R/O [REDACTED] confronted him and he quickly left the parking lot before he passed me traveling west bound on Escobar Street.

Hit and Run Investigation:

I contacted D#1 Coronado-Aguilar on the passenger side of the vehicle following a traffic enforcement stop. I spoke with D#1 Coronado-Aguilar and his passenger Perez from the passenger side of the vehicle. While attempting to understand what had occurred and resulted in D#1 Coronado-Aguilar driving recklessly prior to being stopped, passenger Perez began to speak telling me someone had been chasing them. Having witnessed Veh#1 exit the parking lot of 735 Escobar Street I knew this was not likely as I had not observed any other subjects in the area. I told D#1 Coronado-Aguilar to exit the vehicle and speak with me toward the rear. While attempting to understand what had happened, passenger Perez began to exit the vehicle from the passenger side.

I told Passenger Perez to sit down and get back in the vehicle. Perez became increasingly agitated that I was speaking with D#1 Coronado-Aguilar and refused to get back in the vehicle. Believing Perez was intentionally distracting me, I instructed Perez approximately four times to get back in the vehicle and sit down without compliance. Perez continued to argue and question as to why I was speaking with D#1 Coronado-Aguilar while refusing to get back in the vehicle. Due to the inherent risks in dealing with two subjects outside the vehicle on a traffic enforcement stop as a solo officer I believed Perez was attempting to aid D#1 Coronado-Aguilar. I told the Perez she was under arrest and forced her over the roof of the vehicle as she began to pull away from me as I grabbed her right hand. Perez became increasingly agitated and began yelling I was hurting her. As I placed Perez's hands together behind her back and placed her in handcuffs. While arresting Perez D#1 Coronado-Aguilar approached me and grabbed me by the left arm at the bicep.

As I secured the handcuffs on Perez, Officer Montano had arrived to assist me. Believing D#1 Coronado-Aguilar was attempting to aid Perez, physically attempting to interfere with the arrest of Perez and possibly attempting to hurt me, I quickly grabbed both D#1 Coronado-Aguilar arms spinning him around. I forced D#1 Coronado-Aguilar to the ground in a nearby grassy area in order to gain better control of his aggressive movements. As D#1 Coronado-Aguilar hit the grassy area he turned his head to the right, which resulted in the left side of his face striking the ground. D#1 Coronado-Aguilar briefly

Prepared By:

Date:

Approved By:

Date:

123 BREINIG, TOM

05/29/2018

101 ESTANOL, MIKE

09/10/2018



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440

18-1232

NARRATIVE

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lost consciousness. I placed D#1 Coronado-Aguilar in handcuffs behind his back which were double locked and checked for fit then he was placed in a recovery position on his left side.

Perez was placed in Officer Montano's vehicle and later transported to the Martinez Detention Facility where she was booked for 148(a) PC.

D#1 Coronado-Aguilar was transported to the Contra Costa County Regional Medical Center where he was medically evaluated prior to booking as he lost consciousness during the course of the arrest. D#1 Coronado-Aguilar injuries consisted of redness to the left side of his face and left shoulder. D#1 Coronado-Aguilar was also diagnosed with a hairline fracture to the left side of his jaw.

Veh#1 was secured and left at the scene.

I later obtained D#1 Coronado-Aguilar insurance information from his mother, [REDACTED] as D#1 Coronado-Aguilar was not a licensed driver. I also contacted R/O [REDACTED] and provided him with the corresponding insurance information received from [REDACTED].

D#1 Coronado-Aguilar was transported to the Martinez Detention Facility where he was booked for 148 (a) PC.

Cause:

D#1 caused the collision by backing his vehicle in an unsafe manner. D#1 also violated 20002VC by leaving the scene of an accident.

Area of Impact:

Did not establish as vehicles had been moved.

Recommendations:

None

Prepared By:

123 BREINIG, TOM

Date:

05/29/2018

Approved By:

101 ESTANOL, MIKE

Date:

09/10/2018



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440

SUPPLEMENT 1

18-1232

CONTROLLED DOCUMENT - RELEASED BY MARTINEZ POLICE DEPARTMENT

On 5/28/18 at approximately 2118 hours, I responded to Marina Vista and Alhambra Ave to cover K-9 Officer Breinig on a traffic stop. On arrival, Officer Breinig, PEREZ and CORONADO-AGUILAR were all standing on the passenger side of the vehicle. While I was approaching on foot, PEREZ and CORONADO-AGUILAR were yelling at Officer Breinig as I saw him placing PEREZ in handcuffs.

I then saw CORONADO-AGUILAR then grabbed Officer Breinig's left upper arm. Officer Breinig grabbed both of CORONADO-AGUILAR's arms and spun him around. Officer Breinig took him down by that hold, into a grassy area. When I arrived at their side, CORONADO-AGUILAR was unconscious. Officer Breinig placed him in handcuffs, then into the recovery position. Refer to Officer Breinig's report for details that followed the arrest. END.

Prepared By:

155 MONTANO, TATIANA

Date:

05/29/2018

Approved By:

101 ESTANOL, MIKE

Date:

09/10/2018



MARTINEZ POLICE DEPARTMENT

525 HENRIETTA ST MARTINEZ, CA 94553 925-372-3440

SUPPLEMENT 2

18-1232

CONTROLLED DOCUMENT - RELEASED BY MARTINEZ POLICE DEPARTMENT

On 5/31/18 at 1817 hours, I was working MPD dispatch when a female, whom identified herself as Alexis, who stated she was present at the incident. Based on this, I presumed she was PEREZ. I had her call back at 1819 hours because she called on a 9-1-1 line and it was for a non life-threatening emergency.

In summary, Perez stated she wanted to obtain body cam footage from the incident. I advised her we had none and she was not entitled to any information regardless including any information from the police report. During the phone call PEREZ stated that they were unaware of the traffic collision that occurred at Marina Market and that it was an accident, and that her boyfriend was injured by the police and he did not deserve what happened to him.

Prepared By:

128 BAILLIE, RYAN

Date:

05/31/2018

Approved By:

101 ESTANOL, MIKE

Date:

09/10/2018