Akron Citizens' Police Oversight Board
Meeting Agenda
September 16, 2026, 6:00 p.m.
City Council Chamber, 166 S. High St.
Akron, OH 44308

AGENDA

I. Call to order.

II. Roll call of CPOB members

III. Approval of meeting minutes

IV. Reading of CPOB values and purpose

V. Public comments

VI. Committee Report Out

a. Auditor Report

- Consent Agenda
  - General OIPA Activities Report
  - Citizen Complaint Review Report – 2026-00069735
  - Use of Force Review Report – 2026-00085273
  - Monthly OIPA Policy and Training Recommendations Memo
- Property Damage Audit Report
- FLOCK Audit Plan

b. Governance

- Committee Report
  - Committee/Board Development/Training – Board Retreat
  - November Committee meeting date change

c. Community Engagement

d. Finance

e. Human Resources

VII. APD/Public Safety comments (only if needed)

VIII. Executive Session (only if needed)

a. IPA Annual Performance Evaluation/OIPA Contract Discussion

IX. Chairman's Comments

X. Adjournment

CPOB Purpose, Vision and Values

Purpose

The over-arching mission of the Akron Citizens' Police Oversight Board is to foster conditions and police practices that ensure the safety of all residents of the City of Akron. The CPOB is empowered by a new city charter provision to independently direct the police auditor, whose office reviews investigations into complaints and misconduct involving officers. The board and auditor also review every standard investigation, whether by the Akron Police Department or outside agencies, into the use of deadly force by an officer. The CPOB has the authority to:

1. Appoint and provide oversight of the Office of the Independent Police Auditor (OIPA), and reappoint/terminate personnel within OIPA
2. Approve external and independent oversight and review of policing practices within the City of Akron
3. Subject to approval of Council, the CPOB may adopt rules providing for the procedures and operations of the Board and the OIPA, including the scheduling of regular Board meetings, and for the election of a Board chair and vice chair
4. Propose, with OIPA, an annual operating budget
5. Issue an annual report to the community of CPOB activities and recommendations made to the Mayor and Council

Vision

The CPOB envisions each of its members to be changemakers, bridge-builders, diplomats and servant leaders who together with the police, City of Akron and community at-large, will:

- Foster a systemic culture that enables action on policing and community safety issues based on trusting relationships, responsiveness and accountability to the people of Akron.
- Serve as a gateway to knowledge and understanding for members of the community regarding policing practices and civilian oversight of law enforcement.
- Advance police training and practices based on educational and information resources and demonstrated effective practices in policing and civilian oversight of law enforcement.
- Reinforce the image of police, as partners with Akron residents, who strive to ensure safe neighborhoods and a safe community for all.

Values

- Our decisions and actions are motivated by our love for Akron, and our desire for all to feel safe in the community.
- We value unity in voice and action.
- We respect each other and those we serve; we seek to build relationships of trust; and we seek to always conduct ourselves with integrity.
- We listen to understand, learn and lead.
- We strive to be inclusive of all stakeholders' voices.
- We value change at a system level.
- We hold ourselves accountable for our actions and deeds, and we hold our partners and those we serve to be accountable, for their actions and deeds.

Citizens' Police Oversight Board
Independent Police Auditor Office
172 S. Broadway/Suite 207/Akron, Ohio 44308
PH: (330)375-2705

To: CPOB

From: Anthony Finnell

Date: September 16, 2026

Re: Independent Police Auditor Report – July 16, 2026-September 15, 2026

Use of Force Case Reviews

9/15/2026

Concur with APD Findings	-	
2026-00058356	2026-00050177	2026-00072033
2026-00046155	2026-00074334	2026-00034903
2026-00068907	2026-00072954	2026-00058675
2026-00059416	2026-00065535	26TR-0406
2026-00066908	2026-00067146	2026-00068877
2026-00076183	2026-00084786	2026-00079674
2026-00079703	2026-00073954	2026-00079988
2026-00065041	2026-00079388	2026-00083766

Do Not Concur with APD Findings	Date Report Submitted	Notes	45-Day Due Date
2024-00077110	**1/22/2025**	**Submitted IPA Recommendation Memo to Mayor, City Council on February 20, 2025. At this time a response will not be released until the outcome of civil litigation filed by the subject of the use of force. Civil litigation completed on April 14, 2026. Recommendation Memo resubmitted to Mayor, City Council on April 15, 2026.**	**5/31/2026**
2026-00020897	**4/2/2026**	**Submitted IPA Recommendation Memo to Mayor, City Council on April 16, 2026.**	**6/1/2026**

2025-00050947	**4/14/2026**	**Submitted IPA Recommendation Memo to Mayor, City Council on May 21, 2026.**	**7/13/2026**
****2026-00067177****	**7/6/2026**	**Submitted IPA Recommendation Memo to Mayor, City Council on July 24, 2026.**	**9/7/2026**
2026-00069735	**7/31/2026**	**Submitted IPA Recommendation Memo to Mayor, City Council on Sept. 16, 2026. (Pending)**	**11/9/2026**
2026-00085273	**8/20/2026**	**Submitted IPA Recommendation Memo to Mayor, City Council on Sept. 16, 2026. (Pending)**	**11/9/2026**

Complaints received since last report		12
Officer Commendations since last report		
To Date as of September 15, 2026		
Concur	200	97.09%
Do Not Concur	6	2.91%
TOTAL	**206**	**100.00%**

Current Projects

OIS Review

- **Jayland Walker** – We are in the final stages of securing a special services contract with SME to assist in the review process. We expect to begin by the first of November 2026.
- **OIPA HIGHQ CASE MANAGEMENT SYSTEM — PROJECT PROGRESS REPORT**

Overall Status: The project has moved beyond prototype development and is now in configuration, testing, validation, and pre-deployment preparation. The core complaint-intake system is functioning; remaining work focuses on refining use-of-force data structure, completing testing, finalizing integrations, and preparing historical data for migration.

Completed / Demonstrated Progress

- Complaint intake is operational: OIPA staff can enter cases, test public submissions, receive automated acknowledgments, and generate internal task notifications.
- Unique OIPA/HighQ complaint numbering and automatic complaint folder creation are functioning, providing a consistent internal record structure separate from APD tracking numbers.

- Use-of-force records and dashboard functions have been built and are being tested with realistic scenarios.
- City IT has completed major Single Sign-On (SSO) preparation, including certificate and Azure configuration; Thomson Reuters-side configuration and testing remain.

Key Issues Identified Through Testing

- Multi-officer use-of-force incidents require clearer officer-role distinctions so the system can differentiate an officer who applied force from a witness, assisting officer, or other participant.
- The use-of-force data model should use an incident-as-parent / personnel-and-force-as-related-record structure to avoid duplication and improve officer-level trend analysis.
- The proposed "Send to APD" workflow still requires final configuration, including what information is transmitted, the correct APD recipient(s), and an auditable transmission history.

Current / Next-Phase Work

- Finalize the use-of-force data model, officer-role fields, controlled categories, and multi-officer entry workflow.
- Continue user acceptance testing with actual closed complaint and use-of-force cases, including single- and multi-officer incidents, multiple subjects, witnesses, notifications, folders, and audit history.
- Complete SSO testing and establish final production user roles and permissions.
- Freeze the final data architecture before historical migration; then clean, map, import, reconcile, and validate existing complaint and use-of-force records.

Board-Level Takeaway

The system is not yet at go-live, but the foundational platform is working. The project is now focused on ensuring that HighQ supports accurate oversight, reliable reporting, secure access, defensible historical data, and meaningful long-term analysis, rather than simply replacing the current spreadsheets with another electronic repository.

Community Activities and Training

CPOB Members and OIPA staff attended the following training and events:

- National Organization of Black Law Enforcement Executives (NOBLE) Conference

Respectfully submitted,



Anthony Finnell, Independent Police Auditor

Executive Summary

The Office of the Independent Police Auditor (OIPA) conducted an independent review of Akron Police Department (APD) Complaint No. 26TR-0405, Case No. 2026-00069735, arising from a June 12, 2026, neighbor dispute at 1387 Doty Drive in Akron. The complaint was submitted by Betty Pickens and principally alleged that Officer Ronnell Massengill demonstrated racial bias or favoritism toward Pickens's neighbor, Brianna Butler, during the officers' response. APD ultimately classified the allegation as UNFOUNDED. OIPA's review examined the underlying incident, APD's investigation and disposition, applicable constitutional principles and departmental policies, tactical and de-escalation considerations, and the broader implications for procedural justice and public confidence.

The underlying police response arose from an ongoing neighborhood conflict involving noise complaints and allegations that Butler had attempted to fight Pickens and blocked Pickens's vehicle. Officers Massengill and Giaimo responded, initially separated the parties, gathered information, attempted to facilitate a joint discussion, and ultimately advised the parties to remain apart. The immediate incident was resolved without arrest, injury, physical restraint, or reportable use of force. OIPA determined that the officers' initial use of separation, verbal communication, and de-escalation was generally reasonable and consistent with APD's de-escalation principles. The available evidence does not establish an unreasonable seizure, excessive force, or other Fourth Amendment violation.

The central issue in the complaint concerned Officer Massengill's communication with Butler. APD's investigation and body-worn-camera review confirmed that Massengill referred to race while attempting to relate to Butler, although the precise wording differed from Pickens's initial recollection. APD interpreted the communication as a de-escalation or rapport-building technique. Pickens perceived it as evidence that Massengill was aligning himself with Butler because of their shared racial identity and was more concerned with the consequences Butler might face than with the conduct Pickens had reported.

OIPA found insufficient evidence to establish by a preponderance of the evidence that Massengill intentionally discriminated against Pickens or deliberately favored Butler because of race. Pickens acknowledged during APD's investigation that Massengill remained generally professional and did not overtly treat her differently. Both parties were interviewed, neither was arrested, and the evidence does not demonstrate that Pickens was denied police services or subjected to adverse enforcement because of race. Accordingly, OIPA does not find that the evidence establishes unconstitutional racial discrimination.

OIPA nevertheless concludes that Massengill's use of shared racial identity as a rapport-building technique was unnecessary and created an avoidable appearance of partiality. An officer may appropriately use empathy and personal connection to de-escalate conflict, but the technique must preserve both actual and apparent neutrality. In an adversarial dispute, expressly invoking an identity shared with one participant can reasonably cause the opposing participant to perceive police alignment or favoritism. The same legitimate message concerning accountability, housing consequences, family interests, and continued police involvement could have been communicated

through race-neutral language. OIPA therefore identifies the communication as a professional-judgment, procedural-justice, and training concern even though the evidence does not establish intentional racial discrimination.

The review also identified shortcomings in the clarity and documentation of the original police response. Pickens initially believed Massengill had refused to complete a police report because Butler had "a lot to lose." APD's subsequent body-worn-camera review clarified that Massengill was referring to possible reporting to the Akron Metropolitan Housing Authority (AMHA), rather than refusing APD documentation, and Pickens accepted that explanation. Nevertheless, the misunderstanding illustrates the importance of clearly explaining enforcement, reporting, and referral decisions. Additionally, the CAD disposition documented the ongoing noise dispute and the officers' advice to both households but did not adequately explain how Pickens's allegations of attempted assault and obstruction of her vehicle were evaluated.

OIPA found that APD's complaint investigation included meaningful investigative steps. Sergeant Scott Myers reviewed body-worn-camera footage, interviewed Pickens, considered her supplemental correspondence, clarified the AMHA issue, and afforded Massengill an opportunity to respond. The investigation was, however, framed too narrowly around whether intentional racial bias could be established. Pickens's complaint also implicated distinct questions of favoritism, appearance of partiality, race-based communication, procedural justice, professional judgment, and whether her underlying allegations received adequate consideration. Those issues were not separately and fully resolved.

Most significantly, OIPA concludes that APD erroneously classified the complaint as UNFOUNDED. APD's closure letter defined an unfounded disposition as meaning that the incident did not occur. That definition does not correspond to the evidence in this case. APD's own investigation confirmed that the material underlying conduct, Massengill's race-related communication with Butler, did occur. The unresolved evidentiary question was whether that communication demonstrated racial bias or favoritism.

OIPA concludes that the appropriate disposition is NOT SUSTAINED. The available evidence does not establish by a preponderance of the evidence that Massengill intentionally discriminated against Pickens or favored Butler because of race. Conversely, the evidence does not establish that Pickens's allegation was false or without factual basis. The record supports competing interpretations: Massengill's communication may reasonably be understood as an effort at de-escalation and rapport-building, while Pickens could reasonably perceive the same communication as an indication of racial alignment. Because the evidence is insufficient to establish whether the allegation of racial bias or favoritism is true, a NOT SUSTAINED disposition most accurately reflects the evidentiary record.

Accordingly, OIPA does not concur with APD's UNFOUNDED disposition and requests that APD amend the final disposition of Pickens's complaint against Officer Massengill from UNFOUNDED to NOT SUSTAINED. APD should correct the complaint file, Blue Team record, and other administrative, statistical, and supervisory records reflecting the disposition. OIPA further requests that APD issue a revised disposition letter to Pickens explaining that the original classification has been amended to NOT SUSTAINED. The revised letter should make clear that

the change does not constitute a finding that Massengill engaged in racial discrimination; rather, it reflects that the evidence is insufficient under the applicable evidentiary standard to establish either that the allegation was true or that it was false. The revised letter should supersede the original closure notification.

Beyond the individual disposition, OIPA identifies broader opportunities for institutional improvement. The final report recommends that APD adopt explicit guidance requiring identity-neutral conflict mediation and rapport-building; revise complaint disposition definitions so that findings correspond precisely to the evidence; establish a formal mechanism for identifying policy, training, or supervisory concerns even when misconduct is not sustained; strengthen bias and impartiality training to address the appearance of favoritism as well as intentional discrimination; and periodically audit complaints involving bias, favoritism, discourtesy, failure to take reports, failure to investigate, and unclear enforcement explanations.

In summary, OIPA finds that the officers lawfully and generally appropriately resolved the immediate disturbance without arrest, injury, or reportable force and that the evidence does not establish intentional racial discrimination by Officer Massengill. However, Massengill's use of race as a rapport-building technique created an avoidable appearance of partiality and presents legitimate procedural-justice and professional-judgment concerns. Most importantly, the evidence does not support APD's UNFOUNDED disposition. OIPA therefore concludes that the complaint should be reclassified as NOT SUSTAINED, APD's records should be amended accordingly, and a corrected disposition letter should be issued to Betty Pickens.

Anthony Finnell



Independent Police Auditor

Independent Police Auditor
Citizen Complaint Review

SUBJECT NAME:	**Betty Pickens**
COMPLAINT NUMBER:	**26TR-0405 / Case No. 2026-00069735**
DATE OF INCIDENT:	**06/12/2026**
DATE OF REPORT:	**07/31/2026**
LOCATION OF INCIDENT:	**1387 Doty Drive, Akron, Ohio 44306**
APD DISTRICT:	**4**

I. Introduction

On June 12, 2026, at approximately 9:45 p.m., Akron police were dispatched to 1387 Doty Drive in response to a reported neighbor dispute. Dispatch notes described the event as a fight or attempted fight between neighbors. The caller, Betty Pickens, reported that her neighbor, identified in the investigative record as Brianna Butler, was angry with her because of continuing complaints involving children making noise and banging on walls. Dispatch information also indicated that Butler had allegedly blocked Pickens's vehicle and was yelling.

Upon arrival, the officers encountered Pickens and Butler in the context of an ongoing noise and neighborhood conflict. According to the complaint investigation, the officers initially spoke with the women separately. Officer Massengill gathered information from each party and determined that no immediate arrest would be made. Because officers had apparently responded to prior disputes at the same location, Massengill attempted to move beyond merely separating the parties and sought to facilitate a conversation that might reduce future calls for service.

The effort at joint discussion was unsuccessful. Neither Pickens nor Butler was able to resolve the disagreement, and the officers ultimately separated them and advised both parties regarding future conduct.

Pickens submitted a formal citizen complaint several days later. In the complaint, she stated that Officer Massengill made a race-related statement to Butler while the parties were still close enough for Pickens to hear. Pickens recalled Massengill telling Butler to look at her skin color and then his and stating that Butler could not speak to "these people" any way she wanted. Pickens interpreted the statement as introducing race into a dispute that had not previously involved race and as suggesting solidarity between Massengill and Butler against her.

Pickens also alleged that Massengill told her that he did not want to complete a report because Butler had "a lot to lose." She viewed that statement as evidence that the officer was more concerned with shielding Butler from housing or other consequences than with evaluating the facts impartially. Pickens emphasized that she and her family had also experienced significant disruption because of the continuing conflict, including lost sleep, missed school, and missed work.

Sergeant Scott Myers was assigned to investigate the complaint. He reviewed the complaint materials and body-worn-camera footage and interviewed Pickens by telephone. During that

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discussion, Pickens clarified that she had not expressly requested an APD incident report during the original encounter. Myers explained that the body-worn-camera footage showed Massengill discussing whether the incident might be reported to AMHA, rather than refusing to create police documentation. Pickens accepted that explanation and agreed not to pursue the report-refusal component of her complaint.

The racial-bias allegation remained. Myers informed Pickens that the body-worn-camera footage confirmed that Massengill discussed race with Butler, although not in the exact language Pickens initially recalled. Pickens acknowledged that she may not have remembered the precise wording. When asked whether Massengill treated her differently, Pickens initially responded that he had not and stated that he remained professional with both parties. She nevertheless maintained that using race to relate to Butler reflected favoritism and that the encounter had continuing consequences for her in the neighborhood.

Pickens later submitted an email providing further explanation. She stated that the officer's approach appeared to focus disproportionately on Butler's circumstances and what Butler might lose if she were held accountable. Pickens believed that insufficient attention was given to her allegations that Butler blocked her vehicle and attempted to assault her. She described the officer's conduct as professionally worded but substantively favorable to Butler and asserted that the handling of the incident caused her to become the target of neighborhood hostility.

Officer Massengill was offered an opportunity to submit a written response but declined. The investigator determined that the complaint could be resolved through review of the body-worn-camera evidence and other materials. Myers ultimately classified the racial-bias allegation as unfounded, finding that Massengill spoke with both parties, attempted to resolve a repeated neighborhood problem, used de-escalation techniques, gave similar advice to both women, and did not demonstrate racial bias against Pickens.

The APD clearance letter dated July 9, 2026, informed Pickens that the allegation had been classified as unfounded and defined that classification as meaning that the incident did not occur. The underlying race-related discussion, however, was acknowledged in the investigative report. The actual dispute was therefore not whether the officer discussed race, but whether the statement and his overall approach demonstrated racial bias, favoritism, improper alignment, or a lapse in professional judgment.

II. Constitutional Policing Analysis

Constitutional policing requires more than technical compliance with the Fourth Amendment. It encompasses the lawful, fair, impartial, transparent, and respectful exercise of police authority. An officer may avoid unlawful detention or excessive use of force and still engage in communication that weakens legitimacy or creates a reasonable appearance that one person received preferential consideration. For that reason, this incident must be evaluated not only for evidence of intentional

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racial discrimination, but also through the principles of procedural justice, neutrality, equal treatment, dignity, and public trust.

Procedural justice generally rests on several related principles: providing individuals an opportunity to be heard, making decisions based on neutral and consistently applied criteria, treating people with dignity and respect, and demonstrating trustworthy motives. In a neighbor dispute, these principles are especially important because officers often cannot conclusively resolve conflicting factual allegations. The legitimacy of the police response may therefore depend as much on how officers listen, explain, communicate, and exercise discretion as on whether they arrest one of the parties.

The available evidence indicates that Officer Massengill gave both parties an opportunity to speak and initially separated them to obtain information. That approach was consistent with sound conflict-management practices because it reduced immediate confrontation and allowed each participant to provide her version without interruption. The subsequent effort to bring the parties together appears to have been intended to reach a practical resolution to a recurring neighborhood problem rather than to favor one person. When the joint discussion failed, the officers separated the parties and advised them to avoid one another. These actions are consistent with a legitimate de-escalation objective.

The more difficult issue involves Officer Massengill's use of race as a rapport-building device. According to the investigative record, Massengill attempted to relate to Butler by referring to their race. The investigator characterized this as a de-escalation technique. The record does not establish that Massengill used racial slurs, threatened Pickens, denied her assistance, or expressly stated that Butler would receive favorable treatment because of race. Pickens also acknowledged that Massengill was professional with both parties and did not overtly treat her differently. These facts weigh against the conclusion that he intentionally discriminated against Pickens.

Intentional discrimination, however, is not the only relevant concern. Police legitimacy depends in part on whether officers appear neutral to a reasonable participant. In an adversarial encounter, an officer who expressly references a shared racial identity with one party risks communicating affiliation, solidarity, or partiality. That risk exists even when the officer's actual purpose is to calm the person or persuade her to act responsibly.

Massengill's apparent message could have been conveyed in race-neutral terms. He could have emphasized that Butler's conduct might affect her housing, children, employment, community standing, or legal situation. He could have reminded both parties that repeated conflict could result in criminal charges, landlord action, or further police involvement. By invoking shared racial identity, the officer introduced an additional and unnecessary variable into an already contentious encounter.

The issue is therefore not limited to whether Massengill harbored racial animus toward Pickens. A broader constitutional-policing review must assess whether his words reasonably conveyed that Butler received a form of personal identification or empathy that Pickens did not. Pickens's

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perception that the officer focused on what Butler might lose, rather than on the conduct Pickens reported, is relevant to that assessment. Her perception does not itself prove unconstitutional bias, but it demonstrates the foreseeable legitimacy cost of the communication strategy.

The officer's explanation of enforcement and reporting decisions is another important procedural-justice issue. Pickens initially believed Massengill refused to complete a police report because Butler had too much to lose. The later body-worn-camera review apparently clarified that Massengill was referring to reporting the situation to AMHA. Even though Pickens accepted the clarification, the misunderstanding indicates that the original explanation may not have been sufficiently clear.

When officers decide that no arrest or criminal report is warranted, they should clearly explain:

- What information has been documented;
- Why no arrest is being made;
- Whether the allegations fail to establish probable cause;
- Whether the matter is civil, criminal, or administrative;
- Whether another agency or landlord may be notified; and
- What options remain available to the reporting party.

A clear explanation would have reduced the likelihood that Pickens interpreted the decision as an effort to protect Butler. Transparency is especially important when the reporting party believes she described potentially criminal conduct, including an attempted assault and obstruction of her vehicle.

The investigative process also implicates procedural justice. APD appropriately reviewed the body-worn-camera evidence, interviewed Pickens, permitted her to supplement her account, and offered Massengill an opportunity to respond. These steps supported a fact-based review. However, the investigation appears to have framed the complaint principally as a binary question: whether Massengill was racially biased against Pickens.

That framing may have been too narrow. Pickens's allegations involved several related but distinct concerns:

1. Intentional racial bias;
2. Favoritism toward Butler;
3. Appearance of partiality;
4. Inadequate consideration of Pickens's allegations;
5. Improper race-based communication;
6. Failure to clearly explain the report and enforcement decision; and
7. Professionalism and public-trust implications.

An investigation may reasonably conclude that intentional racial discrimination was not established while still finding that an officer used poor judgment, created an appearance of

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partiality, or employed an inappropriate communication strategy. Treating those questions as interchangeable can cause a legitimate professionalism or policy concern to disappear simply because discriminatory intent cannot be proven.

The unfounded classification further complicates the legitimacy analysis. The closure letter defined unfounded as meaning that the incident did not occur. Yet the investigating supervisor acknowledged that Massengill did discuss race with Butler. The disputed conduct therefore occurred in some form. The unresolved question was whether that conduct constituted bias or favoritism.

Using an "incident did not occur" disposition under those circumstances may create confusion and undermine confidence in the complaint process. A complainant who knows that the underlying statement occurred may reasonably interpret the classification as denying an established fact. A more precise disposition system would distinguish among conduct that did not occur, conduct that occurred and complied with policy, conduct that occurred but cannot be proven improper, and conduct that occurred but reveals a policy or training deficiency.

From an equal-protection perspective, the current record does not establish that Massengill intentionally deprived Pickens of police services because of her race. There is no documented arrest, citation, denial of access, or other clearly adverse police action imposed on Pickens. Both parties were interviewed, neither was arrested, and both were advised concerning the ongoing dispute. Pickens's acknowledgment that she was not overtly treated differently also weighs against a finding of purposeful racial discrimination.

Nonetheless, constitutional policing should not be reduced to the minimum threshold required to prove a Fourteenth Amendment violation. Agencies have a legitimate interest in holding officers to a higher standard of apparent neutrality than the constitutional floor. Race-based alignment language may be inconsistent with that higher standard when it is unnecessary to accomplish the police objective and reasonably causes another participant to question the officer's impartiality.

The available record therefore supports a nuanced conclusion. Officer Massengill appears to have pursued a legitimate objective by attempting to calm the participants and end a recurring dispute. The evidence does not establish that he intentionally discriminated against Pickens. At the same time, his use of shared racial identity as a persuasion technique was avoidable and created a foreseeable appearance of alignment with Butler. That concern warrants policy and training attention even if it does not support a formal finding of unconstitutional discrimination.

The incident also demonstrates the importance of separating legal compliance from best practice. An officer's conduct may be lawful yet tactically or professionally suboptimal. The constitutional-policing objective is not merely to avoid liability; it is to exercise police authority in a manner that is fair, understandable, neutral, and worthy of public confidence.

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III. Legal Analysis

The legal analysis of this incident is necessarily different from the analysis ordinarily applied to a traditional use-of-force event. The available evidence does not show that either Betty Pickens or Brianna Butler was arrested, physically restrained, subjected to a reportable force technique, transported for emergency psychiatric evaluation, or compelled to enter or remain in a particular location. The principal legal questions therefore concern whether the officers effected a Fourth Amendment seizure, whether any force was used within the meaning of *Graham v. Connor*, whether emergency-aid or community-caretaking authority was implicated, and whether the officers' actions implicated Ohio's emergency-hospitalization statute. The available record does not establish a constitutional violation under any of those doctrines.

Fourth Amendment

The Fourth Amendment protects persons against unreasonable searches and seizures. Police contact does not automatically constitute a seizure merely because uniformed officers speak with an individual, ask questions, mediate a dispute, or provide instructions. A seizure ordinarily occurs when an officer, through physical force or a show of authority, restrains a person's freedom of movement and the person submits to that authority.

Here, officers responded to a call for service arising from a reported confrontation between neighbors. The records indicate that the officers spoke with Pickens and Butler separately, attempted to facilitate a discussion, and ultimately advised the parties to remain apart and reduce the noise affecting the adjoining households. No arrest was made, and the written records do not indicate that either person was handcuffed, searched, placed in a cruiser, ordered to remain at the scene for investigative purposes, or threatened with arrest for attempting to leave.

The officers' initial separation of the parties appears to have been a reasonable scene-management and safety measure rather than a formal investigative detention. Temporary separation of persons involved in a heated dispute does not necessarily constitute a seizure when it is brief, noncoercive, and undertaken to prevent an immediate confrontation. Even assuming that either party was momentarily detained while officers investigated the reported attempted fight, the dispatch information supplied an objective basis for doing so. The caller reported that a neighbor was attempting to fight her, had blocked her vehicle, and was yelling. Those facts permitted officers to investigate whether an assault, menacing offense, disorderly conduct, or other breach of the peace had occurred.

The more significant constitutional issue is whether police discretion was exercised impartially. The Equal Protection Clause prohibits intentional discrimination based on race. To establish a constitutional equal-protection violation, the evidence ordinarily must show purposeful differential treatment, not merely an insensitive statement, a mistaken judgment, or a communication that one participant reasonably perceived as unfair. The present record does not establish that Officer Massengill denied Pickens police protection, arrested her while declining to arrest a similarly

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situated person, refused to accept her allegations because of race, or otherwise imposed materially different governmental treatment upon her.

Pickens initially told the investigating supervisor that Massengill remained professional with both women and did not overtly treat her differently. She later clarified that she perceived favoritism in his overall approach because he appeared to focus on Butler's potential housing and personal consequences. Those concerns are relevant to procedural justice and professionalism, but the available evidence does not establish that Massengill acted with a discriminatory purpose sufficient to prove a Fourteenth Amendment violation.

This conclusion should not be interpreted as approving the use of race-based alignment language. Constitutional law establishes the minimum legal standard. APD may, and should, adopt more protective standards designed to preserve neutrality and public confidence even when conduct does not rise to the level of an actionable constitutional violation.

Graham v. Connor and Objective Reasonableness

In *Graham v. Connor*, the United States Supreme Court held that claims alleging excessive force during an arrest, investigatory stop, or other seizure must be analyzed under the Fourth Amendment's objective-reasonableness standard. The analysis considers the facts and circumstances confronting the officer, including the severity of the suspected offense, whether the person posed an immediate threat, and whether the person was actively resisting or attempting to flee. The inquiry is made from the perspective of a reasonable officer at the scene rather than through hindsight[1].

The *Graham* framework does not materially control this incident because no physical force is documented. Neither participant was struck, taken to the ground, sprayed, subjected to a CEW, handcuffed, or otherwise physically controlled. The officers used presence, conversation, advice, and separation to manage the dispute. Although APD's procedure broadly recognizes that verbal commands can constitute nonphysical force, such communication is not a reportable physical use of force under the departmental procedure.

If the officers' temporary separation of the parties is treated as a limited seizure, it was objectively reasonable under the circumstances. The officers were responding to an active interpersonal dispute involving allegations of an attempted fight and a blocked vehicle. Separating the participants, gathering their accounts, and preventing further confrontation were proportionate to the reported circumstances. The suspected misconduct was relatively minor. The officers appropriately relied on verbal intervention rather than physical force.

Report-Taking and Documentation

[1] Dethorne GRAHAM, Petitioner v. M.S. CONNOR et al. | Supreme Court | US Law | LII / Legal Information Institute

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There is no general constitutional right requiring police to complete a particular type of report whenever a citizen requests one. Nevertheless, departmental rules may impose reporting obligations, and procedural justice requires officers to clearly explain what will and will not be documented.

Pickens initially believed that Massengill declined to complete a report because Butler had "a lot to lose." Sergeant Myers's body-worn-camera review indicated that Massengill was discussing whether the incident would be reported to AMHA, not refusing to create APD documentation. Pickens accepted that explanation and withdrew the report-refusal component of her complaint.

The CAD call was documented and included a closing disposition. The record does not establish that a separate criminal incident report was legally required. Even so, clearer communication would have reduced the likelihood of misunderstanding. Officers should distinguish among a CAD entry, an APD offense or incident report, a landlord notification, and an arrest report when explaining their decisions to members of the public.

Legal Conclusion

The available evidence does not establish an unreasonable search, unlawful seizure, excessive use of force, improper emergency hospitalization, or unconstitutional warrantless entry. The evidence also does not establish intentional race-based denial of police services. The principal issues are therefore located above the constitutional floor: professional judgment, appearance of neutrality, procedural justice, accurate complaint classification, and the quality of the explanation given for enforcement and documentation decisions.

IV. APD Policy Analysis

The officers' conduct must be evaluated against the APD Rules and Regulations and all use-of-force-related procedures identified for this review. Because no physical force occurred, most weapon-specific and force-reporting requirements were not activated. The most relevant policy provisions concern courteous treatment, competent performance, fair and impartial administration of justice, de-escalation, reporting, and professionalism.

APD Rules and Regulations

APD Rule 200.01 requires officers and employees to remain courteous and orderly in their dealings with the public, perform their duties quietly, refrain from harsh, violent, profane, or insolent language, and remain calm despite provocation. Rule 200.03 requires officers to attend to requests from the public quickly and accurately. Rule 700.05 requires officers to maintain sufficient competency to perform their duties and to carry out departmental functions efficiently. Rule 700.07 requires officers to contribute to the fair and impartial administration of justice.

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The available evidence does not indicate that Officer Massengill shouted profanities, insulted Pickens, threatened either party, or became visibly uncontrolled. Pickens acknowledged that his general wording and demeanor remained professional. On that basis, the evidence does not clearly establish a violation of Rule 200.01's prohibition on harsh, profane, violent, or insolent language.

The analysis is less straightforward under the requirements of impartiality and competent performance. Massengill's reference to shared racial identity was apparently intended to persuade Butler to moderate her behavior and recognize the consequences of the dispute. The investigative supervisor characterized the statement as an attempt to relate to Butler and as part of the officer's de-escalation effort.

An officer may use empathy, rapport, and personal connection to reduce conflict. However, the method should not reasonably suggest that the officer identifies with one party against another. In this setting, referring to a racial identity shared with Butler created an avoidable appearance of alignment. That appearance is relevant to Rule 700.07's requirement of fair and impartial justice, even if the evidence does not establish intentional discrimination.

The statement should therefore be evaluated as a potential professionalism or judgment concern rather than automatically equated with unlawful racial bias. The more precise question is whether a reasonable officer should have anticipated that a race-based appeal, made within hearing distance of an opposing party of another race, could undermine the appearance of neutrality.

Rule 700.05 also requires competent performance. Competent dispute mediation includes accurately identifying allegations, assessing potential offenses, allowing each person to be heard, clearly explaining the disposition, and using language that does not unnecessarily inflame the conflict. Massengill performed several of these functions appropriately: he separated the parties, gathered information, attempted a noncustodial resolution, and terminated the joint discussion when it failed. Communication concerning race, however, was not necessary to accomplish those objectives and created a foreseeable public trust risk.

Rule 700.08(k), addressing conduct unbecoming, may also be relevant, although the available evidence does not clearly establish a violation. A single ill-advised communication does not necessarily bring the department into disrepute within the meaning of that rule. Still, the statement had the potential to make a participant believe that police decision-making was influenced by racial affinity. That concern merits corrective guidance or training even if formal discipline is not warranted.

APD Resisting Arrest/Use-of-Force Procedure

APD's Resisting Arrest/Use-of-Force Procedure states that officers should use de-escalation techniques when dealing with angry, agitated, or noncompliant individuals. The procedure defines de-escalation as the use of nonconfrontational verbal skills, empathy, active listening, time, distance, resources, persuasion, command presence, repositioning, and warnings to reduce the intensity of a potentially violent situation.

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The officers' initial decision to separate Pickens and Butler was consistent with this policy. Speaking to each person individually reduced immediate conflict and allowed officers to obtain separate accounts. Attempting to resolve the recurring dispute through voluntary dialogue was also consistent with the policy's preference for gaining cooperation without force.

The attempted joint conversation appears to have become unproductive. The officers then separated the parties and advised them to stay apart. That decision reflected appropriate reassessment and avoided prolonging a confrontation that was not moving toward resolution.

Massengill's attempt to relate to Butler may fall within the broad concept of empathy and persuasion. Nevertheless, de-escalation techniques should be evaluated not only by intent but also by foreseeable effect. A technique that calms one person while causing another to perceive racial alignment may not be the most effective or legitimate method. APD policy would benefit from clarifying that rapport-building should remain identity-neutral unless reference to identity is operationally necessary and can be used without compromising impartiality.

Reporting and Documentation Requirements

APD Rule 500.06 requires officers to submit reports required by their duties. The available record shows that the call was documented through CAD notes. The final CAD entry described the parties' ongoing noise dispute and stated that officers advised both households to reduce the noise and remain apart.

The documentation is sufficient to establish that officers responded and provided a disposition. It is less complete concerning the specific allegations of attempted assault and vehicle obstruction. A later reviewer cannot determine from the CAD entry alone whether those allegations were uncorroborated, contradicted, deemed noncriminal, or simply resolved through officer discretion.

That deficiency does not necessarily constitute a policy violation because the record does not establish that a separate incident report was mandatory. It does, however, identify a documentation-quality issue. When a caller reports potentially criminal conduct but officers decline enforcement, the record should explain the essential basis for that decision. Such documentation protects the parties, the officers, and the department and allows meaningful supervisory and oversight review.

Complaint Investigation and Disposition

The complaint investigation included review of body-worn-camera footage, a telephone interview with Pickens, consideration of her follow-up email, and an opportunity for Massengill to submit a response. Those steps were generally appropriate and allowed the supervisor to compare the complaint with objective evidence.

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The investigator also appropriately clarified the misunderstanding concerning the police report and AMHA. Pickens accepted the clarification and narrowed her complaint. That resolution demonstrated the value of direct communication and evidence review.

The principal concern is that the investigation treated the remaining allegation primarily as a claim of intentional racial bias. The record supports consideration of additional allegations or issues, including favoritism, appearance of partiality, inappropriate race-based communication, insufficient explanation of the enforcement decision, and possible failure to give equal weight to Pickens's allegations.

The disposition of "unfounded" is also problematic. APD's closure letter defined unfounded as meaning that the incident did not occur. Yet the investigation acknowledged that Massengill spoke about race while addressing Butler.

The act underlying the complaint therefore occurred. What was not established was that the act demonstrated intentional racial bias. A disposition indicating that the allegation was not sustained or that the conduct occurred but did not violate the specific bias prohibition would more accurately reflect the evidence. Alternatively, APD could separate the allegations and reach different conclusions, for example, finding intentional racial bias not sustained while identifying a training concern regarding appearance of impartiality.

Accurate classifications are essential to complaint-system legitimacy. A disposition that does not correspond to the factual findings can cause a complainant to believe the agency denied an event that the agency's own evidence confirmed.

APD Policy Conclusion

No use-of-force, resisting-arrest, CEW, chemical-spray, or head-strike policy violation occurred because none of those techniques were used. The officers' reliance on separation and verbal intervention was generally consistent with APD's de-escalation objectives.

The remaining policy concern centers on professional neutrality. The available evidence does not conclusively establish intentional racial bias, discourtesy, or unequal enforcement. It does establish that Officer Massengill invoked race while attempting to relate to one participant in a dispute involving a participant of another race. That method created an avoidable appearance of partiality and should be addressed through policy clarification, supervisory guidance, and scenario-based training.

The complaint investigation was supported by body-worn-camera review and complainant follow-up, but it was too narrowly framed and used a disposition that did not precisely correspond to the established facts.

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V. Tactical Assessment and De-escalation Review

The tactical assessment of this incident focuses on verbal strategy, scene management, conflict mediation, officer neutrality, and the use of discretionary time. Because no reportable force occurred, the central question is not whether the officers used too much physical force, but whether their tactical and communication decisions reasonably reduced conflict while maintaining legitimacy.

The initial separation of Pickens and Butler was tactically sound. Separation reduced the immediate risk of confrontation, limited interruptions, and allowed officers to compare the parties' accounts. It was also consistent with APD's definition of de-escalation, which includes nonconfrontational verbal skills, active listening, additional time, distance, resources, persuasion, and repositioning.

Police mediation can be effective in recurring neighbor conflicts when the parties are capable of participating and the officers remain neutral. It may resolve immediate safety concerns without escalating the dispute through unnecessary enforcement.

The attempt to bring Pickens and Butler together was more tactically complex. Joint conversation can be useful when both participants are calm, willing to listen, and capable of discussing practical solutions. It can be counterproductive when emotions remain elevated or one party believes the other attempted to assault her. Officers should assess whether face-to-face mediation is likely to reduce or intensify conflict before bringing participants into proximity.

The record indicates that the joint discussion did not produce a resolution. The officers appropriately ended the effort and advised the parties to remain apart. This demonstrated tactical flexibility. They did not insist on an agreement or prolong a failed intervention merely because mediation had been attempted.

The strongest tactical concern was Massengill's use of race as a persuasion device. Rapport-building is a recognized de-escalation technique, and officers may draw on common experiences to establish credibility. However, rapport is effective only when it reduces the overall level of conflict. A technique that connects the officer with one participant while alienating the other may calm one person at the cost of undermining the legitimacy of the entire encounter.

The officer's statement may have been intended to communicate that Butler should understand the social and personal consequences of her conduct. The tactical problem was that the message could reasonably be heard as "we share an identity, and I am trying to protect you from these people." Even if that interpretation was not intended, it was foreseeable.

A more effective strategy would have been to address both parties using parallel, neutral language. The officer could have told each person that continued confrontations could result in arrest, housing consequences, disruption to their families, and further police involvement. He could have

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acknowledged the concerns of each party, described the limits of police authority, and established clear behavioral expectations for both households.

The tactical review must also consider whether Pickens's allegations were fully explored. She reported conduct beyond a noise dispute, including an attempted assault and a blocked vehicle. When a caller believes she was the target of criminal behavior, immediately reframing the event as a mutual neighborhood problem may cause her to believe that her victimization has been minimized.

A procedurally sound approach would require officers to first complete the factual investigation of each specific allegation. Only after determining whether probable cause exists should officers transition to mediation or mutual advice. This sequencing helps distinguish law enforcement from conflict resolution and reassures the reporting party that mediation is not being used to avoid accountability.

The CAD disposition states that officers addressed the ongoing noise problem and advised both parties to remain apart. It does not explain the resolution of the alleged assault or vehicle obstruction. More detailed documentation would have allowed supervisors and later reviewers to determine whether the officers objectively evaluated those allegations before treating the event as a mutual dispute.

The officers' use of time was generally appropriate. The officers used conversation and separation rather than force. This was consistent with constitutional policing and APD's preference for de-escalation.

The encounter also illustrates the difference between tactical success and legitimacy. In a narrow sense, the officers succeeded: the parties were separated, no one was injured, no force was used, and the immediate disturbance ended. In a broader sense, the encounter did not fully succeed because Pickens left believing that the officer had favored Butler and introduced race into the dispute. A resolution that ends the immediate conflict but leaves a participant reasonably questioning police neutrality reveals a procedural-justice shortcoming.

The tactical assessment therefore finds that the officers' use of separation, verbal communication, and disengagement from unsuccessful mediation was generally appropriate. The use of race-based rapport and the lack of clear explanation concerning the alleged offenses, reporting decision, and enforcement disposition were avoidable weaknesses.

VI. Findings and Conclusions

Based on the available complaint, BWC footage review, CAD documentation, Blue Team record, investigative report, complainant correspondence, clearance letter, and applicable APD policies, the following findings and conclusions are reached.

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Finding 1: The evidence does not establish a Fourth Amendment excessive-force violation.

Because no reportable force was used, there is no factual basis for an excessive-force finding under *Graham v. Connor*. The temporary separation of the parties was reasonably related to scene safety and investigation of reported confrontation.

Finding 2: The available evidence does not prove that Officer Massengill intentionally discriminated against Pickens because of race.

The record does not establish that Massengill denied Pickens police services, subjected her to adverse enforcement, refused to hear her allegations, or imposed materially different treatment because of race. Pickens initially acknowledged that Massengill was professional with both parties and did not overtly treat her differently.

Finding 3: Officer Massengill did refer to race while attempting to relate to Butler.

The investigating supervisor's review confirmed that Massengill discussed race with Butler, although Pickens may not have recalled the exact wording. The occurrence of race-related communication is therefore supported by the investigation.

Finding 4: The use of shared racial identity created an avoidable appearance of partiality.

Regardless of Massengill's subjective intent, invoking a racial identity shared with one participant in an adversarial dispute created a foreseeable risk that the other participant would perceive officer alignment or favoritism. This concern is supported by Pickens's complaint and follow-up email describing the officer's focus on Butler's potential consequences.

Finding 5: The race-related statement was not necessary to accomplish the officer's legitimate de-escalation objective.

The officer could have conveyed concerns about personal accountability, housing stability, family consequences, and future enforcement through identity-neutral language. The communication reflects a judgment and training concern even though it does not establish unconstitutional discrimination.

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Finding 6: The officers' initial separation and verbal intervention were consistent with de-escalation principles.

Separating the parties, interviewing them independently, using time, attempting voluntary resolution, and ending an unsuccessful joint discussion were generally reasonable tactics consistent with APD's de-escalation framework.

Finding 7: The attempted joint mediation carried some escalation risk but was not shown to be unreasonable.

Face-to-face mediation can be useful in recurring neighbor disputes, but it should occur only when both parties are sufficiently calm and willing to participate. The officers appropriately discontinued the effort when it failed.

Finding 8: The documentation does not adequately explain the resolution of the alleged attempted assault and blocked vehicle.

The CAD record documents the continuing noise dispute and advice given to both households but does not clearly state how officers evaluated the alleged assaultive conduct or vehicle obstruction. This limits later review of the enforcement decision.

Finding 9: The evidence does not establish that Massengill unlawfully refused to complete an APD report.

The body-worn-camera review indicated that Massengill was discussing possible reporting to AMHA, not refusing police documentation. Pickens accepted the clarification and withdrew this component of her complaint.

Finding 10: The original explanation concerning reporting and AMHA was insufficiently clear.

The fact that Pickens reasonably understood Massengill's statement as a refusal to complete a police report indicates that the distinction among CAD documentation, an APD incident report, and AMHA notification was not clearly explained at the scene.

Finding 11: The complaint investigation used relevant evidence and appropriately contacted the complainant.

Sergeant Myers reviewed body-worn-camera footage, interviewed Pickens, considered supplemental correspondence, and offered Massengill an opportunity to respond. Those steps were appropriate and supported an evidence-based review.

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Finding 12: The complaint investigation was framed too narrowly.

The investigation primarily addressed whether Massengill was intentionally racially biased. It did not separately and fully analyze favoritism, appearance of partiality, race-based communication, procedural justice, professionalism, or whether Pickens's allegations received adequate consideration.

Finding 13: The unfounded disposition did not accurately correspond to the established facts.

The closure letter stated that unfounded meant the incident did not occur. However, the investigation confirmed that a race-related discussion occurred. The issue was whether the statement demonstrated bias, not whether it was made. A not-sustained, exonerated, or policy/training-related disposition would have more accurately reflected the evidence.

Finding 14: The incident presents a potential professionalism and procedural-justice concern under APD Rules and Regulations.

APD rules require courtesy, competent performance, and fair and impartial administration of justice. Although the evidence does not clearly establish formal misconduct, the use of racial alignment language was inconsistent with the strongest practices for maintaining the appearance of neutrality.

Finding 15: The incident was tactically resolved without injury or force, but the resolution did not fully preserve public confidence.

The immediate public-safety objective was achieved. The parties were separated, no further violence occurred, and no force was used. However, Pickens's continuing belief that the officer favored Butler demonstrates that the encounter was less successful from a legitimacy and procedural-justice perspective.

Overall Conclusion

Officer Massengill and Officer Giaimo resolved a potentially volatile neighbor dispute without arrest, injury, or reportable force. Their use of separation, verbal communication, and disengagement from an unsuccessful mediation effort was generally reasonable. The available evidence does not prove intentional racial discrimination or a constitutional violation.

The encounter nevertheless exposed a significant public-trust concern. Massengill's use of shared racial identity as a rapport-building technique created an avoidable appearance that he aligned himself with Butler. The concern is compounded by insufficiently clear communication about

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reporting and enforcement decisions and by documentation that does not fully explain how the alleged attempted assault and vehicle obstruction were evaluated.

The complaint investigation contained meaningful evidence review but did not fully distinguish intentional bias from favoritism, professionalism, appearance of partiality, and procedural-justice concerns. Its unfounded classification was inconsistent with the acknowledged fact that the race-related discussion occurred.

The most supportable conclusion is therefore that the complaint does not establish unconstitutional racial discrimination, but the incident presents valid policy, training, complaint-classification, documentation, and supervisory-review concerns that should be addressed through corrective institutional measures rather than dismissed solely because intentional bias was not proven.

VII. Policy and Training Recommendations

Recommendation 1 — Adopt an express policy requiring identity-neutral conflict mediation and rapport-building.

Proposed policy language: "Department members shall use communication and rapport-building techniques that preserve actual and apparent impartiality. During disputes involving opposing parties, officers should not invoke a shared race, ethnicity, religion, gender, political affiliation, or other protected or personal identity with one party in a manner that could reasonably communicate alignment against another party, unless the reference is operationally necessary and objectively reasonable under the circumstances."

Rationale: Officer Massengill's apparent objective was to persuade Butler to consider the consequences of continued conflict. That legitimate objective could have been accomplished through neutral references to personal responsibility, housing stability, family interests, possible criminal liability, and neighborhood safety. An express policy would not prohibit officers from acknowledging cultural or personal experiences; it would direct them to avoid identity-based alignment that could cause another participant to reasonably question the officer's neutrality. The recommendation reflects the four procedural-justice principles identified by the U.S. Department of Justice COPS Office: fair processes, transparent actions, opportunities for voice, and impartial decision-making[2].

Comparable-agency example: The Seattle Police Department's bias-free policing framework applies broadly to protected and discernible personal characteristics and prohibits biased policing while requiring department training and accountability. Seattle later codified bias-free policing requirements, including training and data review, in municipal law[3].

[2] PROCEDURAL JUSTICE | COPS OFFICE
[3] Bias-Free_Policing_Policy_Recommendation111513.pdf

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Implementation: APD should incorporate the provision into its Rules and Regulations, bias-free policing directive, procedural-justice training, and de-escalation curriculum. Supervisors should reinforce the standard through roll-call examples involving neighbor disputes, domestic conflicts, and incidents in which officers share an identity characteristic with one participant.

Recommendation 2 — Revise APD complaint dispositions so the classification corresponds precisely to the evidence.

Proposed disposition structure:

- **Unfounded:** The alleged act did not occur, or the employee involved was not responsible.
- **Exonerated:** The act occurred, but it was lawful and consistent with policy.
- **Sustained:** The evidence establishes that the act occurred and violated policy.
- **Not sustained:** The evidence is insufficient to prove or disprove the allegation.
- **Policy failure:** The conduct complied with existing policy, but the policy was inadequate, unclear, or inconsistent with best practice.
- **Training or supervisory referral:** The evidence does not establish misconduct but identifies a correctable performance, communication, or supervisory issue.

Rationale: APD's closure letter defined "unfounded" as meaning that the incident did not occur, even though the investigation confirmed that Officer Massengill discussed race. The disputed question was whether the statement demonstrated bias, not whether the statement occurred. A disposition system should distinguish between conduct that did not occur and conduct that occurred but was lawful, unproven, or inadequately addressed by policy. Precise classifications improve credibility and permit meaningful analysis of complaint trends.

Comparable-agency example: Seattle's published accountability materials distinguish among different complaint-processing and investigative outcomes, and its oversight structure independently examines whether complaints and allegations were correctly designated[4].
Implementation: APD should issue definitions in policy, investigator training, closure-letter templates, and public complaint materials. Every closure letter should briefly connect the factual finding to the selected disposition rather than provide only a generic definition.

Recommendation 3 — Create a formal "policy or training concern" referral independent of misconduct findings.

Proposed policy language: "When an investigation does not establish misconduct but identifies conduct that created avoidable risk, public misunderstanding, appearance of partiality, or inconsistency with national best practice, the investigator shall document a non-disciplinary policy, training, supervision, or performance-improvement referral."

[4] City of Seattle, Ordinance 125315, "Police Accountability," as amended

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Rationale: A binary choice between sustained misconduct and complete exoneration can prevent agencies from learning from legally permissible but professionally suboptimal conduct. Officer Massengill's race-related rapport strategy may not establish intentional discrimination, yet it presents a legitimate training concern. A non-disciplinary referral permits institutional correction without improperly converting every judgment error into discipline. DOJ and COPS Office resources emphasize organizational learning, procedural justice, public trust, and training that prepares officers for difficult field interactions[5].

Comparable-agency example: Seattle uses supervisor actions and other nontraditional complaint-processing categories for matters that may be addressed outside a full sustained misconduct finding, with external review of the classification process[6].

Implementation: Referrals should be tracked separately from discipline and should identify the issue, recommended corrective action, responsible unit, completion deadline, and method of verification. Aggregate referral data should be reviewed quarterly to identify recurring policy gaps.

Recommendation 4 — Require identity, bias, and impartiality training to address appearance of favoritism, not only intentional discrimination.

Proposed training content: APD's bias training should distinguish among explicit bias, implicit bias, discriminatory enforcement, disparate treatment, identity-based rapport, favoritism, appearance of partiality, and public perception. Officers should practice recognizing how a statement intended as empathy may communicate alliance or exclusion to another person.

Rationale: Training focused solely on proving discriminatory intent will not adequately address subtle communication and legitimacy problems. The COPS Office's Managing Bias curriculum includes identity, culture, stereotyping, bias, prejudice, and the ways individual and collective identity affect law-enforcement interactions. COPS Office curriculum-development materials also emphasize applying bias-management strategies to realistic law-enforcement examples rather than limiting instruction to abstract concepts[7].

Comparable-agency example: Seattle's bias-free policing program applies beyond explicit racial animus and is coordinated with formal minimizing-bias training. Its framework includes protected characteristics and assessment of possible disparate impacts[8].

Implementation: APD should incorporate BWC-based scenarios, including this incident in anonymized form, into academy, in-service, field-training-officer, and supervisor curricula.

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[5] Police-Community Relations Toolkit: Guide to Critical Issues in Policing
[6] Seattle Office of Inspector General for Public Safety, *Complaint Processing Audit Reports* (Seattle: City of Seattle)
[7] Shaping the Managing Bias Training Curriculum with Law Enforcement Input
[8] Bias-Free_Policing_Policy_Recommendation111513.pdf

Evaluation should require officers to identify how different participants may interpret the same communication.

Recommendation 5 — Audit complaints involving bias, favoritism, discourtesy, and refusal-to-report allegations for patterns and systemic issues.

Proposed audit requirement: APD and the appropriate independent oversight body should conduct at least an annual review of complaints involving bias, perceived favoritism, discourtesy, failure to take a report, failure to investigate, and unclear enforcement explanations. The review should examine allegation classification, disposition accuracy, demographic and geographic patterns, involved units, repeat issues, corrective referrals, and closure-letter quality.

Rationale: Individual complaints can reveal broader policy, supervision, and training deficiencies even when misconduct is not sustained. Systematic review allows the department to identify recurring misunderstandings, inconsistent reporting practices, and communication patterns that affect legitimacy. DOJ resources emphasize that public trust depends on whether police actions reflect procedural justice and community values[9].

Comparable-agency example: Seattle's Office of Inspector General audits complaint-processing decisions and reviews the effectiveness, accessibility, timeliness, transparency, and responsiveness of the police-accountability system[10].

Implementation: Audit results should distinguish individual misconduct from systemic concerns and should include corrective-action plans, responsible officials, deadlines, and follow-up verification. Public reporting may use aggregate or anonymized information to protect confidentiality while demonstrating accountability.

VIII. Conclusion

The officers' response to the Doty Drive neighbor dispute was lawful in its general purpose and restrained in its execution. Officers Massengill and Giaimo resolved the immediate confrontation without arrest, injury, or reportable physical force. The available evidence does not establish an unreasonable seizure, excessive force, unlawful emergency intervention, or intentional race-based denial of police services.

The incident should therefore not be characterized as a use-of-force violation or as proven unconstitutional racial discrimination. It should also not, however, be dismissed as presenting no legitimate concern.

[9] U.S. Department of Justice, Community Relations Service, *Importance of Police-Community Relationships and Resources for Further Reading* (Washington, DC: U.S. Department of Justice).
[10] Ord_126628.pdf

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Officer Massengill's reference to a racial identity shared with Butler was unnecessary to accomplish the legitimate objective of de-escalation. Regardless of his subjective intent, the statement created a foreseeable appearance that the officer was personally aligning himself with one participant. That perception was reinforced by Pickens's belief that Massengill focused more heavily on the consequences Butler might face than on the conduct Pickens reported. The available evidence does not establish by a preponderance of the evidence that Massengill intentionally favored Butler because of race, but neither does it establish that Pickens's allegation of racial favoritism or bias was demonstrably false.

This distinction is particularly important when evaluating APD's final disposition of the complaint. Based upon the evidentiary record and the disposition definitions applied to administrative misconduct investigations, the determination of **UNFOUNDED** was erroneous. An unfounded disposition is appropriate when the evidence establishes that the complained-of act did not occur, the officer did not commit the alleged act, or the allegation was false or without factual basis. By contrast, **NOT SUSTAINED** applies when an allegation is not supported by a preponderance of the evidence, that is, when the available evidence is insufficient to establish whether the allegation is true. Comparable police-oversight disposition frameworks expressly make this distinction: "Not Sustained" applies when an allegation is not supported by a preponderance of the evidence, while "Unfounded" requires evidence showing that the member did not commit the alleged act or that the allegation was false or baseless.

That distinction is controlling in assessing the appropriate disposition here. The investigation did not establish that the underlying incident alleged by Pickens failed to occur. To the contrary, APD's own investigation confirmed that Officer Massengill discussed race with Butler. Thus, an important factual predicate underlying Pickens's complaint was corroborated rather than disproved. The unresolved question was what that statement demonstrated about Massengill's intent and whether his conduct amounted to racial bias or favoritism.

The available evidence does not establish by a preponderance of the evidence that Massengill intentionally discriminated against Pickens or deliberately favored Butler because of race. At the same time, the evidence does not establish by a preponderance of the evidence that Pickens's allegation was false. The record instead contains evidence capable of supporting competing interpretations. Massengill's statement can reasonably be understood as an attempt at de-escalation and rapport-building, while Pickens could reasonably perceive the same communication as an indication that the officer was identifying with Butler on the basis of their shared race. Under those circumstances, the evidence is insufficient to conclusively establish or disprove the allegation of racial bias or favoritism.

Accordingly, the appropriate administrative disposition is **NOT SUSTAINED**, rather than **UNFOUNDED**. A not-sustained disposition does not constitute a finding that Officer Massengill engaged in racial discrimination. Nor does it constitute a finding that Pickens's allegation was correct. Instead, it accurately reflects the evidentiary conclusion reached by this review: **the evidence is insufficient, under a preponderance-of-the-evidence standard, to establish**

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whether the allegation of racial bias or favoritism is true. This is precisely the circumstance for which a not-sustained disposition is designed.

Maintaining an unfounded disposition under these circumstances creates an additional procedural-justice concern. It communicates that Pickens made an allegation that was disproved or had no factual basis when, in fact, a material component of her allegation[11] was confirmed. Such a classification risks unnecessarily discrediting the complainant and undermining confidence in APD's complaint process. Administrative findings should describe what the evidence actually establishes, particularly when the department has objective body-worn-camera evidence capable of confirming portions of a complainant's account.

For these reasons, OIPA does not concur with the APD disposition of **"UNFOUNDED"** for this complaint. OIPA requests the following:

1. **APD amends the final disposition of Betty Pickens's complaint against Officer Ronnell Massengill from UNFOUNDED to NOT SUSTAINED.** APD should make the corresponding correction in the complaint file, Blue Team or other applicable administrative records, and any records used for complaint tracking, statistical reporting, or supervisory review.

2. **APD should also issue a revised disposition letter to Betty Pickens advising her that, following further review, the original UNFOUNDED classification has been amended to NOT SUSTAINED.** The revised letter should clearly explain that the change does not constitute a finding that Officer Massengill engaged in racial discrimination. Rather, it reflects that the evidence did not establish by a preponderance of the evidence either that the allegation was true or that it was false. The revised notification should also supersede the prior closure letter so that the Department's official communication to the complainant is consistent with the corrected administrative record.

The appropriate institutional response is corrective and preventive. APD should clarify that officer rapport-building in contested encounters must preserve actual and apparent neutrality; require officers to clearly explain non-enforcement and documentation decisions; improve complaint allegation framing and disposition definitions; strengthen individualized officer review; and use supervisory, scenario-based, and recurring training to reinforce procedural justice.

These measures would not merely address this individual complaint. They would strengthen APD's complaint system, improve the quality of officer decision-making, reduce misunderstandings, and reinforce the principle that constitutional policing requires officers to be not only lawful, but also fair, transparent, impartial, and worthy of public trust.

[11] The officer's race-related communication.

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Independent Police Auditor
Citizen Complaint Review

Anthony Finnell



Independent Police Auditor

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Executive Summary

This report presents the Office of the Independent Police Auditor's independent review of Akron Police Department (APD) Case No. 2026-00085273, arising from the July 16, 2026, encounter between Officers Robert Gorham and Aaron Williams and DeShawn Oden near Morgan Avenue and Beardsley Street. The review evaluates the incident under the Fourth Amendment, applicable Ohio law, APD use-of-force policy and Rules and Regulations, de-escalation and proportionality principles, tactical decision-making, supervisory review, professional conduct standards, and contemporary policing practices.

The encounter began when Officers Gorham and Williams observed Oden riding a bicycle at night without the lighting required by Akron City Code. The officers activated their emergency lights and subsequently their siren in an effort to stop him. Oden continued riding away, looking back toward the officers before traveling through several streets during an approximately 1,100-foot pursuit. Near Wilbur Avenue, Oden reversed direction as the patrol vehicle was positioned alongside him. As Officer Gorham opened the passenger-side door to exit, Oden's bicycle struck the door. Oden then continued attempting to move away, and Gorham pursued him on foot, obtained a rear body lock, and performed a takedown after Oden continued pulling away. Once on the ground, Gorham used arm and positional control, including a Kimura shoulder-control technique and rear-mount position, while Williams assisted in controlling Oden's opposite arm. Oden was then handcuffed, and the physical force ceased.

The independent review concurs with APD's determination that the physical force used to apprehend Oden was objectively reasonable. Although the incident originated with a relatively minor bicycle-equipment violation and Oden was not initially suspected of a violent offense, the governmental interest increased as he repeatedly refused the officers' attempts to stop him and continued to flee. At the point of physical apprehension, the evidence supports that Oden continued moving and pulled away from Gorham and subsequently attempted to place his arms beneath his body or rise after being taken to the ground. The force employed remained primarily control-oriented: a body lock, takedown, arm control, positional control, and handcuffing. No strikes, chemical spray, conducted-energy weapon, impact weapon, firearm, or continued force after handcuffing was documented.

The review separately considered the entire sequence of events consistent with the Supreme Court's totality-of-the-circumstances approach in *Barnes v. Felix*. Of particular tactical concern was the transition from the vehicle pursuit to hands-on apprehension. The positioning of the patrol vehicle alongside a moving bicyclist, followed by Gorham opening the passenger door as Oden changed direction, created a foreseeable risk of collision and loss of balance. The evidence does not establish that Gorham deliberately used the cruiser door as an impact weapon, and the tactic does not render the subsequent force constitutionally unreasonable. Nevertheless, the incident presents a legitimate training opportunity regarding vehicle positioning, reactionary distance, containment, and safe transitions from slow-speed bicycle pursuits to physical apprehension.

The report also identifies several issues of documentation and supervisory review that do not alter the ultimate use-of-force finding. Officer Williams physically assisted in controlling Oden and

therefore appears to satisfy APD's definition of an "involved officer," notwithstanding that Gorham was the officer who personally applied the reportable takedown. Williams submitted the required use-of-force documentation, but his report could have more specifically described his own physical actions. The supervisory investigation likewise could have separately addressed Gorham's Kimura shoulder lock and rear-mount control and more clearly distinguished between an officer who personally applied reportable force and an officer who was otherwise involved in controlling the subject.

The investigation further revealed an unresolved inconsistency regarding Oden's post-force medical care. One account states that EMS treated and released Oden at the scene, while another states that he refused treatment. CAD information subsequently documented that the jail declined to accept Oden because of the use-of-force incident, resulting in additional medical evaluation. The evidence does not establish a constitutional denial of medical care: EMS was requested, Oden was evaluated or offered treatment, his visible knee abrasion was documented, and additional medical evaluation occurred when required. The concern is instead the completeness and continuity of APD's documentation. Future investigations should clearly reconcile whether treatment was provided or refused, subsequent detention-facility rejection, additional medical evaluation, and ultimate medical clearance.

The most significant disagreement with APD concerns Officer Williams's verbal conduct toward Oden after the physical confrontation ended. Sergeant Joseph Brewer identified what he characterized as "banter" between Williams and Oden while Oden was in the cruiser. Brewer recognized that the exchange could appear unprofessional, counseled Williams regarding public perception, but concluded that the conduct did not violate APD Rule and Regulation 200.01. The independent review reaches a different conclusion.

Rule 200.01 requires APD personnel to be courteous and orderly in their dealings with the public, prohibits harsh, violent, profane, or insolent language, and requires officers to remain calm despite provocation. Williams's remarks included telling Oden, ***"I can smell you and it definitely doesn't smell like alcohol,"*** and making a comment concerning Oden's supposed lack of a frontal lobe. In context, these statements were not legitimate investigative observations, commands, de-escalation efforts, or necessary officer-safety communications. They were personalized remarks directed toward Oden's hygiene and intelligence or mental capacity after Oden had been restrained and placed in police custody.

The fact that portions of the exchange were mutual does not eliminate Williams's independent professional obligations. Rule 200.01 imposes duties on the officer regardless of whether the person being detained is sarcastic, provocative, insulting, or willing to participate in banter. The custodial setting further heightens the concern because the physical confrontation had ended and there was no apparent tactical need for Williams to reciprocate with personalized ridicule. Considered cumulatively, the statements crossed the line from conversational interaction into unnecessary personal disparagement. Accordingly, the independent review finds sufficient evidence that Officer Williams violated Rule and Regulation 200.01.

This finding does not characterize Williams's conduct as severe verbal abuse. The evidence does not establish threats, discriminatory language, retaliation, prolonged verbal abuse, or a connection

between his comments and the physical force used against Oden. Oden's participation in portions of the exchange and the absence of subsequent physical escalation are meaningful mitigating circumstances. Those considerations, however, are appropriately weighed in determining discipline rather than in deciding whether the underlying rule was violated.

The report therefore recommends that APD return the Williams matter for further administrative review and appropriate corrective or disciplinary action. Assuming no relevant prior disciplinary history or comparable aggravating circumstances, the conduct would generally support low-level formal corrective discipline, such as a documented oral or written reprimand, together with targeted remedial training concerning Rule 200.01, professional communication, and interactions with detained persons. Suspension is not recommended based solely on the conduct established in this record absent aggravating disciplinary history or APD precedent warranting a greater sanction.

The review does not recommend formal discipline against Sergeant Brewer. Brewer reviewed the BWC evidence, recognized the verbal exchange as problematic, documented his concern, counseled Williams, and warned him regarding public perception. The disagreement concerns Brewer's classification of the conduct rather than a failure to identify or address it. On the available evidence, supervisory guidance and training regarding application of Rule 200.01 are more appropriate than discipline.

Beyond individual accountability, the incident identifies an opportunity for broader organizational improvement. APD should clarify Rule 200.01 by expressly addressing ridicule, taunting, mockery, belittlement, and unnecessary disparaging comments concerning a person's intelligence, mental capacity, appearance, hygiene, disability, socioeconomic condition, or similar personal characteristics when unrelated to a legitimate law-enforcement purpose. APD should also reinforce that mutual banter or citizen provocation may mitigate discipline but does not excuse an officer's independent duty of professionalism. Scenario-based training should emphasize the transition from "control" to "custody", once resistance ends, officer communication should likewise transition away from confrontational language toward safety, medical care, transportation, processing, and other legitimate custodial purposes.

APD should additionally develop a structured supervisory framework for evaluating professionalism concerns discovered during BWC review and use BWC as an early-intervention and organizational-learning tool. Such a framework should distinguish among acceptable communication, conduct warranting coaching, remedial training, actual policy violations, and conduct requiring formal investigation. This approach permits accountability to remain proportional: not every undesirable remark requires significant discipline, but conduct should not automatically be reduced to informal coaching merely because the violation is relatively minor.

In conclusion, the independent review CONCURS with APD's finding that the physical force used to apprehend DeShawn Oden was objectively reasonable and consistent with the legitimate need to overcome his continued flight and resistance. The review DOES NOT CONCUR, however, with APD's disposition of Officer Williams's verbal conduct under Rule and Regulation 200.01. The evidence supports the finding that Williams violated the rule through unnecessary personalized and demeaning remarks directed toward Oden after he was in custody. The report therefore requests that APD reconsider that matter and impose

appropriate, proportionate corrective or disciplinary action. No formal discipline is recommended for Sergeant Brewer on the present record; supervisory guidance and training are the more appropriate response.

The broader lesson is that constitutional policing and professional accountability do not end when physical force ends. A use of force may be lawful and objectively reasonable while other conduct during the same encounter falls below departmental standards. APD should therefore treat this incident as both an individual accountability matter and an organizational opportunity to strengthen professional communication, supervisory BWC review, proportional discipline, and the transition from force to custody.

Anthony Finnell



Independent Police Auditor

Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**DeShawn Oden**
CASE NUMBER:	**2026-00085273**
DATE OF INCIDENT:	**07/16/2026**
DATE OF OIPA REPORT:	**08/20/2026**
LOCATION OF INCIDENT:	**Morgan Ave. and Beardsley St., Akron, Ohio 44311**
APD DISTRICT:	**6**

I. Incident Overview

At approximately 11:10 p.m. on July 16, 2026, Officers Gorham and Williams were working uniformed patrol in Car 21 when they observed a male later identified as DeShawn Oden riding a bicycle southbound on Brown Street near Morgan Avenue. Gorham reported that the bicycle did not have the lighting required by Akron City Code 75.06. Williams similarly reported observing Oden riding without a bicycle light. Oden subsequently turned westbound onto Morgan Avenue.

The officers attempted to stop Oden near Morgan Avenue and Beardsley Street by activating the cruiser's emergency lights. When Oden did not stop, the officers activated the emergency siren. According to IVS footage[1] showed Oden turn his head and look back toward the officers before continuing southbound on Beardsley Street. Officer Williams requested emergency radio traffic while the officers continued following Oden. The officers used the cruiser's spotlight, and Gorham provided dispatch with a description of Oden and his direction of travel. Oden proceeded from Beardsley Street onto Lovers Lane and then southbound onto Wilbur Avenue. The supervisor calculated the total flight path at approximately 1,100 feet.

The encounter transitioned from a bicycle pursuit to a physical apprehension near 1072 Wilbur Avenue. Oden rode from the sidewalk into the roadway while turning back toward the north. Car 21 was approximately parallel to him, and the passenger side of the cruiser blocked his path. Officer Gorham opened the passenger-side door as Oden entered the roadway. Oden's bicycle struck the cruiser door. The available documentary accounts differ somewhat in how they characterize this moment: Gorham reported that Oden made a quick U-turn and ran the bicycle into the passenger door as Gorham was exiting, while the supervisory investigation states that Oden's bicycle struck the open door and specifically notes that the available camera footage did not show the contact itself.

Following the contact with the cruiser door, Oden turned back toward the south. Gorham attempted to physically apprehend him while directing him to get on the ground. Gorham reported that Oden continued trying to pull away. Gorham then wrapped both arms around Oden in a rear body lock

[1] IVS – (Extraction_1.1)_GORHAM_Robert_(1606)Suspicous_Person_MORGAN_AVE_BEARDSLEY_ST, mark 00:33 – 01:55.

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and used his body weight to perform a rear-body-lock takedown, separating Oden from the bicycle and bringing him to the ground.

The physical encounter continued briefly on the ground. Gorham reported that Oden attempted to pull his arms underneath his body in an effort to get up. Gorham reached underneath Oden, brought his right arm behind his back, and applied what Gorham identified as a Kimura shoulder lock to restrict the mobility of the arm. Gorham then assumed a rear-mount position to prevent Oden from getting up. Officer Williams brought Oden's other arm behind his back, after which Gorham applied handcuffs. Gorham reported that he immediately got off Oden once Oden was handcuffed.

Williams's account is less detailed concerning the ground-control techniques but is materially consistent with the principal sequence. Williams reported seeing Gorham perform the rear-body-lock takedown and stated that he and Gorham then placed Oden under arrest without further incident. Williams requested EMS and a supervisor. T

A search incident to arrest resulted in officers recovering approximately 16 grams of a white substance that field-tested positive for methamphetamine and approximately 2.5 grams of marijuana. Oden was ultimately cited for bicycle-related violations and charged with offenses identified in the case records as possession of drugs, obstructing official business, resisting arrest, and failure to comply with the order or signal of a police officer.

II. Legal Analysis

The principal constitutional issue in this incident is whether the seizure of DeShawn Oden and the force used to accomplish his arrest were reasonable under the Fourth Amendment. The encounter originated as a self-initiated traffic-related enforcement action after Officers Robert Gorham #1606 and Aaron Williams #1579 observed Oden operating a bicycle at night without required lighting. The legal analysis therefore begins with the legitimacy of the attempted stop and proceeds to the reasonableness of the force used after Oden failed to stop and continued attempting to evade the officers.

Fourth Amendment — Initial Stop and Seizure

A temporary traffic stop constitutes a seizure within the meaning of the Fourth Amendment. Where an officer observes conduct providing an objectively sufficient basis for a traffic enforcement action, an ensuing stop ordinarily satisfies the Fourth Amendment regardless of an officer's subjective motivations. *Whren v. United States*, 517 U.S. 806 (1996), reflects the Supreme Court's objective approach to traffic enforcement under the Fourth Amendment. The central constitutional question is whether objective circumstances justified the police action, not whether some different subjective purpose motivated the officer[2].

[2] *Whren v. United States*, 517 U.S. 806, 813 (1996).

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Here, Gorham and Williams separately reported observing Oden riding a bicycle after dark without required lighting. Gorham specifically identified the conduct as a violation of Akron City Code 75.06[3]. The officers thereafter activated the cruiser's emergency lights near Morgan Avenue and Beardsley Street and, when Oden did not stop, activated the siren. The in-car recording depicted Oden looking back at the officers before continuing southbound on Beardsley Street, after which the officers continued following him for approximately 1,100 feet.

On the record supplied, the initial attempted stop had an objectively legitimate law-enforcement basis. The case does not present facts suggesting that the officers lacked authority to investigate an observed bicycle-equipment violation. Consequently, the constitutional inquiry does not turn on whether officers were entitled to initiate police contact; the more significant issue is how the governmental interest evolved as Oden continued away from the officers and how much force reasonably could be used to terminate that flight.

Ohio law in effect on the date of the incident made it unlawful to fail to comply with a lawful order or direction of a police officer invested with authority to direct, control, or regulate traffic. Ohio Revised Code § 2921.331(A). Unlike § 2921.331(B), which specifically addresses flight while operating a motor vehicle, subsection (A) is framed more broadly around failure to comply with a lawful traffic-related police order[4]. The APD case report identifies § 2921.331(A), rather than the motor-vehicle flight subsection, as one of the offenses charged.

The case also identifies obstructing official business under Ohio Revised Code § 2921.31. At the time of this incident, that statute prohibited a person, without privilege and with the purpose to prevent, obstruct, or delay an authorized official act, from committing an act that hampers or impedes the public official's lawful duties[5]. Whether every element of that offense ultimately could have been proven beyond a reasonable doubt is not necessary to decide the force question. For Fourth Amendment purposes, the more pertinent circumstances are that the officers had initiated a lawful police stop; Oden allegedly recognized the officers' signal and continued away; and when the officers finally attempted hands-on apprehension, he allegedly continued moving and pulling away.

Ohio Revised Code § 2921.33(A) likewise provides that no person shall recklessly or by force resist or interfere with a lawful arrest[6]. This offense necessarily depends on the underlying arrest being lawful. Here, the supplied evidence supports a legitimate basis for the original stop and provides additional grounds for detention or arrest based on Oden's conduct after the officers attempted to stop him. Thus, the available record supports the legal authority of the officers to physically apprehend and detain Oden when they caught up with him.

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[3] City of Akron, Ohio, *Codified Ordinances*, § 75.06.
[4] Ohio Rev. Code Ann. § 2921.331 (2024).
[5] Ohio Rev. Code Ann. § 2921.31.
[6] Ohio Rev. Code Ann. § 2921.33.

Fourth Amendment — Use of Force and *Graham v. Connor*

The controlling constitutional standard for force used during an arrest or investigatory seizure is the Fourth Amendment's objective-reasonableness test established in *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* requires examination of the facts and circumstances confronting officers without regard to their underlying intent or motivation. Reasonableness is assessed from the perspective of a reasonable officer on scene, recognizing that police officers sometimes must make rapid decisions concerning the amount of force required[7].

The Supreme Court identified several considerations relevant to that analysis, including the severity of the crime at issue, whether the person posed an immediate threat to officers or others, and whether the person was actively resisting arrest or attempting to evade arrest by flight. These factors are not an inflexible checklist. They assist in evaluating the totality of the circumstances and the relationship between the governmental interest at stake and the degree of force used[8].

The first *Graham* consideration, which is the severity of the suspected offense, initially weighs against a substantial use of force. This encounter began because of an alleged bicycle-lighting violation. Nothing in the supplied record indicates that Officers Gorham and Williams initially believed Oden had committed a violent offense, possessed a weapon, or posed an immediate threat to another person. The later discovery of approximately 16 grams of methamphetamine cannot retroactively strengthen the justification for force because the drugs were not discovered until after Oden had been taken into custody. Constitutional reasonableness must be assessed based on information available to the officers when the force was used, not facts learned afterward.

The governmental interest nevertheless increased as the encounter progressed. According to the supervisory investigation, Oden looked back toward the officers after the emergency equipment had been activated and continued riding away. The officers then activated the siren, requested emergency radio traffic, maintained visual contact with a spotlight, and followed Oden through several streets for approximately 1,100 feet. Although flight from a minor traffic matter does not by itself permit unlimited force, attempted evasion is expressly relevant under *Graham*.

The immediate-threat factor is more limited. The record does not establish that Oden displayed a weapon, struck or attempted to strike either officer, threatened an officer, or otherwise engaged in assaultive behavior before the takedown. The collision between the bicycle and the cruiser door requires particular caution in the legal analysis. Gorham reported that Oden made a quick U-turn and ran the bicycle into the passenger door as Gorham was exiting. The supervisory investigation describes the bicycle striking the opened passenger door, but the available camera footage did not depict the actual contact. The supervisor specifically noted that neither Oden nor Gorham reported the cruiser door being intentionally used to strike Oden. The evidence therefore does not establish that Oden used the bicycle as a weapon against Gorham or that the contact amounted to an assault.

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[7] *Graham v. Connor*, 490 U.S. 386, 395–97 (1989)
[8] *Id.*

The collision contributes to the rapidly changing circumstances surrounding the apprehension, but it should not be overstated as evidence of a violent threat.

The third *Graham* consideration, which is active resistance or attempted flight, provides the strongest justification for the physical force. After the bicycle contacted the cruiser door, Gorham reported that Oden turned back south and again attempted to flee. Gorham pursued him, grabbed him in a rear body lock, and ordered him to get on the ground. According to Gorham, Oden continued pulling away. Gorham then performed the rear-body-lock takedown. Once on the ground, Oden allegedly attempted to pull his arms underneath himself and get up, which led Gorham to control the right arm with a Kimura shoulder lock and rear-mount position while Williams controlled the left arm.

Sixth Circuit law generally recognizes an important distinction between active resistance and a person who is compliant, secured, or merely passively resistant. Recent Sixth Circuit authority continues to describe takedown maneuvers as potentially reasonable when used against an actively resisting arrestee, while emphasizing that significant physical force may become excessive where a person is not actively resisting or has ceased resisting[9]. That distinction is consistent with APD's own supplied policy language, which links less-lethal force to active resistance or evasion and requires force to stop when resistance ceases.

On the facts documented in the supplied record, Gorham's rear-body-lock takedown was proportionate to a legitimate need to prevent continued escape. The force was physical and significant enough to bring Oden to the ground, but it was materially less intrusive than strikes, chemical spray, a conducted-energy weapon, impact weapon, or deadly force. Gorham first attempted to grab Oden while issuing a command to get on the ground, and the takedown reportedly followed after Oden continued pulling away. Given Oden's documented flight and continued movement away during the attempted apprehension, the available evidence supports the conclusion that the takedown was objectively reasonable.

The ground-control force requires a separate assessment because constitutional reasonableness may change as circumstances change. A lawful initial takedown does not authorize continued force after resistance has ended. According to Gorham, after Oden reached the ground he attempted to bring his arms underneath his body and get back up. Gorham therefore pried Oden's right arm behind his back, applied a Kimura shoulder-control technique, and used a rear-mount position while Williams secured the opposite arm. Once the handcuffs were applied, Gorham reported that he immediately got off Oden. The review of BWC and IVS similarly found that the officers communicated concerning control of Oden's arms, completed the handcuffing, and used no additional reportable force afterward.

The progression of force was closely tied to Oden's changing behavior: a body lock while he continued moving away; a takedown after he continued pulling away; arm and positional control

[9] *Lucas v. City of Reynoldsburg*, No. 25-3481, slip op. at 5–7 (6th Cir. 2026).

after he attempted to place his arms underneath himself or rise; and cessation of force once handcuffed. That proportional progression substantially supports constitutional reasonableness.

The relatively limited injury is consistent with, although not dispositive of, that assessment. Sgt. Joseph Brewer documented a scrape to Oden's left knee and reported that Oden made no complaint of pain and identified no other injury at the scene. A minor injury does not automatically make force reasonable, just as a significant injury does not automatically establish excessive force. The principal question remains the need for and degree of force at the time it was used. Here, however, the limited injury is consistent with the documented use of brief control-oriented force rather than punitive or gratuitous force.

Barnes v. Felix and the Totality of the Encounter

The constitutional assessment should also account for the Supreme Court's 2025 decision in *Barnes v. Felix*. *Barnes* rejected a rule that would confine Fourth Amendment review to only the precise instant when an officer perceived the threat causing force to be used. Courts must consider relevant events occurring before the climactic moment as part of the totality of the circumstances[10].

Barnes does **not**, however, establish a categorical "officer-created jeopardy" rule. The Supreme Court expressly declined to decide whether or how an officer's creation of a dangerous situation independently affects the Fourth Amendment reasonableness inquiry. The Court resolved the timing question: earlier relevant events cannot simply be excluded from consideration[11].

Applied here, the force should therefore not be evaluated only at the instant Gorham executed the takedown. Relevant earlier circumstances include the minor nature of the original bicycle violation, the officers' use of emergency lights and siren, Oden's continued flight, the approximately 1,100-foot pursuit, Car 21's position parallel to Oden near 1072 Wilbur Avenue, Gorham's decision to open the passenger door while Oden was turning into the roadway, the bicycle's contact with the door, and the transition from vehicle pursuit to hands-on apprehension.

Nothing in the documentary record establishes that the officers deliberately used the cruiser or cruiser door as an impact weapon. The evidence also does not establish that the officers' pre-force conduct rendered the subsequent takedown constitutionally unreasonable. Nevertheless, *Barnes* reinforces the importance of evaluating the vehicle positioning and door-opening decision as part of the overall encounter rather than treating the takedown as an isolated event. Whether those decisions were tactically optimal is a separate matter addressed more directly in the tactical assessment. Constitutional compliance and tactical best practice are not necessarily identical.

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[10] *Barnes v. Felix*, 605 U.S. 73, 78–83 (2025).
[11] *Id.*

Force Used to Prevent Flight

The fact that Oden was attempting to flee is significant, but it does not provide unlimited authority to use force. A person fleeing a minor offense cannot constitutionally be subjected to any degree of force merely because apprehension is more difficult. Rather, the force must remain proportional to the governmental interest and the safety circumstances.

In this case, Gorham used a hands-on takedown rather than a weapon. The purpose described in his report was to stop Oden from continuing to flee. Oden had already traveled a substantial distance after the officers attempted to stop him and allegedly continued pulling away after Gorham obtained physical contact. Under those circumstances, some degree of physical control was reasonably necessary if the officers intended to complete the lawful detention or arrest. The employed force was directed at immobilizing Oden rather than punishing his flight.

The analysis changes once the subject is under control. Both constitutional law and the supplied APD procedure recognize that continued injurious force against a restrained, compliant person can be unreasonable. The record does not document such force. Gorham stated that he disengaged immediately once Oden was handcuffed, and the supervisor reported observing no additional reportable force on BWC or IVS. Accordingly, the record supports the conclusion that the officers terminated the physical force when its immediate objective had been achieved.

Search Incident to Arrest

Following the arrest, officers searched Oden and recovered approximately 16 grams of methamphetamine and 2.5 grams of marijuana. The APD field case report states that the methamphetamine was located in Oden's front-right pants pocket. A lawful custodial arrest generally permits a contemporaneous search of the arrestee's person and items immediately associated with the person. Because the available evidence supports a lawful arrest before the drugs were discovered, the supplied record does not reveal an apparent Fourth Amendment defect in the search incident to arrest.

Importantly, however, the drugs discovered after the force cannot be used to retroactively justify the force itself. The reasonableness analysis remains confined to what the officers knew or reasonably perceived when they decided to seize Oden physically.

Post-Arrest Medical Care

The constitutional responsibilities of officers do not end when force ceases. Once a person is in custody, officers have obligations concerning reasonably apparent medical needs and must not act with constitutionally impermissible disregard for serious medical conditions.

The documentation in this case is not entirely consistent regarding Oden's medical evaluation. Gorham and the APD case report state that Oden was treated and released by EMS at the scene.

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Officer Williams's report states that Oden refused treatment. The supervisory investigation records a scrape to the left knee, no complaint of pain, and no other injury identified by Oden. Those accounts can potentially be reconciled if EMS evaluated Oden and Oden declined additional treatment, but the materials themselves do not expressly explain the discrepancy.

The CAD material further indicates that Oden was later refused admission at the jail because of the use-of-force incident and was transported for additional medical evaluation. That later development does not establish that officers initially failed to provide appropriate care. It does, however, demonstrate why complete documentation of medical assessment, refusal, clearance, subsequent jail rejection, and hospital disposition is important in a use-of-force investigation.

On the presently available evidence, there is insufficient basis to find a constitutional denial of medical care. EMS was requested after the force, Oden was evaluated or offered treatment, a supervisor documented the visible injury, and subsequent medical evaluation was obtained when the detention facility would not accept him. The record more strongly presents a documentation and continuity-of-care issue than evidence of deliberate disregard for an obvious serious medical need.

Overall Legal Assessment

Based on the evidence presently available, the officers had an objectively legitimate basis to initiate a police stop for the observed bicycle violation. As the encounter progressed, Oden's continued flight provided an increasing governmental interest in apprehension. When Gorham made physical contact, Oden allegedly continued moving away and pulling from the officer, and after the takedown he allegedly attempted to place his arms beneath himself and rise. The documented force was limited to hands-on control, a rear-body-lock takedown, arm manipulation and shoulder control, positional control, and handcuffing. No strikes, chemical spray, CEW deployment, impact weapons, firearm use, or continued force after handcuffing are documented.

Under the totality of those circumstances, the evidence supports a finding that Gorham's takedown and subsequent control techniques were objectively reasonable under the Fourth Amendment. Williams's assistance in controlling Oden's left arm appears constitutionally reasonable as part of the effort to complete handcuffing. That constitutional conclusion does not foreclose separate scrutiny of the officers' tactics, the cruiser positioning, the force-reporting classifications, supervisory documentation, or professional conduct.

III. APD Policy Analysis

Objectively Reasonable Force and Necessity

APD procedure states that when officers must use force to defend themselves or others, prevent escape, or overcome resistance to an arrest or detention, the force must satisfy the objectively reasonable standard. The procedure defines reportable force to include tackling or forcefully taking

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a person to the ground and defines an "involved officer" to include an officer who applies reportable force as well as an officer who assists in controlling or goes hands-on with a person against whom force has been used.

The Rules and Regulations similarly provide that physical force is restricted to circumstances authorized by law and only when necessary to accomplish a police task successfully. Rule 700.07 additionally prohibits unnecessary or unwarranted violence.

The documented force was connected directly to the objective of apprehending Oden after his continued flight. Gorham initially obtained a rear body lock while commanding Oden to get on the ground. According to Gorham, the takedown occurred only after Oden continued pulling away. Ground-control techniques followed when Oden allegedly attempted to bring his arms beneath himself and get up. Force stopped after handcuffing. On those facts, the force was directed toward accomplishing a lawful police objective rather than punishment or retaliation and appears consistent with the general necessity and reasonableness principles contained in the supplied APD materials.

De-escalation

APD procedure defines de-escalation broadly to include non-confrontational verbal skills, empathy, active listening, additional time and distance, additional resources, persuasion, command presence, repositioning, and warnings intended to reduce the intensity of an encounter and lessen the potential need for force.

This incident presents a different de-escalation environment from a barricade, behavioral-health crisis, or stationary noncompliant subject. Once Oden was actively riding away on a bicycle, the officers had limited opportunity to establish rapport or engage in extended verbal persuasion. They initially used nonphysical police authority, such as emergency lights, siren, spotlight, radio coordination, and commands, before resorting to physical force. The available record therefore does not establish that officers bypassed an obvious, safe verbal alternative at the immediate point of apprehension.

The policy question is more nuanced when considering the full encounter. The officers followed a bicyclist approximately 1,100 feet in a patrol cruiser and then attempted to transition rapidly from vehicle containment to physical apprehension when Oden reversed direction near the passenger side of the cruiser. Whether more distance, different positioning, additional responding officers, or a different method of containment could have reduced the collision and takedown risk is principally a tactical issue. The supplied record does not establish that such alternatives were clearly feasible at the moment force was used. Accordingly, there is insufficient evidence to find a de-escalation policy violation, while the incident remains appropriate for tactical-training review.

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Proportionality and Cessation of Force

The supplied APD procedure directs that officers' responses be based on the subject's actions and behavior and provides that force should be discontinued when resistance ceases or the subject is under control. This principle is particularly important because the physical encounter involved several distinct stages rather than one indivisible application of force.

The body lock corresponded to Oden's continued movement away. The takedown corresponded to his reported pulling away and continuing effort to escape. The arm manipulation and rear-mount control corresponded to his reported effort to place his arms beneath him and get up. Handcuffs were then applied. Gorham reported that he immediately disengaged once Oden was handcuffed, and the supervisor stated that no further reportable force was observed on the recordings.

The sequence therefore reflects a reduction and termination of force when the officers achieved control. The record does not show punitive strikes, gratuitous force, or continued pressure after restraint. On the evidence supplied, the force appears consistent with the APD principle requiring officers to cease force once resistance ends or control is achieved.

Cruiser Door Contact

The contact between Oden's bicycle and the passenger door requires careful policy treatment. If an officer intentionally opened or used a cruiser door as an impact device to strike a moving person, that conduct potentially could constitute a distinct use of force requiring separate justification and reporting. The supplied record, however, does not establish that this occurred.

Gorham described opening the door to exit the cruiser as Oden made a U-turn, after which Oden's bicycle ran into the door. The supervisor stated that neither Gorham nor Oden claimed the door was used to strike Oden and that the available video did not depict the contact itself. The supervisor went further and offered a hypothetical conclusion that deliberate use of the door would have been reasonable. This independent review need not adopt that hypothetical finding because the factual predicate, intentional use of the door as force, was not established.

Accordingly, the more supportable policy conclusion is that the available evidence is insufficient to classify the cruiser-door contact as a deliberate application of force. The positioning and door-opening decision can still be evaluated tactically even if it is not classified as reportable force.

Classification of Officer Gorham's Force

The rear-body-lock takedown plainly fits the supplied APD definition of reportable force because the procedure specifically includes tackling and taking a person to the ground forcefully. Gorham appropriately completed a Use of Force/Resisting Arrest report describing the circumstances preceding his force and the specific techniques he used.

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Gorham's narrative is notably more detailed than the supervisor's ultimate characterization of the reportable force. Gorham described the rear body lock, rear-body-lock takedown, Kimura shoulder lock, rear-mount position, and handcuffing. The supervisory conclusion focused principally on the rear-body-lock takedown as the reportable force and stated that no other reportable force was observed.

APD procedure does not expressly list every joint lock or ground-control technique as independently reportable. Thus, the documentation does not establish that failure to classify the Kimura or rear mount as a separate reportable force category was a policy violation. Nevertheless, a comprehensive force investigation should identify and assess every physical control technique that materially contributed to restraint. Gorham did so in his individual narrative. The supervisory report could have been more explicit in analyzing those techniques independently rather than effectively subsuming them into the takedown and apprehension sequence.

Classification of Officer Williams

A more significant policy-classification question concerns Officer Williams. The supervisor found that ***"Officer Gorham was the only officer to use reportable force."*** That conclusion may be correct if the phrase is read narrowly to mean that Gorham was the only officer who personally applied a technique independently meeting the definition of "reportable force." Williams did not perform the takedown.

The APD definition of ***"involved officer,"*** however, is broader than *"officer who used reportable force."* It includes an officer who assists in controlling or goes hands-on with a person against whom force has been used. Williams acknowledged participating in the physical arrest, and Gorham stated that Williams brought Oden's opposite arm behind his back. The supervisory investigation similarly states that Williams gained control of Oden's left arm during handcuffing.

Under the terminology contained in the supplied policy, Williams therefore appears to fit the definition of an ***involved officer***, even if he did not independently employ a reportable technique. That distinction matters because the supplied procedure states that all officers involved in a use-of-force/resisting-arrest incident must complete the appropriate BlueTeam report, while witness officers report their observations from the perspective of a witness. Williams did submit a Use of Force Report, which is consistent with treating him as an involved participant for reporting purposes. The principal issue is therefore one of ***classification clarity***, not an apparent failure by Williams to submit documentation.

For future supervisory reviews, APD would benefit from distinguishing expressly between the finding that "only Gorham applied reportable force" and the separate determination that "Gorham and Williams were involved officers." Such terminology would more accurately reflect the Department's own definitions and avoid ambiguity in statistical tracking and accountability review.

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Reporting Requirements

APD procedure requires officers involved in a use-of-force/resisting-arrest incident to complete BlueTeam reporting. Officers using force must articulate the factors they perceived that gave rise to the force and why the force was reasonable. The procedure also requires an incident report regardless of criminal charges and contains provisions for documenting property damage associated with the incident.

Gorham's report substantially satisfies the articulation objective. He identifies the basis for the attempted stop, Oden's flight, the bicycle/cruiser-door contact, Oden's continued attempt to leave, the verbal direction to get on the ground, Oden's continued pulling away, and Oden's effort to place his arms beneath himself on the ground. He also identifies each physical technique he used and explains the purpose of the Kimura shoulder lock.

Williams's report is less detailed. He describes the pursuit, Gorham's takedown, his participation in the arrest, the request for EMS and a supervisor, and the subsequent charges. His report does not describe his own arm-control action with the specificity contained in Gorham's report or the supervisor's investigation. This does not necessarily establish a violation based on the documentation available, but it represents an opportunity to improve individual force articulation. Each officer's report should make clear what that particular officer physically did rather than relying on another officer's report or subsequent supervisory review to establish the officer's role.

Supervisory Investigation

The supplied policy imposes significant responsibilities on the investigating supervisor. The supervisor is expected to respond when reportable force has been used or resisting-arrest charges are filed; ensure injured persons receive medical attention; locate and interview witnesses and the subject; photograph the scene, the subject, injuries, and relevant property damage; identify video and other evidence; and prepare a comprehensive BlueTeam investigative package.

The investigative package is also expected to document allegations and their resolution, compare relevant accounts, document injuries, indicate whether medical treatment was provided or refused, identify BWC evidence, and assess contributing circumstances in relation to objective reasonableness.

Sgt. Brewer responded to the scene, spoke with both officers, attempted to obtain a statement from Oden, photographed Oden's injury, reviewed BWC and IVS, reviewed officer statements, reconstructed the pursuit and physical apprehension, and made an objective-reasonableness finding. Those actions are consistent with the core supervisory review requirements reflected in the supplied policy.

There are nevertheless areas where the investigation could have been more complete. Most importantly, the supervisor's report does not reconcile the discrepancy between Gorham's

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statement that EMS treated and released Oden and Williams's statement that Oden refused treatment. The supplied policy specifically contemplates documentation of whether medical treatment was ***provided or refused***. Both propositions should not be left unresolved where the underlying records can likely establish precisely what occurred.

The supervisor also could have more explicitly addressed the later jail refusal and hospital transport documented in CAD, particularly because APD's investigative requirements call for consideration of CAD information and medical disposition. The absence of that reconciliation does not invalidate the force finding, but it reduces the completeness of the post-force medical review.

Further investigation could have separately evaluated the Kimura shoulder lock and rear-mount position described by Gorham. Even if those techniques were not independently reportable under the operative policy, acknowledging them and assessing whether they were consistent with training would improve the transparency and completeness of the supervisory review.

Medical Care and Prisoner Safety

APD's Rules and Regulations impose continuing obligations after arrest. Rule 1200.08 provides that prisoners are to be securely and humanely treated and that officers responsible for a person in custody are responsible for that person's safety and well-being. The Rule requires supervisory response where physical force is used and requires appropriate action when a prisoner is injured or ill. Rule 1200.12 further provides that prisoners requiring medical attention are to be taken to an appropriate emergency hospital.

Officers requested EMS following the arrest, and Brewer documented the visible scrape. Those steps were consistent with APD's medical and prisoner-safety responsibilities. The later jail refusal appropriately resulted in additional medical evaluation rather than an attempt to circumvent the facility's medical-clearance requirement.

The weakness is documentary rather than an established failure of care. The available package should more clearly explain whether Oden was examined and released by EMS, declined treatment, or both; what caused the jail to refuse admission; what subsequent medical clearance occurred; and how that related, if at all, to the force event. Complete continuity-of-care documentation is particularly important when a detention facility declines to accept an arrestee following police force.

Conduct Toward the Public

Rule 200.01 requires APD personnel to be courteous and orderly in dealings with the public, to perform their duties without harsh, violent, profane, or insolent language, and to remain calm despite provocation.

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The supervisor documented "banter" between Williams and Oden while Oden was in the cruiser. Brewer determined that the exchange did not rise to a violation of Rule 200.01 but counseled Williams about the public perception his interaction could create. Based on the language of APD Rule 200.01 and the portions of the Williams–Oden exchange reviewed[12], I would ***not agree with Sergeant Brewer's conclusion that the interaction categorically "did NOT cross the lines" into a Rule 200.01 violation.*** There is a reasonable and, in my assessment, fairly strong basis for concluding that at least portions of Williams's comments crossed from permissible conversational banter into discourteous, insulting, or insolent language toward a person in police custody.

The matter nevertheless implicates constitutional-policing principles extending beyond the minimum legal threshold. Persons under arrest should be treated professionally even where the person participates in or initiates verbal banter. The supervisor's coaching response does not appear to be appropriate based on the information available: it does recognize professionalism concerns but stops short of declaring a policy violation which is supported by the evidence.

Rule 200.01 establishes a higher standard than merely avoiding profanity

Rule 200.01 states:

Officers/employees shall be courteous and orderly in their dealings with the public, and shall perform their duties quietly, **not using harsh, violent, profane, or insolent language, and remaining calm despite provocation to do otherwise.**

A violation is classified as a minor offense of the third degree.

That language is significant because it does not require profanity, threats, shouting, or an overtly hostile confrontation before a violation occurs. The prohibition separately includes "insolent language," while the first clause affirmatively requires officers to be courteous in dealings with the public. It also specifically anticipates provocation and nevertheless requires officers to remain calm.

Accordingly, describing the interaction as "mutual banter" does not by itself resolve the policy question. The officer and the arrestee are not situated equally under Rule 200.01. Oden has no departmental obligation to be courteous to Williams; Williams has a departmental obligation to be courteous to Oden.

That becomes particularly important because Oden was already handcuffed and in police custody during the cruiser conversation. The underlying reports establish that after Oden was apprehended,

[12] BWC-(Extraction_1.1)_Williams_Aaron_(1579)Suspicious_Person_MORGAN_AVE_BEARDSLEY_ST-2, mark 17:42-18:09 (reference Oden's smell), 18:57-18:59 (reference Oden's lack of a frontal lobe).

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officers searched him, recovered suspected drugs, and arranged his transportation to the Summit County Jail.

"I can smell you and it definitely doesn't smell like alcohol"[13]

Of the statements identified, I consider this one of the stronger candidates for a Rule 200.01 violation.

There could theoretically be a legitimate law-enforcement reason for an officer to comment upon an odor. For example, saying, "I smell alcohol," "I smell marijuana," or describing another odor relevant to impairment, contraband, evidence, or medical condition can be professionally appropriate.

But that does not appear to be what Williams was doing when he told Oden, in substance, ***"I can smell you and it definitely doesn't smell like alcohol."*** In context, the statement appears less like an evidentiary observation and more like a personal comment about Oden's body odor or hygiene.

That distinction matters.

If Williams had simply documented an odor relevant to the investigation, there would be little basis for a Rule 200.01 concern. But directing a remark at an arrestee that essentially communicates *you smell bad* serves no apparent legitimate police purpose. Depending upon the tone and surrounding exchange reflected in the BWC, it is reasonably characterized as ridiculing, belittling, or insulting the person in custody.

That fits considerably less comfortably with the requirement that officers "shall be courteous" and shall refrain from "insolent language."

I would therefore characterize this statement as violative, and more likely than not inconsistent with Rule 200.01. BWC footage confirms that it was delivered as a personal insult rather than a legitimate investigative observation.

The "frontal lobe" comment is more problematic[14]

Williams's reference to Oden's apparent lack of a frontal lobe presents an even stronger Rule 200.01 concern.

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[13] BWC-(Extraction_1.1)_Williams_Aaron_(1579)Suspicious_Person_MORGAN_AVE_BEARDSLEY_ST-2, mark 17:42-18:09 (reference Oden's smell).
[14] BWC-(Extraction_1.1)_Williams_Aaron_(1579)Suspicious_Person_MORGAN_AVE_BEARDSLEY_ST-2, mark 18:57-18:59 (reference Oden's lack of a frontal lobe).

A statement suggesting that a person lacks part of his brain is, in ordinary usage, essentially an assertion that the person is stupid, intellectually deficient, or incapable of rational thought. There does not appear to be a legitimate law-enforcement purpose for making such a statement to Oden.

This is qualitatively different from an officer saying:

- "That was a bad decision."
- "You shouldn't have run."
- "You could have gotten hurt."
- "You need to think about what you're doing."

Those statements criticize conduct.

A statement implying that Oden lacks a frontal lobe criticizes or mocks the person himself and his intellectual capacity.

That distinction makes the statement difficult to reconcile with Rule 200.01's requirement of courteous treatment. In my assessment, the frontal-lobe statement provides the strongest individual basis for finding a violation of Rule 200.01.

Mutual banter does not eliminate the violation

Sergeant Brewer specifically concluded:

"I had a discussion with Officer Williams about the banter with Oden while in the cruiser. Although it was mutual between the two it could appear to some as unprofessional. It did NOT cross the lines into a violation of Rule and Regulation 200.01; however, Officer Williams was told to be aware of public perception in his dealings with the public."

The supervisory recognition that the conversation "could appear to some as unprofessional" is important, but I would frame the issue somewhat differently.

Public perception is not the central question. Compliance with the rule is.

Rule 200.01 does not prohibit conduct only when a member of the public might perceive it negatively. It establishes substantive behavioral requirements. The proper analytical question therefore is:

> **Were Williams's particular words courteous, and did they avoid harsh or insolent language?**

The fact that Oden participated in the banter is relevant context, particularly when evaluating tone and severity. It may mitigate the seriousness of the conduct. But it does not necessarily transform otherwise insulting comments into compliant conduct.

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Indeed, Rule 200.01 expressly requires officers to remain calm ***"despite provocation to do otherwise."***

That language strongly suggests that citizen behavior does not excuse an officer from the professional standard imposed by the rule.

The custodial setting heightens the concern

I also place weight on the fact that this occurred after the force encounter, after Oden had been subdued, and while he was confined in a police cruiser.

There was no apparent tactical necessity requiring Williams to match Oden's verbal tone. The immediate physical confrontation had ended. The supervisory investigation itself determined that Oden had been apprehended and placed into handcuffs, after which no additional reportable force occurred.

This matters because an officer sometimes must use stern, forceful, or even harsh-sounding commands during a rapidly evolving confrontation. Those circumstances were no longer present.

Once an arrestee is secured in the back of a cruiser, comments about his odor or intelligence cannot readily be justified as command presence, officer-safety communication, gaining compliance, or de-escalation.

The cumulative exchange should also be evaluated

I would also caution against evaluating the statements individually and concluding that no single remark was sufficiently egregious to establish misconduct.

Rule 200.01 governs the officer's **"dealings with the public."** The appropriate unit of analysis can therefore include the entire interaction.

A single sarcastic response to an arrestee might reasonably be treated as an isolated lapse in professionalism. Multiple personalized remarks, particularly remarks concerning someone's odor, intelligence, appearance, education, mental capacity, or other personal characteristics, can cumulatively establish a pattern of ridicule even though none contains profanity or a threat.

This is where Brewer's characterization of the interaction as "banter" potentially understates what should have been analyzed. The better question is whether ***Williams transitioned from professional interaction into reciprocal ridicule of an arrestee.***

BWC demonstrates that Williams repeatedly responded to Oden's provocations with personal insults or mocking comments, therefore the cumulative case for a Rule 200.01 violation becomes substantially stronger.

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Overall APD Policy Assessment

The available evidence supports the Department's substantive finding that the force used to apprehend Oden was reasonably related to his continued flight and resistance and ceased when control was achieved.

The are some policy issues concerning documentation and classification rather than the justification for force. Williams appears to meet the supplied policy definition of an involved officer because he physically assisted in controlling Oden, even though Gorham was the only officer who personally applied the reportable takedown. The supervisor's investigation also could have more specifically analyzed all documented control techniques and reconciled the inconsistent accounts of Oden's medical treatment.

Finally, there is the significant professionalism concern with the "banter" between Williams and Oden and the manner in which it was addressed by Sergeant Brewer. The distinction is important: the issue is not whether Williams was allowed to converse with Oden, joke with him, respond to Oden's comments, or defend himself verbally. The issue is whether particular statements by Williams remained consistent with the affirmative standards imposed on an APD officer by Rule 200.01.

IV. Tactical Assessment and De-escalation Review

The tactical assessment should be considered separately from the constitutional analysis. The use of force may be lawful and objectively reasonable even if earlier tactical decisions could have been safer, more deliberate, or more consistent with contemporary best practices. The master review framework specifically calls for examination of approach, positioning, distance, communication, time, resources, tactical disadvantage, and whether officer decisions foreseeably increased the likelihood that force would become necessary.

The officers initially attempted to resolve the encounter through nonphysical means. They activated emergency lights, then siren, used the cruiser spotlight, requested emergency radio traffic, and communicated Oden's description and direction of travel. The supervisor states that Oden looked back at the officers and nevertheless continued away. In that respect, the officers did not immediately resort to physical force and used ordinary police signals and communication before attempting hands-on apprehension.

The practical limits of de-escalation in this encounter should also be recognized. Oden was mobile on a bicycle and continuously increasing distance from the officers. This was not a stationary encounter in which officers could safely establish prolonged verbal rapport, use active listening, or wait for a crisis-intervention resource. There is no indication that the officers believed Oden was experiencing a mental-health emergency requiring specialized intervention. Extended verbal de-escalation was therefore not a realistically available option while Oden was actively riding away.

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The most significant tactical issue arose during the transition from vehicle pursuit to physical apprehension near 1072 Wilbur Avenue. The supervisor states that Oden rode from the sidewalk into the roadway while turning north, with Car 21 parallel to him. That positioning effectively placed the passenger side of the police vehicle close to Oden's turning path. Gorham then opened the passenger door as Oden came into the roadway, and Oden's bicycle struck the door.

The record does not establish that Gorham intentionally used the door as an impact weapon. Nevertheless, the configuration created foreseeable collision and balance risks for both Oden and Gorham. A bicyclist turning near a patrol vehicle has limited stability and maneuvering space. Simultaneously opening a vehicle door and transitioning immediately to a foot apprehension can narrow the reactionary gap, create an obstacle, and compress decision-making time for both the officer and the cyclist. That does not make the tactic unconstitutional. It does, however, present a legitimate training question concerning how officers should transition from a slow-speed vehicle pursuit of a bicyclist to hands-on apprehension.

An alternative tactical approach might have included maintaining slightly greater lateral separation, using the patrol car to contain or pace the bicyclist without placing the door directly in the anticipated path, or allowing additional responding officers to establish containment if circumstances permitted. The record establishes that additional units were responding, but it does not establish their exact proximity at the moment Oden reversed direction. Because Oden was continuing to flee, waiting indefinitely for additional resources could also have resulted in escape. The availability and practicality of any alternative therefore cannot be determined with certainty from the supplied evidence.

The officers' communication during the pursuit appears generally effective. Williams requested emergency radio traffic, the officers maintained visual contact, and Gorham provided identifying and directional information. During the ground-control phase, the supervisor specifically states that Gorham and Williams communicated and confirmed control of Oden's right arm before Williams gained control of the left arm. Clear communication during handcuffing is tactically important because uncoordinated officers can unintentionally apply competing force, lose control of a limb, or injure one another.

The hands-on tactics themselves were comparatively restrained. Once Gorham made contact, he used a rear body lock and takedown rather than striking Oden or immediately deploying a weapon. After the takedown, the officers used arm control and positional control to handcuff him. No CEW, chemical spray, baton, firearm, or head strike was used. This avoided some of the secondary risks associated with intermediate weapons and appears proportionate to a subject who was attempting to flee and physically resist control.

The tactical sequence also shows appropriate force reduction. Gorham reported immediately disengaging once Oden was handcuffed, and the supervisor observed no further reportable force. That is tactically significant because ground-control situations can become more dangerous when officers maintain unnecessary pressure or continue force after a subject is secured.

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The use of time as a tactical resource was limited by the circumstances. Once Oden was actively fleeing, officers had to choose between continuing the pursuit, terminating it, or attempting apprehension. The record does not identify a policy or tactical reason requiring immediate capture for a dangerous violent felony; the original reason for the stop was a bicycle violation. That fact weighs in favor of evaluating whether the risks of continued vehicle-to-bicycle pursuit were proportionate to the underlying enforcement objective. At the same time, Oden's continued refusal to stop and later physical resistance altered the situation. By the time Gorham used force, the officers were no longer merely deciding whether to issue a bicycle citation; they were attempting to apprehend a person who had repeatedly refused lawful police direction and continued to evade them.

The record does not establish that the officers unnecessarily compressed time in the classic sense of rushing into a stationary crisis where time, cover, and distance were readily available. The encounter was inherently dynamic because Oden was continuously moving. The tactical concern is narrower: whether the vehicle position and passenger-door exit unnecessarily increased the risk of collision during the apprehension transition.

The post-force tactical response was generally appropriate. Once Oden was secured, force stopped, EMS and a supervisor were requested, and Oden was searched and prepared for transport. Subsequent jail refusal resulted in additional medical evaluation rather than continued detention without clearance. The principal weakness lies in documentation of that post-force medical sequence rather than in an apparent failure to obtain care.

Overall, tactical performance should be characterized as generally effective and constitutionally sound, with a specific training concern regarding vehicle-to-bicycle positioning and the transition from mobile pursuit to physical apprehension. The record does not establish reckless or clearly unsound tactics, but it identifies an opportunity for APD to address the collision risks created when officers open a vehicle door or exit a cruiser immediately adjacent to a moving bicyclist.

V. Findings

Based upon an independent review of the available reports, supervisory investigation, BWC and IVS information reflected in the investigative record, applicable APD policies and Rules and Regulations, and the totality of the circumstances, this review reaches the following findings and conclusions.

A. Lawfulness of the Initial Police Contact

The initial attempt to stop DeShawn Oden was supported by a lawful enforcement purpose. Officers Gorham and Williams observed Oden operating a bicycle without required front or rear illumination. According to the supervisory investigation, Oden looked back toward the officers after they activated the cruiser's overhead lights and subsequently fled as the officers attempted to

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stop him. The officers activated the emergency siren, notified dispatch, and continued attempting to stop Oden.

The evidence therefore supports APD's conclusion that the officers had a lawful basis for the initial attempted stop and that Oden's subsequent conduct materially changed the circumstances confronting the officers.

B. Officer Gorham's Use of Force

The supervisory investigation determined that, after Oden's bicycle contacted the cruiser door, Oden continued attempting to move away while Officer Gorham gave commands for him to get on the ground. Gorham obtained a rear body lock and brought Oden to the ground. Gorham and Williams subsequently coordinated control of Oden's arms, after which Oden was handcuffed. APD found no additional reportable force after Oden was brought under control.

Sergeant Brewer concluded that Gorham did not employ more force than necessary to prevent Oden's escape and that the force was proportionate to Oden's resistance. The supervisory investigation consequently found no violation of APD's use-of-force procedure.

This independent review concurs with that determination. The force was employed for the legitimate purpose of apprehending a person who had fled from a lawful attempted stop and was actively resisting the officers' efforts to take him into custody. Nothing in the available evidence establishes that force continued after Oden was controlled or that force was employed gratuitously or for punishment.

C. Officer Williams's Verbal Conduct Following the Use of Force

The conclusion concerning the physical use of force does not resolve every issue of officer conduct arising from the encounter. In particular, this review does not concur with APD's disposition of Officer Williams's subsequent verbal interaction with Oden.

Sergeant Brewer expressly identified the interaction as a matter warranting supervisory attention. He documented that he discussed Williams's "banter with Oden while in the cruiser," acknowledged that the interaction "could appear to some as unprofessional," but ultimately determined that it did not violate Rule and Regulation 200.01. Williams was instead advised to be mindful of public perception in his dealings with the public.

This independent review reaches a different conclusion.

As discussed elsewhere in this report, Williams's comments included a statement to Oden concerning his smell, "I can smell you and it definitely doesn't smell like alcohol", and a remark concerning Oden's supposed lack of a frontal lobe. Considered in their context, these comments went beyond legitimate investigative communication, necessary commands, rapport-building, or

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reasonable criticism of Oden's conduct. They were personalized remarks reasonably capable of being understood as ridiculing Oden's hygiene and intelligence or mental capacity.

The circumstances under which the statements occurred are significant. The physical confrontation had ended. Oden had been apprehended and was in police custody. The statements therefore did not serve an apparent tactical purpose, were unnecessary to gain compliance, and were not required to protect officer or public safety.

The fact that Oden participated in the exchange does not eliminate Williams's independent professional obligations. Mutual banter may provide context and may appropriately mitigate the seriousness of misconduct, but it does not necessarily determine whether an APD rule was violated.

D. Finding Concerning Rule 200.01

The evidence supports a finding that Williams crossed the line from conversational interaction into unnecessary personalized ridicule. Particularly when considered cumulatively and in the custodial context in which the remarks occurred, the comments concerning Oden's odor and his supposed lack of a frontal lobe were inconsistent with the professional standards imposed upon an APD officer dealing with a member of the public.

This conclusion should not be interpreted as equating Williams's conduct with severe verbal abuse. The available evidence does not establish threats, discriminatory language, retaliatory conduct, or prolonged verbal abuse. Oden's participation in the exchange and the absence of subsequent escalation are relevant mitigating circumstances.

Those circumstances, however, are more appropriately considered in determining the appropriate corrective or disciplinary response than in deciding whether the underlying rule was violated.

Accordingly, I find sufficient evidence to conclude that Officer Williams violated Rule and Regulation 200.01.

E. Assessment of the Supervisory Response

I also conclude that the supervisory response did not adequately resolve the Rule 200.01 issue.

This conclusion should be carefully distinguished from a finding of misconduct by Sergeant Brewer. Brewer did not ignore the interaction. To the contrary, he identified the exchange during his review, documented his concern, spoke directly with Williams, and provided counseling regarding the public perception created by the interaction.

The disagreement concerns Brewer's classification and disposition of the conduct, rather than a failure to perform supervisory review.

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On the present record, there is insufficient evidence to conclude that Brewer intentionally minimized misconduct, knowingly disregarded APD policy, or otherwise committed a disciplinary violation himself. A reasonable disagreement concerning the application of a broadly worded professionalism standard should not, without additional evidence, result in discipline against the reviewing supervisor.

Nevertheless, because this independent review concludes that Williams's conduct crossed the threshold into a Rule 200.01 violation, the matter should not remain closed solely as informal counseling concerning public perception.

F. Required Administrative Follow-Up

APD should reconsider Rule 200.01 finding in light of the complete BWC exchange and determine the appropriate corrective or disciplinary action under APD's applicable disciplinary procedures, disciplinary history requirements, collective-bargaining obligations, and comparable prior cases.

This recommendation is deliberately distinct from prescribing a particular penalty. The independent review can appropriately determine that the existing disposition does not adequately address the conduct while recognizing that APD is institutionally responsible for determining discipline consistent with its established disciplinary system.

If Williams has no relevant prior disciplinary history, the nature of the conduct identified in this review would generally support a low-level corrective disciplinary response rather than severe punishment. Relevant mitigation includes the mutual nature of portions of the exchange, the absence of threats or discriminatory language, the absence of physical escalation, and Brewer's previous counseling of Williams. Any aggravating or mitigating disciplinary history unavailable to this review should be considered by APD before imposing discipline.

VI. Policy, Training, Supervisory, and Disciplinary Recommendations

The recommendations are intended to address both individual accountability and the broader organizational lessons presented by the incident. They are informed by APD's existing Rules and Regulations, APD's use-of-force/de-escalation framework, and practices employed by other law-enforcement agencies.

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Policy Recommendation: Clarify Rule 200.01 and Establish an Express Professional-Communication Standard

APD should revise Rule 200.01, or adopt a complementary professional-conduct provision, expressly addressing inappropriate verbal interactions between officers and members of the public, particularly detained or arrested persons.

Rule 200.01 presently requires officers and employees to be "courteous and orderly in their dealings with the public," prohibits "harsh, violent, profane, or insolent language," and requires officers to remain calm despite provocation. A violation is expressly classified as a minor offense of the third degree.

The existing rule establishes an appropriate general principle, but the Williams-Oden interaction demonstrates the ambiguity created by terms such as "courteous" and "insolent." Sergeant Brewer recognized that Williams's comments warranted counseling and could be perceived as unprofessional yet concluded that the statements did not cross the threshold into a Rule 200.01 violation. That distinction suggests that supervisors may benefit from more specific guidance concerning what constitutes prohibited verbal conduct.

APD should therefore supplement Rule 200.01 with language substantially providing that officers shall not ridicule, taunt, mock, demean, belittle, or direct unnecessary disparaging personal comments toward a member of the public, including comments concerning a person's intelligence, mental capacity, physical appearance, hygiene, disability, socioeconomic condition, education, or other personal characteristics when those comments do not serve a legitimate law-enforcement purpose.

The policy should simultaneously preserve officers' reasonable ability to communicate naturally. Informal conversation, appropriate humor, rapport-building, and even firm criticism of a person's conduct should not automatically constitute misconduct. The policy should distinguish between criticizing conduct, for example, explaining that fleeing from officers was dangerous, and personally demeaning the individual, such as ridiculing the person's intelligence or hygiene.

Real-world comparison: Seattle Police Department

The Seattle Police Department provides a particularly useful model for APD. Seattle's professionalism policy directs employees to treat people with dignity and to refrain from language, demeanor, or actions that may cause individuals to feel "belittled, ridiculed, or intimidated." Its standards further prohibit language that is derogatory, contemptuous, or disrespectful toward another person[15].

[15] U.S. District Court for the Western District of Washington, *Order Entering Monitor's Plan*, July 10, 2014

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That language provides considerably more practical guidance than a generic prohibition against "insolent" language. It identifies the types of interactions officers and supervisors should recognize as problematic without attempting to catalogue every possible offensive statement.

Applicability to APD. APD does not need to replace Rule 200.01 with Seattle's policy. Rather, Seattle demonstrates how APD could modernize and clarify its existing rule while preserving its fundamental requirement of courtesy. Adding concepts such as *ridicule, belittlement, taunting, and unnecessary personal disparagement* would provide officers and supervisors with more objective benchmarks for evaluating conduct such as Williams's comments about Oden's smell and supposed lack of a frontal lobe.

Policy Recommendation: Explicitly Address Provocation and Reciprocal "Banter"

APD should clarify that a citizen's participation in banter, profanity, sarcasm, insults, or provocative speech does not eliminate an officer's independent obligation to maintain professional conduct.

This principle is already implicit in Rule 200.01 because officers are expressly required to remain calm "despite provocation to do otherwise." The Williams-Oden investigation demonstrates, however, that the significance of this provision may not be sufficiently understood. Brewer's reliance upon the exchange being "mutual" appears to have functioned, at least in part, as a reason for determining that Williams did not violate the rule.

The policy should make clear that mutuality is context, not a defense. It may mitigate the seriousness of misconduct, but it does not necessarily determine whether misconduct occurred.

The distinction is especially important once an individual has been handcuffed or placed in a cruiser. The officer remains the governmental authority and remains subject to APD rules regardless of whether the detained person invites or participates in the verbal exchange.

Training Recommendation: Establish Scenario-Based Professional Communication Training

APD should incorporate professional verbal communication into recruit training, field training, annual in-service training, de-escalation instruction, and supervisory development.

This recommendation is consistent with APD's existing use-of-force philosophy. APD's use-of-force procedure defines de-escalation as involving "non-confrontational verbal skills, empathy and active listening" and recognizes persuasion, communication, time, distance, and other techniques as methods for reducing the intensity of encounters.

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The training should move beyond simply instructing officers to "be professional." Officers should be presented with realistic BWC scenarios and required to identify the point at which legitimate conversation becomes sarcasm, taunting, ridicule, or personal disparagement.

The Williams-Oden interaction itself could be converted into an anonymized scenario. Officers could evaluate statements such as telling a detainee that running was dangerous compared with telling the detainee that he smells or implying that he lacks part of his brain. This would make the distinction between behavior-focused communication and person-focused ridicule concrete.

Training should reinforce a practical principle:

Officers may respond to behavior; they should not attack the person.

Another practical training principle should be:

Do not take the bait.

The latter is consistent with law-enforcement communication guidance emphasizing that officers should maintain professional tone and demeanor rather than reciprocating personal insults. Contemporary de-escalation guidance similarly cautions against insulting or taunting language because it can unnecessarily escalate an encounter[16].

Applicability to APD. This recommendation does not require creation of an entirely new training program. APD could incorporate a professional-communication block into existing de-escalation, BWC, use-of-force, field-training, and supervisory curricula. Because APD already recognizes non-confrontational verbal skills as part of de-escalation, this represents an extension of existing departmental doctrine rather than a new policing philosophy.

Training Recommendation: Teach the Transition from "Control" to "Custody"

APD should specifically train officers regarding the change in communication expectations that occurs after an individual has been brought under control.

During an active confrontation, officers may reasonably need to use loud, direct, repetitive, and forceful commands. Once an individual has been restrained and the immediate threat has diminished, the purpose of police communication changes. Communication should generally shift toward safety, medical assessment, transportation, processing, investigation, explanation, and other legitimate custodial functions.

The distinction is particularly applicable here. Williams's challenged statements were not commands delivered while attempting to overcome Oden's resistance. They occurred after Oden

[16] Laurence Miller, "Patrol Psychology 101: Communication and Conflict Resolution," *Police1*, April 17, 2008.

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had been placed in the cruiser. Consequently, comments about Oden's odor or intelligence cannot readily be characterized as necessary command presence.

Training officers to recognize this transition would reinforce that the conclusion of physical resistance should generally correspond with a reduction in confrontational verbal behavior as well.

Supervisory Recommendation: Develop a Rule 200.01 BWC Review Framework

APD should provide supervisors with a structured framework for evaluating potential professionalism violations discovered during BWC review.

Supervisors should consider the content of the officer's words; tone and context; whether the person was detained, handcuffed, or otherwise vulnerable; whether the statement served a legitimate law-enforcement purpose; whether the officer initiated or escalated the exchange; whether comments attacked conduct or personal characteristics; whether the citizen provoked the officer; whether the officer had an opportunity to disengage; and whether the cumulative interaction involved ridicule, humiliation, antagonism, or unnecessary personal disparagement.

This would help distinguish among three different categories that appear to have become blurred in the Williams review: acceptable communication, conduct warranting coaching, and conduct constituting a policy violation.

Organizational Recommendation: Use BWC as an Early-Intervention and Training Tool

APD should formally recognize BWC review as an organizational-learning mechanism rather than viewing it exclusively as an evidentiary tool.

When supervisors reviewing a use-of-force incident discover unrelated conduct that presents a professionalism concern, APD should have a documented mechanism for distinguishing among positive performance, informal coaching, remedial training, policy violations, and conduct warranting formal investigation.

The Williams-Oden incident demonstrates the benefit of such review. Brewer deserves credit for identifying the exchange even though it was collateral to the principal use-of-force investigation. The organizational issue is therefore not a failure to review the BWC; it is the absence of sufficiently clear standards for determining what should happen after problematic conduct is discovered.

This recommendation also promotes proportional accountability. Not every undesirable BWC observation should result in discipline. Conversely, conduct should not automatically be reduced to "coaching" merely because it is relatively minor.

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Real-World Accountability Example: Seattle's Training and Low-Level Discipline Model

Seattle's publicly available Office of Police Accountability decisions provide a useful example of proportional accountability. In one professionalism case involving derogatory language, OPA sustained the professionalism allegation and the resulting discipline consisted of an oral reprimand accompanied by policy training[17].

The example should not be treated as establishing what APD must impose in Williams's case. Different agencies operate under different collective bargaining agreements, disciplinary matrices, civil-service requirements, and precedent. It nevertheless demonstrates that a department can formally sustain a professionalism violation while imposing corrective rather than severe punishment.

Applicability to APD. That approach is particularly relevant here. A sustained finding does not require APD to characterize Williams's behavior as serious misconduct. APD can distinguish between the finding and the penalty. The evidence can support a Rule 200.01 violation while the mutual nature of the conversation, absence of threats or discriminatory statements, and limited severity support relatively minor corrective discipline.

Disciplinary Recommendation — Officer Williams

Based upon the revised assessment, there is sufficient evidence to support the finding that Officer Williams violated Rule 200.01 through portions of his interaction with Oden. Rule 200.01 itself classifies such misconduct as a minor offense of the third degree.

The disciplinary response should nevertheless remain proportionate to the nature of the misconduct.

The available evidence does not establish that Williams threatened Oden, used discriminatory language, retaliated against him, employed force because of the verbal exchange, or subjected him to prolonged verbal abuse. Oden participated in the exchange, and there is no indication that Williams's comments caused the situation to escalate physically. Those circumstances constitute meaningful mitigation.

Accordingly, assuming Williams does not have a relevant history of similar misconduct, I recommend low-level formal corrective discipline, such as a documented oral or written reprimand as authorized under APD's disciplinary framework, together with targeted remedial training concerning Rule 200.01, professional communication, and interactions with detained persons.

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[17] Seattle Office of Police Accountability, *Closed Case Summary, Complaint No. OPA#2015-0229* (Seattle: Office of Police Accountability, September 11, 2015).

I would not recommend suspension based solely upon the presently established verbal conduct, absent aggravating disciplinary history or APD precedent requiring a greater penalty.

This recommendation preserves an important accountability principle: APD should not have to choose between declaring the conduct acceptable and imposing severe discipline. A finding can be sustained while the sanction remains corrective and proportionate. Seattle's documented use of an oral reprimand coupled with training for a professionalism violation illustrates that approach in practice.

Disciplinary Recommendation — Sergeant Brewer

I do not recommend formal discipline against Sergeant Brewer on the evidence presently available.

Brewer reviewed the BWC, recognized the interaction as problematic, documented the issue, counseled Williams, and warned him concerning the public perception generated by such interactions. His actions therefore do not demonstrate indifference to misconduct or a failure to perform supervisory review.

The disagreement concerns the classification of the conduct, not Brewer's failure to recognize it.

A subsequent independent reviewer reaching a different interpretation of an imprecisely defined professionalism rule should not, standing alone, become grounds for disciplining the original supervisor. Doing so could discourage supervisors from making good-faith judgments in cases where policy language provides substantial discretion.

The appropriate response is supervisory counseling and training rather than discipline. Brewer should receive guidance concerning the application of Rule 200.01, particularly the distinction between conduct that merely creates an unfavorable public perception and conduct that independently violates the courtesy and insolent-language provisions of the rule.

Formal discipline should be reconsidered only if additional evidence demonstrates that Brewer knowingly disregarded established APD policy, intentionally minimized Williams's misconduct, failed to follow a mandatory investigative requirement, treated comparable cases materially differently without justification, or had previously been directed that comparable conduct constituted a Rule 200.01 violation.

Recommended APD Policy Language

To operationalize these recommendations, APD should consider adding language substantially similar to the following to Rule 200.01 or an associated procedure:

> Officers and employees shall treat members of the public with courtesy, dignity, and respect. Officers shall not ridicule, taunt, mock, demean, belittle, or direct unnecessary

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> disparaging personal remarks toward any person. This includes comments concerning a person's intelligence, mental capacity, physical appearance, hygiene, disability, socioeconomic condition, education, or other personal characteristics when such comments do not serve a legitimate law-enforcement purpose. Officers shall maintain professional composure notwithstanding verbal criticism, profanity, insults, ridicule, or other provocation directed toward them. Nothing in this provision prohibits reasonable commands, appropriate rapport-building, legitimate investigative communication, or professionally appropriate humor.

This approach incorporates the core principle already contained in APD Rule 200.01 while providing officers and supervisors with substantially clearer operational guidance. It also parallels Seattle's express prohibition against communication that belittles or ridicules members of the public.

Overall Recommendation

The Williams-Oden exchange should ultimately be treated as both an individual accountability issue and an organizational learning opportunity. Williams's statements concerning Oden's odor and apparent lack of a frontal lobe provide sufficient grounds to support a low-level Rule 200.01 violation. Brewer appropriately identified and addressed the conduct but appears to have applied too narrow a threshold in determining whether the comments constituted an actual rule violation.

The proportionate organizational response is therefore not severe discipline. It is to sustain the Rule 200.01 violation as to Williams, impose corrective low-level discipline and training, provide Brewer supervisory guidance rather than formal discipline, clarify Rule 200.01, and incorporate the incident into scenario-based officer and supervisory training.

Most importantly, APD should clarify the distinction between professional rapport and reciprocal ridicule. Officers need not become impersonal or robotic when interacting with detained persons. Appropriate humor, empathy, conversation, and rapport can contribute positively to police encounters. But the authority relationship changes the equation when an officer responds to an arrestee's provocation with personalized insults. The citizen's willingness to participate in the exchange does not remove the officer's independent professional obligations.

This recommendation is consistent with APD's existing requirement that officers remain courteous and calm despite provocation, APD's existing emphasis upon non-confrontational communication and de-escalation, and comparable professional-conduct standards used by other major police agencies.

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VII. Conclusion

The totality of the available evidence supports the Akron Police Department's determination that the reportable force used during the apprehension of DeShawn Oden was proportional and objectively reasonable under the circumstances confronting the officers.

The officers initiated the encounter for a lawful enforcement purpose. Oden subsequently fled from their attempt to stop him and actively resisted the efforts to take him into custody. Officer Gorham used a rear body-lock takedown to separate Oden from the bicycle and bring him to the ground, after which Gorham and Williams coordinated control of Oden's arms and placed him in handcuffs. The supervisory investigation found no additional reportable force after Oden was controlled. Sergeant Brewer ultimately determined that Gorham's force was proportional and objectively reasonable and that Gorham did not employ more force than was necessary to prevent Oden's escape and overcome his resistance.

I concur with that determination.

Nothing developed during this independent review provides sufficient evidence or legal basis to overturn APD's conclusion regarding the physical force used to apprehend Oden. The force was responsive to Oden's flight and resistance, was directed toward accomplishing a lawful arrest, and ceased once officers achieved control. The evidence does not establish gratuitous force or force employed for punishment.

That concurrence, however, does **not** extend to every aspect of the officers' conduct following the arrest.

I specifically **do not concur** with APD's determination concerning Officer Williams's verbal interaction with Oden after Oden was taken into custody. Sergeant Brewer recognized that the interaction warranted supervisory intervention and acknowledged that it could appear unprofessional but determined that it did not cross the threshold into a violation of Rule and Regulation 200.01.

The independent review reaches a different conclusion.

Williams's comments concerning Oden's odor and his reference to Oden's supposed lack of a frontal lobe were personalized, unnecessary, and demeaning. They served no apparent legitimate law-enforcement purpose at the point in the encounter when they were made. The fact that portions of the conversation involved mutual banter provides relevant context but does not eliminate Williams's professional responsibilities as an on-duty officer dealing with a person in police custody.

The distinction is important. **An objectively reasonable use of force does not insulate unrelated officer conduct from administrative scrutiny.** Constitutional reasonableness, compliance with APD's use-of-force procedure, professionalism, and compliance with APD's Rules and

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Regulations are separate inquiries. An officer's physical force may be entirely lawful and within policy while other conduct during the same encounter violates departmental standards.

Accordingly, this review finds the APD use-of-force determination to be supported by the evidence but finds the administrative disposition of Williams's verbal conduct insufficient. The matter concerning Williams should be returned to APD for reconsideration under Rule and Regulation 200.01 and for the imposition of appropriate corrective or disciplinary action consistent with APD's established disciplinary processes and comparable cases.

The review does not recommend formal discipline against Sergeant Brewer based upon the presently available evidence. Brewer identified the interaction, documented his concern, and counseled Williams. The concern is that the conduct was classified too narrowly as a public-perception issue rather than recognized as a potential substantive violation. Supervisory guidance and training concerning application of Rule 200.01 are therefore more appropriate than discipline on the existing record.

The broader organizational lesson is that professionalism must remain part of the continuum of police accountability after force ends. The transition from active resistance to custody should ordinarily be accompanied by a corresponding transition in officer communication. Once the immediate threat and resistance have ended, personalized ridicule, taunting, or unnecessary disparagement can undermine the legitimacy of an otherwise lawful police encounter.

The final determination of this independent review is: **CONCUR** with APD's use-of-force finding; **DO NOT CONCUR** with APD's disposition of Officer Williams's conduct under Rule and Regulation 200.01; and **REQUEST** that APD conduct further administrative review and take appropriate disciplinary action concerning Officer Williams consistent with the findings of this report.

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Anthony Finnell



Independent Police Auditor

Memorandum

To: Citizens' Police Oversight Board (CPOB)
From: Office of the Independent Police Auditor (OIPA)
Date: September 9, 2026
Re: Consolidated Policy, Training, Supervisory, and Organizational Recommendations Identified Through OIPA Case Reviews

I. Purpose

The Office of the Independent Police Auditor has reviewed the current compilation of policy, training, supervisory, tactical, documentation, and organizational recommendations arising from individual OIPA case reviews. Rather than considering these recommendations solely within the individual cases from which they originated, this memorandum organizes them into broader thematic areas for discussion and collaborative action by the Akron Police Department (APD), Citizens' Police Oversight Board (CPOB), and OIPA.

This approach is intended to identify recurring issues, consolidate substantially related recommendations, reduce duplication, and assist the parties in establishing priorities for future policy revision, training development, supervisory guidance, and organizational assessment.

Importantly, inclusion of a recommendation in this memorandum should not be interpreted as a determination that misconduct occurred in the underlying case. Many of the source reviews expressly concluded that the officers' conduct was constitutionally reasonable or consistent with existing APD policy while nevertheless identifying opportunities for organizational improvement. The recommendations therefore reflect the broader principle that constitutional policing requires continuous assessment and improvement beyond minimum legal compliance.

Because individual incidents frequently implicate several organizational issues, a case may appropriately appear in multiple thematic categories.

II. Constitutional Policing, Legal Authority, and Decision-Making

APD should strengthen its constitutional-policing framework by:

- Providing annual constitutional-policing refresher training addressing searches, seizures, investigative detentions, arrests, use of force, warrant exceptions, emergency aid, and significant developments in federal and Ohio law.

- Incorporating *Barnes v. Felix* into annual legal and use-of-force training, emphasizing evaluation of the totality of the circumstances rather than only the precise moment force is applied.
- Training officers and supervisors to examine the entire progression of an encounter, including dispatch information, approach, communication, positioning, de-escalation, tactical decisions, force, medical response, and documentation.
- Clarifying constitutional authority during residential-threshold encounters and distinguishing consensual contacts, investigative detentions, arrests, exigent entry, and emergency-aid situations.
- Requiring officers to clearly articulate the legal authority supporting detentions, arrests, involuntary medical intervention, emergency hospitalization, and other seizures.
- Expanding scenario-based constitutional decision-making training so officers must identify their legal authority while simultaneously addressing tactical and officer-safety considerations.

The recommendations repeatedly emphasize that sound constitutional policing requires officers not merely to reach a legally permissible result but to be able to articulate why governmental intervention was authorized and how evolving circumstances affected the decisions made during the encounter.

Associated Cases:
2026-00058356; 2026-00074334; 2026-00068907; 2026-00059416; 2026-00072954; 2026-00065535

III. De-escalation, Communication, and Procedural Justice

APD should:

- Require annual procedural-justice training emphasizing voice, neutrality, respectful treatment, and trustworthy motives.
- Require officers to document specific de-escalation techniques rather than relying on generalized statements that officers "gave commands" or "attempted voluntary compliance."
- Train officers to explain the reason for a detention or arrest, when tactically feasible, before physical intervention.
- Reinforce communication throughout physical-control encounters rather than treating communication as ending once force begins.
- Train officers to identify when tactical patience, time, distance, repositioning, or disengagement may reduce the need for force.
- Designate a primary communicator during behavioral-health and medical crises when circumstances permit.
- Incorporate communication and de-escalation into defensive-tactics and use-of-force scenarios rather than treating them as separate subjects.
- Strengthen communication during transitions from consensual encounters to detention or arrest.

- Incorporate procedural-justice principles into juvenile, crisis, crowd-management, firearm, and other specialized encounters.

The source recommendations particularly emphasize that communication should continue during physical control: officers can explain their actions, tell the individual what is required, acknowledge medical concerns, and explain when force will cease upon compliance.

Associated Cases:
2026-00050177; 2026-00046155; 2026-00074334; 2026-00034903; 2026-00068907; 2026-00072954; 2026-00065535; 2026-00069735

IV. Behavioral Health, Crisis Intervention, and Emergency Medical Response

APD should develop a more comprehensive framework for encounters involving behavioral-health crises and medical incapacity, including:

- Expanded scenario-based Crisis Intervention Team training.
- Additional co-response partnerships with behavioral-health professionals and mobile crisis teams.
- Annual legal training concerning Ohio emergency hospitalization law, including R.C. 5122.10.
- Clear differentiation among:
    - behavioral-health crisis;
    - emergency medical aid;
    - medical incapacity;
    - psychiatric emergency hospitalization;
    - EMS-requested protective restraint;
    - criminal arrest; and
    - welfare/community-caretaking activity.
- A dedicated policy governing medical emergencies involving impaired decision-making.
- Better coordination between officers, EMS personnel, medical control, and behavioral-health professionals.
- A coordinated restraint plan before non-emergency physical intervention involving medically compromised individuals.
- Use of a single primary communicator when feasible.
- Annual multidisciplinary review of behavioral-health use-of-force incidents involving Patrol, Training, CIT, behavioral-health professionals, professional standards, and OIPA.
- Enhanced supervisory review of behavioral-health force incidents for de-escalation, medical intervention, positioning, crisis communication, and organizational learning.

The source recommendations recognize that physiological conditions such as seizure activity, hypoglycemia, neurological events, or head trauma may impair comprehension and decision-

making without necessarily constituting a psychiatric condition. APD policy should therefore clearly distinguish the legal and operational bases for intervention.

Associated Cases:
2026-00072954; 2026-00065535; 2026-00079135

V. Juvenile and School-Based Policing

APD should develop specialized policy and training addressing the distinct characteristics of youth and school environments, including:

- A dedicated school-based critical-incident response policy.
- Annual juvenile de-escalation training incorporating adolescent development and trauma-informed policing.
- Scenario-based training for multiple-combatant school incidents.
- Solo-officer response to rapidly developing school violence.
- School crowd-management procedures.
- Coordination protocols between SROs, patrol officers, administrators, school safety personnel, EMS, and other responders.
- Specialized guidance concerning chemical-agent use in schools.
- School-specific evacuation, lockdown, and re-entry procedures.
- Standardized decontamination procedures following chemical-agent deployment.
- Annual APD-school emergency exercises.
- After-action reviews following significant school incidents.
- Youth-specific considerations during foot pursuits.
- Procedural-justice communication tailored to juveniles.

The recommendations recognize that school incidents may involve large numbers of uninvolved students, adolescent group dynamics, limited staffing, enclosed environments, and substantial secondary-exposure concerns that are not fully addressed through general patrol policies.

Associated Cases:
2026-00058356; 2026-00046155

VI. Foot Pursuits, Tactical Repositioning, and Environmental Risk

APD should:

- Adopt or strengthen a comprehensive foot-pursuit policy requiring continual risk assessment.

- Require consideration of offense seriousness, weapons, containment alternatives, environmental hazards, fatigue, backup availability, uninvolved persons, and opportunities for de-escalation.
- Provide annual scenario-based foot-pursuit decision-making training.
- Incorporate special considerations when pursuing juveniles.
- Train officers to reassess whether immediate apprehension remains necessary as circumstances evolve.
- Reinforce tactical repositioning before physical arrests in hazardous environments.
- Expand scenario training involving bridges, rooftops, stairways, fences, embankments, traffic, hard surfaces, water, and other fall hazards.

Associated Cases:
2026-00046155; 2026-00058675; 2026-00059416; 2026-00034903; 2026-00073954; 2026-00083766

VII. Conducted Energy Weapons (CEW/TASER)

APD should consider a comprehensive CEW policy and training review addressing:

- A heightened threshold for CEW deployment against persons who are merely fleeing.
- Explicit secondary-injury and fall-risk assessments.
- Elevated positions, fences, stairways, traffic, water, hard surfaces, and irregular terrain.
- Warnings before deployment when practical.
- Documentation when warnings cannot reasonably be provided.
- Confined-space deployments in residences, hallways, stairwells, and doorways.
- Accurate probe placement and cross-coverage.
- Contingency planning following ineffective CEW deployment.
- Independent justification for each additional CEW cycle or deployment.
- Technique-specific supervisory review of CEW use.

The recommendations particularly identify the tension between the risks of continuing a foot pursuit and the separate fall risk created when neuromuscular incapacitation occurs while a person is running, climbing, or otherwise moving through a hazardous environment.

Associated Cases:
2026-00074334; 2026-00073954; 2026-00083766

VIII. Chemical Agents, OC Spray, and Crowd Management

APD should:

- Establish specific policy governing OC use for crowd management and crowd dispersal.
- Distinguish:
    - individualized OC deployment;

    - emergency deployment against multiple actively assaultive persons; and
    - deliberate crowd-dispersal use.
- Establish authorization requirements for crowd-directed chemical-agent use.
- Require warnings and a reasonable opportunity to comply when circumstances permit.
- Establish enhanced precautions when juveniles or uninvolved persons are present.
- Strengthen indoor-deployment guidance.
- Require consideration of ventilation, occupancy, proximity of uninvolved persons, escape routes, and alternative tactics.
- Standardize decontamination, medical monitoring, and secondary-exposure documentation.
- Include OC deployment in annual less-lethal decision-making training.

The source material identifies the need for clearer policy because a general OC procedure written primarily for use against an identifiable aggressive person may not adequately govern deployment intended to influence or disperse a group.

Associated Cases:
2026-00058356; 2026-00079674

IX. Restraint Safety, Prone Positioning, WRAP, and Medical Monitoring

APD should establish comprehensive restraint-safety standards addressing:

- Prone restraint as a temporary control position rather than a holding or transportation position.
- Prompt transition to a seated, side-recovery, or other medically appropriate position once control is achieved.
- Documentation of the beginning and duration of prone restraint.
- Restrictions on pressure to the head, neck, chest, torso, spine, and upper back.
- A designated Restraint Safety Officer during multi-officer restraints of medically compromised or crisis-affected persons.
- Continuous monitoring of breathing, responsiveness, consciousness, circulation, body position, and medical complaints.
- A comprehensive written WRAP/full-body-restraint policy.
- Independent justification for applying a WRAP after handcuffing.
- Continuous medical monitoring during full-body restraint.
- Documentation of the transition from force to care.
- EMS notification of deterioration or material changes in condition.
- Technique-by-technique documentation of all officers participating in restraint.

These recommendations emphasize that in multi-officer restraints, each officer may perceive his or her individual force as moderate while the combined force and cumulative body weight create substantially greater medical risk.

Associated Cases:
2026-00072954; 2026-00065535

X. Residential Encounters, Threshold Arrests, and Team Tactics

APD should:

- Develop scenario-based training for arrests and investigative detentions at residential thresholds.
- Clarify constitutional authority governing doorway detentions and warrantless actions involving residences.
- Develop a residential-response tactical checklist.
- Reinforce containment, cover, crossfire avoidance, communication, threshold management, and tactical repositioning.
- Expand coordinated arrest training with designated contact, cover, control, and handcuffing responsibilities.
- Require contingency planning before multi-officer physical intervention when circumstances permit.

Associated Cases:
2026-00074334; 2026-00068907

XI. Use-of-Force Reporting, Documentation, and Officer Articulation

APD should substantially strengthen reporting requirements by requiring officers to document:

- Specific subject behaviors rather than generalized conclusions such as “resisted.”
- The progression between passive, defensive, active, assaultive, and flight-related resistance.
- The evolving threat assessment.
- De-escalation efforts attempted.
- Why additional de-escalation was not feasible.
- Why particular tactics were selected.
- Alternatives considered.
- Why lesser-force alternatives were ineffective, unsafe, or impractical.
- Each distinct application of force.
- The beginning and ending of each restraint technique.
- Post-force medical observations.
- Why force was continued or discontinued.

Detailed articulation is repeatedly identified as important not merely for litigation purposes but for meaningful supervisory review, constitutional analysis, training development, and organizational learning.

Associated Cases:
2026-00074334; 2026-00068907; 2026-00072954; 2026-00059416; 2026-00079135; 2026-00065535

XII. Supervisory Force Review and Organizational Learning

A particularly significant recurring theme is the need to move beyond a binary "within policy/not within policy" model.

APD should require supervisors to separately evaluate:

- Constitutional reasonableness;
- Written-policy compliance;
- Training compliance;
- Tactical soundness;
- De-escalation;
- Each separate application of force;
- Medical response;
- Reporting and evidence collection;
- Officer coordination;
- Supervisory performance;
- Equipment performance;
- Policy or training deficiencies; and
- Corrective action or organizational learning.

Supervisors should also reconcile material discrepancies among officer reports, BWC, CAD, witness accounts, medical information, and other evidence before approving an investigation.

This approach recognizes an important distinction for the APD-CPOB-OIPA process: a lawful use of force can still reveal a tactical, training, supervisory, documentation, equipment, or policy issue worthy of corrective action without transforming the underlying force into misconduct.

Associated Cases:
2026-00058356; 2026-00074334; 2026-00059416; 2026-00072954; 2026-00079135; 2026-00065535; 2026-00079674

XIII. Body-Worn Cameras and Independent Video Evidence

APD should:

- Reinforce BWC activation while responding to rapidly evolving incidents when safely feasible.
- Require documentation explaining delayed activation.
- Require reserve officers exercising police authority during authorized secondary employment to wear and activate APD-approved BWCs.
- Establish documented follow-up requirements whenever investigators identify potentially relevant third-party video.
- Require investigators to document preservation efforts, follow-up contacts, retrieval outcomes, and reasons for closing an investigation without identified video.
- Incorporate BWC compliance into supervisory and organizational audits.

Associated Cases:
2026-00058356; 2026-00079135; 2026-00083766

XIV. Reserve Officers and Secondary Employment

APD should establish consistent accountability standards for officers exercising police authority during secondary employment, including:

- Mandatory BWC requirements.
- Risk classification of secondary-employment locations.
- Radio and dispatch requirements.
- Immediate supervisor availability.
- Backup procedures.
- Emergency contact requirements.
- Restrictions or additional safeguards for solo staffing at higher-risk locations.
- Centralized collection of calls, arrests, force, complaints, and injuries associated with secondary employment.
- Inclusion of reserve and secondary-employment activity in APD's broader use-of-force data analysis.

The recommendations emphasize that secondary employment can generate the same constitutional, tactical, medical, and accountability responsibilities as regular patrol and therefore should not operate under materially weaker oversight standards.

Associated Case:
2026-00079135

XV. Bias-Free Policing, Impartiality, and Cognitive Decision-Making

APD should:

- Expand procedural-justice and bias-free policing training.
- Train officers regarding confirmation bias, evidence anchoring, tunnel vision, and investigative neutrality.
- Establish an identity-neutral conflict-mediation and rapport-building standard.
- Train officers to distinguish legitimate rapport-building from communication that may create an appearance of favoritism or partiality.
- Distinguish explicit bias, implicit bias, disparate treatment, discriminatory enforcement, identity-based rapport, favoritism, and appearance of partiality.
- Use anonymized BWC-based scenarios in bias and procedural-justice training.
- Conduct recurring audits of complaints involving bias, favoritism, discourtesy, refusal to report, and unclear enforcement explanations.

Associated Cases:
2026-00050177; 2026-00069735

XVI. Professional Conduct, Public Communication, and Social Media

APD should:

- Clarify Rule 200.01 and establish more explicit professional-communication standards for interactions with detained and arrested persons.
- Define unacceptable verbal conduct with sufficient specificity to support consistent supervisory and disciplinary decisions.
- Revise social-media policy to expressly address content appearing to endorse, celebrate, threaten, or trivialize unconstitutional or unauthorized police conduct.
- Incorporate constitutional policing, professionalism, public trust, and the appearance of legitimacy into social-media training.

Associated Cases:
2026-00085273; 26TR-0406

XVII. Complaint Classification, Accountability, and Oversight

APD and CPOB should consider whether complaint dispositions adequately distinguish among:

- **Unfounded** — the alleged act did not occur or the employee was not responsible;
- **Exonerated** — the conduct occurred but was lawful and consistent with policy;
- **Sustained** — the conduct occurred and violated policy;
- **Not Sustained** — insufficient evidence exists to prove or disprove the allegation;
- **Policy Failure** — conduct complied with existing policy, but the policy itself was inadequate or unclear; and
- **Training/Supervisory Referral** — misconduct is not established, but a correctable performance, communication, training, or supervisory issue exists.

The source recommendations further support periodic auditing of allegation classification, disposition accuracy, corrective referrals, closure-letter quality, and recurring complaint patterns.

Associated Case:
2026-00069735

XVIII. Data Analysis, Auditing, and Continuous Improvement

APD, CPOB, and OIPA should develop a structured organizational-learning process using aggregate data to identify recurring policy and training issues.

Relevant data may include:

- Officer assignment and status;
- Type of force;
- Subject behavior;
- Behavioral-health indicators;
- De-escalation;
- Injury;
- Medical response;
- BWC availability;
- Secondary employment;
- Supervisory findings;
- Complaint allegations;
- Training referrals;
- Demographic information where legally and operationally appropriate;
- Locations and recurring environments; and

- Corrective actions.

Periodic analysis should be used to identify patterns rather than simply count incidents. The recommendations specifically contemplate command-level review, civilian oversight participation, and periodic public reporting using aggregate, privacy-protected information.

Associated Cases:
2026-00079135; 2026-00072954; 2026-00069735

XIX. Proposed Framework for APD-CPOB-OIPA Collaboration

For purposes of the upcoming CPOB discussion, OIPA recommends that these categories be treated as a working policy-and-training agenda rather than a collection of isolated case recommendations.

The recommendations reveal several areas in which multiple case reviews are independently reaching substantially similar conclusions. That recurrence provides a useful basis for prioritization.

A practical collaborative process would place each recommendation into one of four implementation tracks:

Track	Purpose
Policy Revision	Recommendations requiring modification, clarification, consolidation, or creation of APD written directives.
Training Development	Recommendations best addressed through academy, annual in-service, roll-call, supervisor, scenario-based, or specialized training.
Supervisory/Administrative Reform	Recommendations concerning force review, BlueTeam, after-action review, complaint classification, documentation, evidence review, and supervisory accountability.
Organizational Monitoring	Recommendations requiring data analysis, audits, recurring reviews, CPOB/OIPA reporting, or assessment of whether reforms are producing intended results.

The next phase should identify which recommendations APD accepts, which require further study, which are already substantially addressed by existing policy or training, which require modification, and which should be prioritized for implementation.

This structure would also permit APD, CPOB, and OIPA to maintain a shared implementation matrix identifying the recommendation, originating case number(s), responsible APD unit,

proposed action, implementation status, target completion date, and method for evaluating effectiveness.

XX. Conclusion

Viewed collectively, the recommendations demonstrate that OIPA's case-review process is generating information that extends beyond the disposition of individual incidents. Recurring issues involving de-escalation, constitutional articulation, behavioral-health response, restraint safety, CEW use, foot pursuits, school policing, supervisory force review, documentation, BWC, procedural justice, and organizational learning provide an empirical foundation for broader policy and training discussions.

The objective of this consolidated framework is therefore not to repeatedly revisit the underlying cases. It is to convert lessons identified through individual oversight reviews into prospective institutional improvements.

OIPA recommends that APD, CPOB, and OIPA use these thematic categories as the foundation for an ongoing collaborative policy and training review process, with particular attention to recommendations appearing across multiple cases. Those recurring recommendations provide the strongest indication of areas where focused policy clarification, training development, supervisory guidance, or organizational assessment may produce the greatest benefit to officers, the Department, the oversight system, and the Akron community.

Respectfully submitted,



Anthony W. Finnell
Independent Police Auditor

Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**Gino Harris**
CASE NUMBER:	**2026-00034903**
DATE OF INCIDENT:	**03/27/2026**
DATE OF OIPA REPORT:	**07/13/2026**
LOCATION OF INCIDENT:	**323 S. Main Street, Akron, Ohio 44308**
APD DISTRICT:	**1**

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I. Incident Overview

Officer Moore responded to a welfare check after dispatch received information that Harris had entered Armada Recovery exhibiting unusual behavior while requesting financial assistance. Before making contact, Moore conducted a records inquiry and discovered Harris had an active probation violation warrant confirmed through LEADS.

After speaking with employees, Moore located Harris walking along the Cedar Street Bridge. The officer first engaged Harris in conversation, asking about his well-being and offering medical assistance. Harris declined treatment and advised he intended to return home.

When Harris extended his hand toward Officer Moore for a fist bump, Moore immediately transitioned from the welfare encounter to a custodial arrest by grabbing Harris's wrist and ordering him to place his hands behind his back.

Harris physically resisted by tensing his arms and pulling away.

As both individuals moved toward the bridge railing during the struggle, Officer Moore recognized the danger presented by the elevated location and executed a rear body-lock takedown to quickly move both parties away from the railing and onto the ground.

Once grounded, Officer Moore maintained control, continued giving verbal commands, and secured Harris in handcuffs after Harris complied.

EMS evaluated Harris at the scene, and Harris was transported without further force or resistance.

II. Use-of-Force Description

Officer Moore's use of force began only after he initiated the warrant arrest by physically grasping Harris's right wrist. According to the officer, Harris immediately tensed his arms and pulled away from the officer's grasp, preventing the officer from completing the arrest. As Harris attempted to separate from Officer Moore, the two men moved backward toward the railing of the Cedar Street Bridge. Recognizing the substantial risk posed by their proximity to the elevated bridge edge, Officer Moore wrapped his arms around Harris's hips and performed what he described as a rear

body-lock takedown, intentionally bringing both individuals safely to the ground before either could fall over the railing. Once on the ground, Officer Moore maintained top control while securing Harris's right arm. Harris then verbally indicated that he was "done" resisting and complied with commands to place both hands behind his back, allowing Officer Moore to apply handcuffs without additional force. EMS was summoned to evaluate Harris, who was medically cleared before transport to the Summit County Jail. No strikes, punches, kicks, conducted electrical weapons, chemical agents, impact weapons, carotid restraints, or deadly force were used during the incident.

III. Constitutional Policing Analysis

Constitutional policing requires officers to exercise lawful authority in a manner that protects constitutional rights while simultaneously safeguarding officer and public safety. The Fourth Amendment establishes the constitutional framework governing seizures and uses of force. Under *Graham v. Connor*, courts evaluate force from the perspective of a reasonable officer on the scene, considering the totality of the circumstances rather than employing hindsight. The Supreme Court identified three primary considerations: (1) the severity of the crime, (2) whether the individual posed an immediate threat to officers or others, and (3) whether the individual actively resisted arrest or attempted to flee. *Graham v. Connor*, 490 U.S. 386 (1989).

Officer Moore's initial interaction with Gino Harris was consistent with constitutional policing principles. He responded to a welfare check, contacted the reporting party, gathered additional information, and attempted to determine Harris's welfare by asking whether he needed medical treatment or transportation to a hospital. At that stage, the encounter was consensual, and Harris retained the constitutional right to decline assistance and continue walking. Nothing in the officer's conduct during the welfare check appears inconsistent with the Fourth Amendment.

The encounter changed when Officer Moore confirmed through LEADS that Harris had an active probation violation warrant within the extradition radius. That warrant provided independent legal authority to arrest Harris. Consequently, the seizure was supported by probable cause without regard to Harris's earlier behavior during the welfare check.

From a constitutional policing perspective, however, the analysis does not end with the existence of legal authority. Constitutional policing asks whether officers exercise lawful authority in a manner that minimizes unnecessary force, promotes public confidence, and reasonably balances officer safety with individual rights.

Officer Moore elected to initiate the arrest by seizing Harris's wrist immediately after Harris extended his hand for what appeared to be a friendly fist bump. Although legally permissible, this tactic offered Harris little opportunity to voluntarily comply with verbal commands before physical contact occurred. Current constitutional policing philosophy generally encourages officers, whenever tactically feasible, to clearly communicate the existence of an arrest warrant before initiating physical control. While officers are not constitutionally required to provide advance

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notice before making a lawful custodial arrest, transparency often reduces confusion, increases voluntary compliance, and lowers the likelihood of resistance.

The subsequent struggle rapidly evolved into a safety emergency due to the location of the encounter. As Harris resisted and both individuals moved toward the railing of the Cedar Street Bridge, Officer Moore reasonably recognized the substantial danger that either person could fall from the bridge. Under those circumstances, quickly moving Harris away from the railing by means of a rear body-lock takedown represented an objectively reasonable tactical response to an evolving environmental hazard.

The force remained proportionate throughout the encounter. Officer Moore did not strike Harris, use intermediate weapons, deploy a conducted electrical weapon, use chemical spray, or continue applying force after Harris verbally indicated he was finished resisting. Once Harris complied with verbal commands, the officer immediately transitioned to handcuffing without additional force. EMS was summoned to evaluate Harris before transport, further demonstrating adherence to constitutional principles requiring care following force.

Recent Supreme Court jurisprudence further informs this analysis. In *Barnes v. Felix* (2025)[1], the Court rejected the narrow "moment-of-threat" approach and held that courts must evaluate the officer's entire course of conduct leading to the use of force. Rather than focusing solely on the instant force occurred, courts now assess tactical decisions, communication, positioning, and opportunities for de-escalation throughout the encounter. Similarly, *Case v. Montana* (2026)[2] reaffirmed that officers responding to emergency situations must continually evaluate whether their decisions remain objectively reasonable under the totality of the circumstances. These decisions emphasize that tactical judgment before force is used has become an integral component of constitutional analysis.

Viewed through this broader constitutional framework, Officer Moore's ultimate use of force appears objectively reasonable. Nevertheless, the incident demonstrates opportunities to improve arrest communication, tactical planning, and environmental positioning before physical contact is initiated.

IV. Analysis Under Akron Police Department Policy

The available evidence indicates substantial compliance with APD's Resisting Arrest/Use of Force Procedure.

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[1] *Barnes v. Felix, 605 U.S. 73 (2025), accessed July 13, 2026,* https://www.supremecourt.gov/opinions/24pdf/605us1r30_h315.pdf.
[2] *Case v. Montana*, 607 U.S. ___ (2026), slip op. at 1 (Jan. 14, 2026), https://www.supremecourt.gov/opinions/25pdf/24-624_b07d.pdf, accessed July 13, 2026.

Officer Moore appropriately documented the force used through the required BlueTeam Use of Force Report and completed an incident report detailing the circumstances leading to the arrest. The incident was properly classified as a reportable use of force because force was used during an arrest and Harris was charged with resisting arrest.

Consistent with departmental policy, a supervisor responded to the scene, interviewed Harris, reviewed Officer Moore's account, examined body-worn camera footage, photographed Harris's alleged injury, documented EMS involvement, and completed the required supervisory investigation. The investigative package contained the required documentation identified in Procedure P13-2021, including CAD information, photographs, officer reports, and supervisory findings.

Officer Moore also complied with APD policy requiring medical evaluation following reportable force. EMS responded to the scene, evaluated Harris, and medically cleared him before transport to the Summit County Jail. This action is consistent with both departmental policy and nationally recognized best practices emphasizing prompt medical assessment after force events.

The supervisory investigation concluded that the takedown was motivated by legitimate officer safety concerns arising from the encounter's proximity to the bridge railing. The investigation found no evidence suggesting retaliatory force or force exceeding that reasonably necessary to overcome Harris's active resistance.

Although the use of force itself was determined to be within policy, command review identified a separate procedural deficiency involving prisoner transportation. Deputy Chief Leeser concluded Officer Moore failed to properly secure Harris during transport, constituting a violation of APD Prisoner Transportation and Prisoner Control Procedure P-2023-010 and Rule 700.05(c). A documented counseling session was ordered emphasizing proper prisoner restraint and seatbelt usage. Importantly, this violation occurred after the use-of-force event and does not alter the constitutional analysis of the arrest itself.

Overall, the evidence supports the conclusion that Officer Moore substantially complied with APD's use-of-force reporting, supervisory review, medical care, and documentation requirements.

V. Legal Analysis

Legally, the encounter consists of two distinct phases requiring separate constitutional analysis.

The first phase involved a consensual welfare check. Officers responding to reports of individuals exhibiting unusual behavior may approach, ask questions, and offer assistance without implicating the Fourth Amendment, provided a reasonable person would feel free to terminate the encounter. Officer Moore's initial conversation with Harris remained within these constitutional limits.

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The second phase began when Officer Moore confirmed Harris's active probation violation warrant. Under both Ohio law and the Fourth Amendment, a valid arrest warrant provides probable cause to arrest the named individual. Accordingly, Officer Moore possessed independent legal authority to arrest Harris regardless of whether Harris had committed any offense during the welfare check.

Once Officer Moore initiated the arrest, Harris physically resisted by pulling away and refusing commands to place his hands behind his back. APD policy and *Graham v. Connor* recognize active resistance as a circumstance permitting officers to use objectively reasonable force necessary to overcome that resistance.

The takedown itself occurred under rapidly evolving circumstances near the edge of an elevated bridge. Courts consistently recognize that environmental hazards, including stairways, roadways, and elevated locations, may reasonably influence an officer's tactical decisions. Here, Officer Moore articulated a specific concern that either he or Harris could fall over the bridge railing if the struggle continued. That articulation substantially strengthens the objective reasonableness of the decision to rapidly move Harris to the ground.

Applying the broader constitutional framework announced in *Barnes v. Felix*, courts would likely examine not only the takedown itself but also Officer Moore's decision to initiate physical contact at that particular location and manner. While the officer's decision appears legally defensible, agencies should recognize that tactical choices made before force is applied now receive substantially greater constitutional scrutiny than under earlier case law.

No evidence suggests excessive force, punitive force, or force applied after resistance ceased. Likewise, no evidence indicates a violation of Harris's Fourth Amendment rights once the arrest commenced. The available evidence therefore supports the conclusion that the force was constitutionally reasonable.

VI. Findings

Based upon the available investigative materials, body-worn camera review documented by the supervisor, CAD records, officer reports, departmental policy, and applicable constitutional standards, the following findings are supported:

Officer Moore possessed lawful authority to arrest Harris based upon a confirmed active probation violation warrant.

The initial welfare check was conducted within constitutional parameters and did not unlawfully detain Harris before the arrest.

The force used remained proportionate to Harris's active physical resistance.

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The environmental danger posed by the Cedar Street Bridge significantly influenced the officer's tactical decisions and supports the reasonableness of the takedown.

Officer Moore appropriately discontinued force immediately after Harris complied.

Medical care was appropriately requested and provided.

The supervisory investigation complied with APD policy requirements.

No evidence supports the finding of excessive force under the Fourth Amendment.

A separate procedural violation concerning prisoner transportation was appropriately addressed through counseling and does not alter the constitutional assessment of the force used.

VII. Policy and Training Recommendations

Recommendation 1: Enhance training on arrest communication and transition from consensual encounters to custodial arrests.[3]

- **Rationale:** Clearly informing individuals they are under arrest before initiating physical control, when tactically feasible, can reduce confusion, lower resistance, and improve perceptions of procedural justice.
- **Real-world example:** The Seattle Police Department's use-of-force and de-escalation curriculum emphasizes clear verbal communication before physical intervention whenever circumstances permit.

Recommendation 2: Expand scenario-based training involving environmental hazards.[4]

- **Rationale:** Encounters occurring on bridges, stairwells, rooftops, embankments, and near traffic require modified tactics emphasizing repositioning and hazard recognition.
- **Real-world example:** Las Vegas Metropolitan Police Department incorporates environmental-risk scenarios into annual defensive tactics and reality-based training following recommendations from the Collaborative Reform Initiative.

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[3] Police Executive Research Forum. *Guiding Principles on Use of Force*. Washington, DC: PERF, 2016.
[4] U.S. Department of Justice, Office of Community Oriented Policing Services. *Collaborative Reform Initiative: Las Vegas Metropolitan Police Department*. Washington, DC, 2012.

Recommendation 3: Reinforce tactical repositioning before initiating arrests in hazardous environments.[5]

- **Rationale:** When feasible, officers should move encounters away from elevated hazards before initiating physical control, reducing the likelihood of injury to officers and subjects.
- **Real-world example:** The Police Executive Research Forum's ICAT model teaches officers to use distance, positioning, and tactical patience to improve safety.

VIII. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

The review identifies no evidence that Officer Moore employed excessive, retaliatory, or disproportionate force. Likewise, the supervisory investigation appropriately documented the incident, ensured medical evaluation, and complied with APD's reporting requirements. The subsequent command-level counseling concerning prisoner transportation addressed a separate procedural issue unrelated to the constitutional reasonableness of the force.

From a broader constitutional policing perspective, however, the incident reinforces an evolving principle in modern policing: lawful authority alone is not the sole measure of constitutional performance. Courts, oversight agencies, and the public increasingly expect officers to demonstrate sound judgment throughout the entirety of an encounter. Consistent with *Barnes v. Felix*, tactical communication, positioning, environmental awareness, and thoughtful decision-making before force is applied have become integral components of constitutional reasonableness. Agencies that continue to strengthen these competencies through policy, supervision, and realistic scenario-based training will be better positioned to protect officers, safeguard constitutional rights, reduce unnecessary force, and maintain public trust.

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Anthony Finnell



Independent Police Auditor

[5] Police Executive Research Forum. *Integrating Communications, Assessment, and Tactics (ICAT).* Washington, DC: PERF, 2017.

Independent Police Auditor
Use of Force Review

SUBJECT NAME: [redacted]
CASE NUMBER: 2026-00046155
DATE OF INCIDENT: 04/21/2026
DATE OF REPORT: 06/20/2026
LOCATION OF INCIDENT: 1806 Shaw Ave.
APD DISTRCT: Ward 6

I. Incident Overview

On April 21, 2026, members of the Gun Violence Reduction Team (GVRT) received intelligence that 14-year-old [redacted] had previously participated in the theft of a firearm and intended to retrieve the stolen weapon after school. Surveillance officers observed [redacted] leave school, walk behind a garage at 1815 Shaw Avenue, and then leave the location. Detectives believed these actions corroborated the intelligence they had received. When detectives attempted to make contact, [redacted] fled on foot despite repeated commands to stop. Detective Shaffer pursued and tackled [redacted] in the yard of a nearby residence. Officers secured [redacted] recovered a stolen handgun from his waistband, requested EMS evaluation, and transported him to juvenile detention after medical clearance. [redacted] alleged that he was choked and struck in the groin during the arrest, although the supervisor concluded that body-worn camera footage did not substantiate those allegations.

II. Constitutional Policing Framework & APD Policy

Constitutional policing requires officers to ensure that every detention and every use of force complies with the protections set forth in the Fourth Amendment. Under the standard established in *Graham v. Connor*, an officer's use of force must be objectively reasonable when viewed in light of the totality of the circumstances known at the time. In evaluating reasonableness, courts generally consider three primary factors: the severity of the suspected crime, whether the individual posed an immediate threat to officers or others, and whether the individual actively resisted or attempted to flee.[1]

In this case, detectives had credible information indicating that [redacted] had stolen and recently retrieved a firearm. Because firearm-related offenses are serious felonies that significantly heighten public safety concerns, officers had a strong governmental interest in detaining [redacted] Once they reasonably believed he possessed a stolen handgun, the justification for an investigative detention and, if needed, the use of force to prevent escape was substantially reinforced.

[1] *Graham v. Connor*, 490 U.S. 386, 396–97 (1989)

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The assessment of threat was also elevated. Although [redacted] never displayed the firearm, officers reasonably believed he carried it concealed on his person. Several circumstances intensified their perception of danger: intelligence confirming that he had retrieved the handgun, his immediate flight upon police contact, the inability to determine whether he might access the weapon while running, and the inherent risks associated with a foot pursuit involving an armed suspect. While [redacted] was only fourteen years old, age alone does not negate a reasonable belief that a juvenile armed with a firearm may pose a serious threat. Under these conditions, the need for decisive intervention was compelling to prevent [redacted] from accessing the weapon.

[redacted] actions during the encounter further influenced the officers' response. He disregarded repeated commands to stop and continued to flee, demonstrating active resistance. The Supreme Court has repeatedly affirmed that officers are not required to allow a fleeing suspect to escape when they have lawful grounds for detention.[2] The decision to physically tackle [redacted] was a direct response to his continued flight rather than to passive or minimal resistance.

Overall, all three *Graham* factors severity of the suspected crime, the perceived immediate threat, and [redacted] active flight strongly support the conclusion that officers acted within the bounds of a lawful investigative detention and that the use of force employed to stop him was objectively reasonable under the circumstances.

Akron Police Department Policy

The investigation shows that Detective Shaffer generally acted within the requirements of APD's Use of Force policy. He used force only after voluntary compliance failed, and the level of force he employed was proportional to [redacted] active resistance and continued flight. Once [redacted] was restrained, Detective Shaffer discontinued the use of force, sought prompt medical evaluation for him, and ensured that the incident was appropriately documented through supervisory review.

The assessment also identified several areas for improvement. These include enhancing the reliability of body-worn camera activation, strengthening post-arrest communication practices, and providing more detailed documentation related to considerations specific to juvenile subjects.

III. Analysis

The force applied in this incident consisted of a foot pursuit, a physical tackle, body-weight stabilization, and handcuffing. Officers did not use any strikes, batons, Tasers, chemical spray, or firearms. From a constitutional standpoint, a tackle is considered an intermediate physical control tactic and may be justified when lesser means are unlikely to succeed, when a suspect is actively fleeing, and when officers reasonably believe the suspect may be armed. In this situation, once

[2] supreme.justia.com

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[redacted] continued running, officers had few practical alternatives. Allowing an armed juvenile to flee into a residential neighborhood would have posed a substantially greater risk to both officers and the public than a controlled takedown. Based on these circumstances, the physical force used appears objectively reasonable under the Fourth Amendment.

Analysis of Alleged Excessive Force

[redacted] alleged that officers grabbed his neck, choked him, and struck him in the groin. The supervisory investigation, however, found no evidence to substantiate these claims.[3] Multiple body-worn camera recordings did not support the allegations, and the footage showed that Detective Shaffer immediately attempted to control [redacted] hands rather than apply pressure to his neck. [redacted] was able to speak continuously during the encounter, no strike to the groin was observed, and EMS personnel documented no visible injuries.

Even though the allegations were unsubstantiated, constitutional policing requires that all claims of excessive force undergo thorough review. In this case, the supervisor appropriately evaluated officer reports, witness accounts, [redacted] statements, and camera footage. This approach reflects procedural fairness and ensures transparency in the investigative process.

Juvenile Considerations

One notable gap in the supervisory review was the limited attention given to [redacted] age. National best practices emphasize that juveniles often make impulsive decisions, perceive police encounters differently than adults, experience heightened fear responses, and demonstrate reduced judgment under stress.[4] [redacted] stated that he fled because he feared being shot. While this does not excuse unlawful behavior, trauma-informed policing encourages officers to recognize such developmental factors when interpreting juvenile behavior and planning tactical responses.[5] Enhanced training in adolescent development could improve future encounters involving young individuals.

Body-Worn Camera Compliance

The investigation also found that Detective Shaffer's body-worn camera was not activated. The rapid sequence of events, combined with the detective's focus on an armed suspect, contributed to the oversight, and the camera became dislodged during the struggle. The supervisor deemed these explanations reasonable. Nonetheless, from a constitutional policing perspective, the incident highlights the continued importance of secure camera mounting, pre-shift equipment

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[3] Akron Police Department Use of Force Investigation May 20, 2026, Sgt. Patrick Dugan,Supervisory Report.
[4] cops.usdoj.gov
[5] ocjs.ohio.gov

checks, and, where possible, automatic activation technology. Reliable video documentation benefits both officers and community members by providing an objective record.

Professionalism

Following the arrest, Detective Shaffer directed profanity toward [redacted] Although the supervisor concluded that the language was intended to underscore the seriousness of [redacted] actions rather than demean him personally, such remarks can undermine procedural justice and public confidence. The supervisor appropriately counseled the detective on maintaining professionalism. National best practices encourage officers to exercise emotional self-control, avoid unnecessary profanity, and communicate respectfully once a suspect is secured. Professional communication can reduce complaints, strengthen community trust, and enhance overall legitimacy.[6]

IV. Findings

Under the standards set forth in *Graham v. Connor* (1989), the force used in this incident appears constitutionally reasonable. Officers had reasonable suspicion and likely probable cause to detain [redacted] based on intelligence that had been corroborated through surveillance. When [redacted] fled, his actions further strengthened the basis for detention, as flight can elevate reasonable suspicion and justify a lawful stop. The subsequent recovery of the stolen firearm provides additional support for the legality of both the detention and the arrest.

Taken together, the available evidence supports the supervisor's conclusion that the force used was objectively reasonable under the Fourth Amendment.

V. Policy and Training Recommendations

1. Juvenile De-escalation Training-

Training and policy improvements should emphasize the unique needs and behaviors of juvenile subjects. Annual juvenile de-escalation training would help officers better understand adolescent brain development, including youths' tendencies toward impulsive decision-making, heightened emotional responses, and reduced capacity for judgment factors shown to contribute to conflict during police encounters.[7] Trauma-informed policing principles further recommend that officers recognize these developmental realities when engaging with young people, particularly those who may be reacting out of fear or prior trauma.[8]

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[6] cops.usdoj.gov
[7] cops.usdoj.gov
[8] cops.usdoj.gov

2. Foot Pursuit Policy Enhancements-

Enhancing the foot pursuit policy would also strengthen safety and accountability. Officers should be required to continually assess the risks of pursuing juveniles on foot, weighing the need for apprehension against the potential for injury to the youth, the officers, or community members. National best-practice guidance stresses that youth often react differently during stressful encounters, making ongoing risk assessment essential.[9]

3. Procedural Justice Training-

Strengthening procedural justice training would help ensure that communication remains respectful and professional before, during, and after force incidents, even in situations involving active resistance. Research indicates that clear, respectful communication improves outcomes in police-youth interactions and supports youths' long-term perceptions of fairness and legitimacy in the justice system.[10]

V. Conclusion

Based on available reports, body-worn camera review, and constitutional/legal standards, use of force was **Objectively Reasonable and Within Policy.** OIPA concurs with the finding.

Keysha Myers

Keysha Myers

Deputy Independent Police Auditor

Reviewed and approved by

Anthony Finnell

Independent Police Auditor

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[9] www.supremecourt.gov
[10] legalclarity.org

Independent Police Auditor
Citizen Complaint Review

SUBJECT NAME:	**Shacora Gray**
COMPLAINT NUMBER:	**2026-00050177**
DATE OF INCIDENT:	**04/30/2026**
DATE OF REPORT:	**07/06/2026**
LOCATION OF INCIDENT:	**I-77 and E. Avenue interchange, Akron, Ohio 44333**
APD DISTRICT:	**5**

I. Incident Narrative

On the morning of April 30, 2026, Officer Kevin Cooper responded to a reported two-vehicle sideswipe collision on Interstate 77 near the East Avenue interchange in Akron. The collision involved a passenger vehicle operated by Shacora Gray and a commercial pickup truck operated by Anthony Hatmaker. The incident occurred on a divided interstate highway, requiring officers to conduct the investigation while balancing the competing concerns of roadway safety and the need for a complete traffic crash investigation.

Upon arriving at the scene, Officer Cooper approached the commercial truck, which was positioned closest to his patrol vehicle, before contacting Ms. Gray. During this initial contact, the truck driver advised Officer Cooper that he possessed dash-camera footage of the collision and displayed a brief segment of the recording. According to Officer Cooper's written response and the subsequent supervisory investigation, the limited video appeared to show Ms. Gray entering the truck's lane, leading Officer Cooper to initially conclude that Ms. Gray was responsible for causing the collision.

Officer Cooper then contacted Ms. Gray and asked whether she wished to simply exchange information or have an official crash report completed. Because Ms. Gray advised that she required an official police report for insurance purposes, Officer Cooper informed her that if he completed a crash report, she would receive a traffic citation based upon his preliminary determination that she was at fault. Ms. Gray immediately disputed that conclusion, maintaining that the truck driver had merged into her lane rather than the reverse. She further requested an opportunity to view the dash-camera recording relied upon by Officer Cooper before any enforcement action was taken.

As the discussion continued, Ms. Gray questioned Officer Cooper regarding his conclusion, asked for his badge number, and advised that she intended to challenge the citation and file a complaint regarding his conduct. Officer Cooper provided his identifying information and advised her that complaints could be directed to his supervisor. The interaction nevertheless became increasingly adversarial, with Ms. Gray believing Officer Cooper had already reached a final decision before fully considering her explanation of the collision.

Officer McKeel subsequently arrived on scene to assist with the investigation. Unlike the initial encounter, Officer McKeel conducted additional fact-gathering by questioning Ms. Gray regarding her direction of travel, lane position, and sequence of events. Officer McKeel and Officer Cooper

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also reviewed additional portions of the truck driver's dash-camera recording and discussed the available evidence with the truck driver. After considering the expanded video evidence together with the additional investigative information obtained at the scene, Officer Cooper concluded that his initial assessment had been incorrect. Rather than Ms. Gray improperly changing lanes, the evidence demonstrated that the truck driver had entered Ms. Gray's lane, causing the collision. Based upon this reassessment, Officer Cooper cited the truck driver for the lane-change violation, completed the Ohio Traffic Crash Report reflecting the revised findings, and provided Ms. Gray with an Exchange of Information form before clearing the scene.

Although the final enforcement action accurately reflected the evidence ultimately developed during the investigation, Ms. Gray remained dissatisfied with the investigative process itself. On May 19, 2026, she filed a formal citizen complaint alleging that Officer Cooper had been discourteous and biased during the investigation by prematurely determining fault, refusing to adequately consider her explanation before threatening enforcement action, and interacting with her in a dismissive manner. The complaint prompted a formal administrative investigation that included review of body-worn camera footage, written responses from Officer Cooper, documentary evidence, and interviews with the involved parties before supervisory findings were issued.

II. Constitutional Policing Analysis

The complaint against Officer Kevin Cooper does not involve a use of force, but it presents significant constitutional policing issues regarding procedural justice, impartiality, evidence evaluation, professionalism, and the manner in which investigative decisions are reached and communicated. Constitutional policing requires more than simply arriving at a legally correct conclusion; it requires that officers employ investigative methods that are objectively reasonable, impartial, transparent, and respectful throughout every citizen encounter. Public confidence depends not only upon the ultimate outcome of an investigation but also upon whether citizens perceive that officers fairly considered all available evidence before exercising governmental authority.

From the available documentation, Officer Cooper arrived at the crash scene on Interstate 77 and immediately contacted the driver of the pickup truck, who presented a brief segment of dash-camera footage depicting the collision. According to Officer Cooper's own written statement, this brief video led him to initially conclude that Ms. Gray had entered the truck's lane and caused the collision. Before obtaining Ms. Gray's complete statement, however, Officer Cooper informed her that if she requested a police report rather than merely exchanging information, she would be cited for the collision.

Although Officer Cooper ultimately corrected his initial assessment after reviewing additional video and consulting with another responding officer, the constitutional concern arises from the investigative process itself rather than the final citation decision. Constitutional policing emphasizes that governmental decisions should be based upon complete, objectively gathered

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evidence rather than preliminary impressions. The investigative record demonstrates that Officer Cooper reached an initial conclusion after viewing only a limited portion of the available evidence and before conducting a balanced investigation of both parties' accounts. The complaint investigation itself acknowledges that Officer Cooper initially believed Ms. Gray was at fault after viewing only a portion of the dash-camera recording and that his conclusion changed only after additional evidence was reviewed with Officer McKeel.

From the perspective of procedural justice, several aspects of the encounter are noteworthy. Procedural justice rests upon four universally recognized principles: providing individuals an opportunity to voice their perspective, demonstrating neutrality in decision-making, treating individuals with dignity and respect, and conveying trustworthy motives. Even where an officer ultimately reaches the correct decision, citizens frequently judge fairness by whether they believe they were genuinely heard before governmental authority was exercised.

The available evidence suggests that Ms. Gray perceived the investigation as being largely predetermined before she had an opportunity to explain her version of events. Her complaint consistently states that Officer Cooper informed her she would receive a citation before fully listening to her explanation or independently evaluating all available evidence. While Officer Cooper disputes that he acted rudely, his own written response confirms that he initially relied upon the other driver's video before speaking extensively with Ms. Gray.

The subsequent conversation between Sergeant Myers and Ms. Gray further reinforces this concern. During that discussion, Sergeant Myers acknowledged that Officer Cooper appeared to have formed an opinion almost immediately after viewing the other driver's video, stating that "he almost had his mind made up at that point." Sergeant Myers further acknowledged that Officer Cooper likely rushed the investigation and commented that additional coaching would be appropriate regarding slowing investigations and gathering complete information before reaching conclusions.

This admission is significant from a constitutional policing perspective because it reflects recognition by supervisory personnel that the investigative process itself may not have reflected best practices for neutral fact-finding.

Evidence Collection and Investigative Thoroughness

The investigation also raises concerns regarding evidence collection practices. Crash investigations require officers to collect and evaluate all reasonably available evidence before determining fault. Although highway environments often require officers to resolve scenes efficiently for safety reasons, efficiency cannot substitute for investigative completeness.

According to both the complaint and Sergeant Myers' subsequent review, many of the foundational investigative questions, including Ms. Gray's lane position, travel direction, origin, destination, and sequence of events, were not initially asked by Officer Cooper. Instead, those questions were later asked by Officer McKeel after arriving on scene.

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From a constitutional policing standpoint, this represents an investigative deficiency rather than misconduct. Officers are expected to develop probable cause and make enforcement decisions only after objectively evaluating all reasonably available evidence. The perception that Officer Cooper had reached a conclusion before conducting a balanced investigation understandably undermined Ms. Gray's confidence in the fairness of the process, even though the final outcome was ultimately corrected.

Investigative Bias, Confirmation Bias, and Evidence Anchoring

Perhaps the most significant constitutional policing issue presented by this incident involves confirmation bias, often referred to in policing literature as evidence anchoring.

Evidence anchoring occurs when an investigator forms an early hypothesis based upon initial information and subsequently interprets later evidence through that initial framework rather than continuously reassessing the facts. Cognitive science and police decision-making research consistently recognize confirmation bias as one of the most common investigative risks facing law enforcement officers[1].

The available evidence strongly suggests that Officer Cooper initially anchored his investigation on the first fifteen-second portion of the truck driver's dash-camera recording. The independent analysis prepared regarding this incident characterizes the investigation as an example of "evidence anchoring," concluding that Officer Cooper formed a fault determination within seconds based primarily upon a partial video before conducting a balanced inquiry.

Importantly, the evidence also demonstrates that Officer Cooper corrected his conclusion once additional evidence became available. After Officer McKeel reviewed additional portions of the video and discussed the incident with Officer Cooper, the investigation concluded that the truck driver and not Ms. Gray, had committed the lane violation, and Officer Cooper cited the truck driver accordingly.

This distinction is important. The available evidence does not establish intentional bias or discriminatory treatment. Rather, it reflects a classic example of cognitive confirmation bias that was ultimately corrected through additional evidence review. Constitutional policing seeks to prevent precisely this type of premature decision-making by encouraging deliberate investigative processes, active consideration of competing explanations, and continuous reassessment of evidence as investigations develop.

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[1] College of Policing. “Making Good Decisions.” *College of Policing*, August 28, 2023. https://www.college.police.uk/guidance/conducting-effective-investigations/making-good-decisions.

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Professionalism and Citizen Interactions

Professionalism extends beyond avoiding overt misconduct; it includes maintaining demeanor that promotes public confidence during stressful interactions.

Ms. Gray perceived Officer Cooper's smiles or laughter while discussing her intention to contest the citation and file a complaint as dismissive and disrespectful. Officer Cooper denied laughing at Ms. Gray and explained that he frequently smiles during citizen interactions in an effort to appear polite. The complaint investigation ultimately concluded that body-worn camera footage did not substantiate allegations of discourteous conduct.

Nevertheless, constitutional policing recognizes that perception matters. Even conduct that does not violate departmental policy may unintentionally diminish public confidence if citizens reasonably perceive that officers are minimizing their concerns or dismissing legitimate questions regarding governmental decisions.

This incident illustrates the importance of officers remaining particularly attentive to tone, facial expressions, and communication style when citizens challenge investigative conclusions or request complaint procedures. Neutral professionalism helps preserve legitimacy regardless of whether citizens ultimately agree with enforcement decisions.

Impartial Crash Investigation

Traffic crash investigations require investigators to remain neutral until all reasonably available evidence has been collected and evaluated. Officers should avoid statements suggesting predetermined outcomes before completing witness interviews, reviewing physical evidence, and evaluating all available recordings.

Although Officer Cooper ultimately corrected his initial fault determination, the sequence of events demonstrates that the investigative process temporarily departed from this principle. Sergeant Myers' own assessment recognized that the investigation appeared rushed and that Officer Cooper would benefit from coaching regarding slowing investigative decision-making and gathering complete information before determining fault.

Constitutional policing requires impartiality not only in outcome but throughout the investigative process itself. Citizens should reasonably believe that officers are actively considering all available evidence rather than defending an initial impression.

III. APD Rules and Regulations Analysis

Based upon the available documentation, the internal complaint investigation concluded that Officer Cooper did not violate Akron Police Department Rules and Regulations or departmental

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procedures. Both allegations, discourtesy and discrimination, were classified as **Unfounded**, meaning investigators concluded the alleged misconduct did not occur.

From a constitutional policing perspective, however, compliance with departmental policy represents the minimum professional standard rather than the aspirational standard. Agencies committed to constitutional policing continually evaluate encounters for opportunities to improve investigative neutrality, communication, procedural fairness, and public confidence, even where policy violations are not sustained.

Accordingly, this incident presents meaningful opportunities for organizational learning despite the absence of formal disciplinary findings.

IV. Findings

Based upon an independent review of the available complaint investigation, crash report, body-worn camera (BWC) footage, officer responses, supervisory investigation, and related documentation, Officer Kevin Cooper's conduct presents a mixed picture of appropriate corrective decision-making coupled with identifiable deficiencies in investigative methodology and procedural justice. Although the Akron Police Department ultimately classified the allegations of discourtesy and discrimination as **Unfounded**, constitutional policing requires a broader assessment than determining whether departmental rules were technically violated. Constitutional policing evaluates whether police conduct promotes fairness, transparency, neutrality, accountability, and public confidence in governmental decision-making.

The evidence demonstrates that Officer Cooper initially formed a fault determination after reviewing only a limited portion of the other driver's dash-camera recording before obtaining a complete statement from Ms. Gray or conducting a balanced evaluation of all reasonably available evidence. While officers are routinely required to make rapid decisions in dynamic environments, crash investigations require deliberate evidence collection before reaching enforcement decisions. The sequence of events documented in the complaint investigation and acknowledged during Sergeant Myers' supervisory interview indicates that Officer Cooper experienced what behavioral science literature describes as confirmation bias or evidence anchoring, a cognitive tendency to place disproportionate weight on initial information while delaying consideration of competing evidence. Importantly, Officer Cooper corrected this initial assessment after reviewing additional video footage and consulting with Officer McKeel, ultimately citing the appropriate driver. The final enforcement outcome therefore reflected objective evidence, but only after additional investigative steps corrected the premature conclusion.

The review further concludes that the encounter did not fully reflect the principles of procedural justice. Regardless of whether Officer Cooper intended to appear dismissive, Ms. Gray reasonably perceived that she had not been afforded a meaningful opportunity to explain her version of events before Officer Cooper informed her that she would receive a citation if an accident report was completed. Constitutional policing emphasizes that legitimacy derives as much from *how* officers

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make decisions as from *what* decisions they ultimately reach. The available evidence suggests that Officer Cooper's communication style, combined with his early fault determination, undermined Ms. Gray's confidence that the investigation was being conducted impartially.

The investigation also identified deficiencies in investigative sequencing. Sergeant Myers acknowledged during his conversation with Ms. Gray that Officer Cooper appeared to rush the investigation, likely because of the inherent dangers associated with conducting investigations on an interstate highway. While officer safety and roadway safety are legitimate operational concerns, constitutional policing requires that safety considerations be balanced with investigative completeness. Sergeant Myers' acknowledgement that Officer Cooper should have slowed the investigation and gathered both parties' accounts before reaching a conclusion demonstrates recognition that the investigative process could have been improved without compromising officer safety.

With respect to professionalism, the available evidence does not conclusively establish that Officer Cooper acted discourteously or intentionally mocked the complainant. BWC footage reviewed did not substantiate allegations that Officer Cooper laughed at or ridiculed Ms. Gray, and Officer Cooper consistently maintained that his demeanor reflected an attempt to remain polite rather than dismissive. Nevertheless, constitutional policing recognizes that officer intent and citizen perception are not always identical. Officers should remain mindful that facial expressions, tone, and conversational responses during emotionally charged encounters may unintentionally diminish public confidence even when no policy violation occurs.

The supervisory review itself represents a positive aspect of the department's response. Sergeant Myers conducted a structured investigation, reviewed available BWC footage, obtained written responses from Officer Cooper, spoke directly with the complainant, and documented his findings. More importantly, Sergeant Myers demonstrated an openness to organizational learning by acknowledging coaching opportunities independent of the ultimate complaint disposition. This reflects an emerging constitutional policing philosophy that recognizes continuous improvement rather than limiting supervisory review to determining whether formal discipline is warranted.

Finally, this review concludes that the available evidence does not support the finding of intentional discrimination or unconstitutional bias against Ms. Gray. Rather, the deficiencies identified involve process, not discriminatory motive. The evidence supports a conclusion that Officer Cooper prematurely anchored his investigation on incomplete evidence and subsequently corrected that error after additional information became available. Accordingly, the incident is best characterized as an example of procedural bias created by investigative methodology rather than personal prejudice. While the final outcome corrected the factual error, the investigative process unnecessarily undermined public confidence and illustrates an opportunity for policy refinement and additional training.

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V. Recommendations

Recommendation 1 – Implement Procedural Justice Training for All Officers[2]

Recommendation

Require annual procedural justice instruction emphasizing voice, neutrality, respectful treatment, and trustworthy motives during enforcement encounters.

Rationale

Research consistently demonstrates that citizens judge fairness primarily by whether officers listened before making decisions.

Comparable Agency

The **Chicago Police Department** and **Seattle Police Department** incorporated procedural justice principles following DOJ reform initiatives, resulting in improved public confidence measures.

Recommendation 2 – Train Officers on Cognitive Bias and Evidence Anchoring[3]

Recommendation

Develop annual in-service instruction regarding confirmation bias, evidence anchoring, tunnel vision, and investigative decision-making.

Rationale

This incident illustrates classic evidence anchoring. Officers benefit from recognizing common cognitive biases before they affect investigative neutrality.

Comparable Agency

The **Las Vegas Metropolitan Police Department** and the **New York City Police Department** incorporate cognitive decision-making concepts into investigative and supervisory training.

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[2] President's Task Force on 21st Century Policing. *Final Report of the President's Task Force on 21st Century Policing*. Washington, DC: Office of Community Oriented Policing Services, 2015.
[3] Police Executive Research Forum. *Guiding Principles on Use of Force*. Washington, DC: PERF, 2016.

VI. Conclusion

This review concludes that Officer Kevin Cooper did not engage in conduct rising to the level of a constitutional violation, nor does the available evidence support findings of intentional discrimination or misconduct warranting a sustained complaint under Akron Police Department policy. The department's determination that the allegations of discourtesy and discrimination were **Unfounded** is supported by the available body-worn camera evidence and supervisory investigation. OIPA concurs with the finding.

Nevertheless, constitutional policing requires agencies to evaluate encounters through a broader lens than policy compliance alone. This incident demonstrates how otherwise lawful police conduct can erode public trust when investigative decisions appear to be made before all available evidence has been considered. Officer Cooper's premature reliance on a limited portion of the dash-camera recording, his communication that suggested an enforcement decision had already been made, and the perception that Ms. Gray was not afforded a meaningful opportunity to explain her account collectively created an appearance of procedural unfairness. Although Officer Cooper appropriately reassessed the evidence after consulting with Officer McKeel and ultimately cited the correct driver, the corrective action occurred only after additional investigative steps overcame an initial example of evidence anchoring.

The most significant lesson from this incident is not that the final outcome was incorrect, but that the investigative process unnecessarily diminished public confidence. Constitutional policing is built upon neutrality, transparency, respectful communication, and deliberate evidence-based decision-making. These principles enhance both officer safety and community trust while reducing complaints, increasing legitimacy, and strengthening the defensibility of enforcement actions.

The supervisory review conducted by Sergeant Myers appropriately recognized these issues by acknowledging that Officer Cooper appeared to rush the investigation and would benefit from coaching emphasizing slower, more balanced evidence collection. That acknowledgement reflects a mature supervisory approach consistent with contemporary constitutional policing principles. Moving forward, APD can strengthen public confidence by incorporating procedural justice, cognitive bias awareness, structured crash investigation protocols, and enhanced communication training into its professional development programs. These reforms would not only improve investigative quality but also reinforce the Department's commitment to impartial policing, accountability, and constitutional governance.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME: [redacted]

CASE NUMBER: 2026-00058356
DATE OF INCIDENT: 05/19/2026
DATE OF OIPA REPORT: 06/08/2026
LOCATION OF INCIDENT: Firestone CLC, 470 Castle Boulevard, Akron, Ohio 44313
APD DISTRICT: 4

I. Incident Overview

On May 19, 2026, at approximately 1:01 p.m., Akron Police School Resource Officer Donald Lane (#1637) responded to Firestone Community Learning Center after Principal Tina Loughry transmitted an emergency radio request reporting a large fight occurring inside the school cafeteria. The disturbance involved four primary student combatants later identified as [redacted] Upon Officer Lane's arrival, numerous students had surrounded the altercation while actively encouraging the fight, recording the incident, and interfering with school staff attempting to intervene. School personnel had unsuccessfully attempted to prevent the altercation from escalating before Officer Lane arrived, and Principal Loughry reportedly had been knocked to the floor while attempting to separate the combatants.

Officer Lane initially employed verbal de-escalation by issuing repeated commands directing the students to stop fighting while displaying his department-issued Oleoresin Capsicum (OC) spray. When verbal commands and physical intervention proved ineffective, and with the continued threat posed to school staff, students, and the combatants themselves, Officer Lane deployed two short bursts of OC spray toward the actively fighting participants. The deployment ultimately dispersed the surrounding crowd, enabled Officer Lane to separate the remaining combatants, restored order within the cafeteria, and allowed responding patrol officers to assume control of the larger disturbance. EMS responded to evaluate individuals exposed to OC spray. Following review of surveillance footage and additional investigation, criminal charges of Riot (Ohio Revised Code §2917.03(B)) and Disorderly Conduct (Ohio Revised Code §2917.11(A)(1)) were filed against the four principal combatants.

II. Use-of-Force Description

Officer Donald Lane's use of force occurred during an exceptionally dynamic and rapidly deteriorating incident inside the Firestone Community Learning Center cafeteria. At approximately 1:01 p.m., Officer Lane, serving as the school's assigned School Resource Officer, received an emergency radio transmission from Principal Tina Loughry requesting immediate police assistance for a large fight involving multiple students. By the time Officer Lane arrived at

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the cafeteria, school administrators, teachers, and members of the school's safety team had already attempted unsuccessfully to prevent the altercation from escalating. Instead of subsiding, the disturbance had intensified into a mutual fight involving at least four students while a large crowd of other students surrounded the combatants, recording the event, encouraging the participants, and preventing staff members from safely intervening. Principal Loughry had reportedly been knocked to the floor while attempting to separate the students, and several additional staff members were actively struggling to stop the violence.

Upon entering the cafeteria, Officer Lane immediately began issuing loud verbal commands directing the students to stop fighting and ordering the surrounding crowd to move away from the altercation. He simultaneously displayed his department-issued OC spray in an effort to gain voluntary compliance without immediately resorting to force. Witness statements obtained during the supervisory investigation, including those provided by Principal Loughry and teacher Ben Gester, indicate that Officer Lane gave verbal warnings that OC spray would be deployed if the fighting did not stop. Despite these commands, the combatants continued exchanging punches, pulling one another's hair, wrestling on the cafeteria floor, and resisting both school staff and Officer Lane's efforts to physically separate them. Although a small number of involved students later stated that they either did not hear the warnings or did not see Officer Lane before the deployment, the surrounding circumstances suggest that the extraordinary noise, movement, and confusion within the cafeteria likely affected the ability of individual participants to perceive those warnings. Conversely, multiple independent witnesses confirmed observing Officer Lane issue warnings before deploying OC spray.

Recognizing that he was the only sworn officer immediately available, Officer Lane attempted physical intervention by pulling at the combatants in an effort to separate them. These efforts proved unsuccessful due to the number of participants, the continued resistance of the students, and the physical interference created by the large crowd gathered around the fight. Officer Lane later explained that he believed additional delay would likely result in further injuries to school personnel, students, or the combatants themselves. The principal had already been knocked to the ground, several staff members remained within striking distance of the fight, and the students were grappling near cafeteria tables, chairs, and other hard surfaces capable of causing significant injury if the altercation continued. Officer Lane further recognized that no additional School Resource Officer was immediately available and that patrol officers would require additional time to arrive. Under those circumstances, he determined that continued attempts at empty-hand control would not safely resolve the incident.

Officer Lane subsequently deployed two brief bursts of OC spray directed specifically toward the actively fighting combatants. According to his report, the first deployment immediately affected several participants but failed to stop the entire altercation. A second brief deployment was then directed toward the remaining combatants who continued fighting on the ground. Following the second application, the remaining participants ceased fighting, the surrounding crowd rapidly dispersed, and Officer Lane was able to physically separate the students and restore order until additional officers arrived. Throughout his report, Officer Lane consistently maintained that the OC spray was directed toward the combatants rather than the surrounding crowd, although

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airborne exposure predictably affected several uninvolved students who were standing in close proximity to the altercation. EMS responded to evaluate individuals experiencing the effects of the chemical agent, and several students received treatment before being released.

Following the use of force, Officer Lane continued managing the evolving incident as additional students began verbally confronting one another and threatening further violence. Firestone CLC was placed on lockdown while responding patrol officers assisted in restoring order. Officer Lane subsequently reviewed school surveillance video, completed his criminal investigation, identified the four primary combatants, and filed charges for Riot and Disorderly Conduct. Sergeant David White conducted the supervisory investigation, interviewed witnesses, reviewed body-worn camera footage and surveillance video, and concluded that Officer Lane's actions were objectively reasonable under the circumstances known to him at the time force was used.

III. Constitutional Policing Analysis

The constitutional evaluation of Officer Lane's actions is governed primarily by the Fourth Amendment's prohibition against unreasonable seizures and the United States Supreme Court's objective reasonableness standard established in *Graham v. Connor*, 490 U.S. 386 (1989). Under *Graham*, courts must avoid judging officers with the benefit of hindsight and instead evaluate the reasonableness of force from the perspective of a reasonable officer confronting the same circumstances. More recently, the Supreme Court reaffirmed in *Barnes v. Felix*, 605 U.S. ___ (2025), that courts must consider the entire sequence of events leading to a use of force rather than artificially limiting the analysis to the precise instant force is applied. Both decisions emphasize that rapidly evolving situations require officers to make split-second judgments under conditions of uncertainty, danger, and limited information.

Applying those principles here, Officer Lane confronted a situation presenting a substantial governmental interest in immediate intervention. Unlike many routine school disturbances, this incident had already progressed beyond verbal confrontation before police involvement. School administrators had unsuccessfully attempted to prevent the altercation, several staff members had physically intervened without success, the principal had reportedly been knocked to the floor, and the combatants continued exchanging blows despite repeated intervention efforts. The confrontation occurred within a crowded cafeteria where numerous uninvolved students surrounded the fight, thereby increasing both the likelihood of additional victims and the difficulty of safely isolating the participants. These circumstances created an objectively reasonable perception that immediate action was necessary to prevent further injuries.

The governmental interest supporting force was further strengthened by Officer Lane's tactical limitations. He was the only School Resource Officer assigned to Firestone CLC and had no immediate law enforcement assistance available when the incident unfolded. He faced four actively resisting combatants while simultaneously attempting to manage a large crowd of emotionally charged students. Under these conditions, attempting to physically restrain multiple combatants without assistance would have exposed both Officer Lane and school personnel to a

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significant risk of injury while providing little likelihood of quickly restoring order. The Supreme Court has repeatedly recognized that officers are not constitutionally required to employ the least intrusive force possible but rather a force option that is objectively reasonable under the totality of the circumstances. Officer Lane's decision to transition from unsuccessful verbal commands and empty-hand efforts to a less-lethal chemical agent reflects a progression through increasingly forceful options consistent with accepted police decision-making models.

The deployment of OC spray must also be evaluated in light of its foreseeable impact upon uninvolved students. Chemical agents are indiscriminate by nature and often produce secondary airborne exposure affecting persons in the immediate vicinity. Here, several witnesses reported experiencing airborne irritation despite not being direct targets of the spray. Although such exposure is unfortunate, constitutional reasonableness does not require officers to eliminate every collateral consequence before acting to stop an immediate threat. Instead, the Fourth Amendment balances the governmental interest against the intrusion imposed. Given the ongoing assaultive behavior, the inability of school staff to regain control, the confined environment, and the escalating danger presented by the fight, the limited airborne exposure experienced by nearby students does not, standing alone, render the deployment constitutionally unreasonable. Importantly, EMS was immediately requested to evaluate individuals experiencing OC exposure, reflecting attention to post-force medical care consistent with constitutional policing principles.

The incident likewise demonstrates several important aspects of procedural justice and constitutional policing beyond the moment force was applied. Officer Lane initially attempted verbal de-escalation, displayed the OC canister before deployment, attempted physical separation before escalating force, ceased using force once the threat ended, requested medical evaluation for affected individuals, and completed both criminal and administrative reporting. These actions are generally consistent with the constitutional expectation that force be proportional, necessary, and terminated once lawful objectives have been achieved.

One issue warranting further examination involves the activation of Officer Lane's Body-Worn Camera. Officer Lane explained that his immediate response to the life-safety emergency delayed activation until he reached a point where doing so could be accomplished safely. The available video captured the use of force but not the earliest moments of the response. From a constitutional standpoint, delayed activation alone does not alter the objective reasonableness of the force itself. However, from an accountability and transparency perspective, the incident underscores the continuing importance of rapid BWC activation whenever operationally feasible during emergency responses.

Considering the totality of the circumstances, including the immediacy of the threat, the number of combatants, the presence of injured school staff, Officer Lane's unsuccessful attempts at verbal and physical intervention, the absence of immediate backup, and the immediate cessation of force once control was achieved, the available evidence supports the conclusion that Officer Lane's use of OC spray was objectively reasonable under the Fourth Amendment and consistent with the constitutional framework established by *Graham* and reaffirmed in *Barnes*.

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IV. APD Policy Analysis

Officer Lane's actions generally appear consistent with the Akron Police Department's Use of Force Procedure (P13-2021), Chemical Defense Spray Procedure (P03-2020), and applicable departmental regulations governing objectively reasonable force. APD policy authorizes officers to use only that level of force which is objectively reasonable to accomplish a legitimate law enforcement objective while considering the severity of the circumstances, the immediacy of the threat, the subject's resistance, and available alternatives. The policies further emphasize that officers should employ de-escalation techniques whenever reasonably feasible before resorting to force and should continually reassess the necessity of force throughout an encounter.

The available evidence indicates that Officer Lane followed this progression. Upon arrival, he attempted verbal de-escalation by repeatedly directing the students to stop fighting while simultaneously ordering the surrounding crowd to retreat. Witnesses, including Principal Tina Loughry and teacher Ben Gester, confirmed observing Officer Lane display his OC canister and provide warnings before deployment. He then attempted empty-hand intervention by physically separating the combatants. Only after these efforts failed and the assaultive behavior continued did he transition to chemical force. This sequence reflects compliance with APD's expectation that officers attempt lower levels of force before escalating when circumstances reasonably permit.

APD's Chemical Defense Spray Procedure authorizes OC spray when subjects exhibit active aggression or active resistance that cannot reasonably be controlled through lesser force options and when deployment is objectively reasonable under the circumstances. Officer Lane encountered four actively fighting combatants who ignored repeated verbal commands, resisted physical intervention by school personnel and the officer, and continued assaultive conduct in a crowded school cafeteria. Given the inability of a single officer to safely control multiple aggressive individuals, the deployment of OC spray appears to fall within the intended purpose of APD's chemical agent policy.

The supervisory investigation also reflects substantial compliance with departmental reporting requirements. Sergeant David White responded to the scene, interviewed witnesses, reviewed surveillance video and body-worn camera recordings, documented Officer Lane's explanation regarding delayed BWC activation, conducted a formal debrief, and completed a detailed supervisory use-of-force investigation analyzing the facts known to Officer Lane at the time force was applied. This level of supervisory review is consistent with APD policy requiring independent evaluation of report accuracy, policy compliance, and objective reasonableness.

Nevertheless, the incident highlights several areas where APD policy could be further strengthened. First, although the Chemical Defense Spray Procedure addresses general OC deployment, it provides limited guidance regarding use inside schools or other densely populated environments where uninvolved persons may predictably experience secondary exposure. Future revisions could include specific tactical considerations for educational settings, including preferred positioning, ventilation considerations, evacuation procedures, and coordination with school administrators immediately following deployment.

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Second, the incident reinforces the importance of body-worn camera activation during rapidly evolving emergencies. Officer Lane's explanation that officer and student safety took precedence is reasonable under the circumstances, and the supervisory investigation appropriately recognized the practical realities of the response. However, APD could further improve transparency by reinforcing training emphasizing immediate activation whenever safely feasible during emergency responses and by requiring officers to articulate specific reasons whenever activation is delayed by exigent circumstances.

Finally, the incident illustrates the increasingly complex role of School Resource Officers responding to large-scale student disturbances involving multiple combatants. Although Officer Lane's actions appear consistent with existing APD policy, future policy revisions and training should further address multi-combatant incidents within educational environments, emphasizing coordinated responses with school personnel, crowd management strategies, tactical communication, less-lethal decision-making, and post-incident student reunification and medical protocols. Such enhancements would strengthen both officer safety and constitutional policing while providing clearer operational guidance for future incidents.

V. Legal Analysis

The legality of Officer Donald Lane's use of force must be evaluated under the Fourth Amendment to the United States Constitution, applicable Ohio law, and Akron Police Department policy. The constitutional inquiry focuses not on whether a different tactical decision could have been made, but whether the force actually used was objectively reasonable under the totality of the circumstances confronting the officer at the time the decision was made. Based upon the available evidence, Officer Lane's actions appear legally supportable under current constitutional jurisprudence.

The controlling constitutional standard is set forth in *Graham v. Connor*, 490 U.S. 386 (1989), which requires courts to evaluate claims of excessive force using an objective reasonableness standard. *Graham* specifically instructs that officers' decisions must be viewed from the perspective of a reasonable officer on the scene, recognizing that police officers are often forced to make split-second judgments during tense, uncertain, and rapidly evolving situations. More recently, the United States Supreme Court clarified in *Barnes v. Felix*, 605 U.S. ___ (2025), that courts must examine the entire sequence of events leading to the use of force rather than artificially limiting their review to the precise moment force is applied. Consequently, Officer Lane's actions cannot be viewed in isolation but instead must be considered within the context of the escalating disturbance that unfolded before the deployment of OC spray.

Several factors weigh heavily in favor of the objective reasonableness of the force used. First, Officer Lane responded to an emergency radio request reporting a large fight involving multiple students in a crowded school cafeteria. Upon arrival, he encountered at least four active combatants who were exchanging punches, grappling on the floor, and refusing repeated verbal commands to stop. School administrators, teachers, and members of the safety team had already attempted to

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intervene without success. Importantly, Principal Tina Loughry had reportedly been knocked to the ground during her attempts to separate the students, demonstrating that the violence had already extended beyond the original participants and created a substantial risk of injury to school personnel. These facts significantly elevated the government's interest in immediate intervention.

Second, the available evidence demonstrates that Officer Lane attempted less intrusive alternatives before resorting to chemical force. Witness statements consistently establish that he issued verbal commands, displayed his OC spray as a warning, and physically attempted to separate the combatants before deploying the chemical agent. While several involved students later stated that they did not hear warnings, multiple independent witnesses, including the principal and a teacher, confirmed hearing Officer Lane announce his intention to deploy OC spray. Given the extraordinary noise, movement, and confusion surrounding the altercation, it is neither surprising nor legally dispositive that some combatants later claimed they did not hear those warnings. The Fourth Amendment does not require officers to ensure that every individual subjectively hears or understands verbal commands before reasonable force may be employed.

The deployment of OC spray itself represents a less-lethal force option intended to temporarily incapacitate individuals through sensory irritation rather than through strikes, impact weapons, or higher levels of force. Officer Lane employed two short bursts directed toward the combatants after concluding that continued physical intervention by a single officer would not safely resolve the confrontation. The evidence demonstrates that the deployment immediately accomplished its intended purpose: the fighting ceased, the surrounding crowd dispersed, Officer Lane regained physical control of the participants, and additional injuries were prevented. The force terminated immediately once the threat ended, satisfying the constitutional requirement that officers cease using force when its lawful objective has been achieved.

The presence of collateral OC exposure affecting uninvolved students deserves careful legal consideration. Courts have consistently recognized that chemical agents deployed in confined environments may inadvertently affect nearby individuals. The constitutional question is not whether collateral exposure occurred but whether the governmental interest in immediately stopping violent conduct outweighed the intrusion imposed upon those unintentionally affected. Here, the evidence demonstrates that Officer Lane was confronted with an active assault involving multiple combatants, unsuccessful intervention by numerous adults, a crowded cafeteria, and the absence of immediate law enforcement assistance. Under those circumstances, the foreseeable airborne effects of OC spray do not render the deployment constitutionally excessive, particularly where medical evaluation was promptly requested for those experiencing symptoms.

The body-worn camera issue likewise warrants discussion. Officer Lane acknowledged that he did not activate his BWC until he reached a point during the response where doing so could safely occur. The available recording captures the use of force but not the earliest moments of the incident. While earlier activation would have provided a more complete evidentiary record, constitutional analysis remains focused upon the reasonableness of the force itself rather than technical compliance with recording procedures. The supervisory investigation reviewed Officer Lane's explanation and concluded that the delayed activation resulted from the immediate need to

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respond to an unfolding life-safety emergency rather than an effort to avoid documentation. Nothing contained within the available evidence suggests that the delayed activation undermines the constitutional validity of the force employed.

Ohio law similarly supports Officer Lane's actions. Peace officers are authorized to use objectively reasonable force when acting within the lawful scope of their official duties to prevent offenses, restore public order, and protect persons from imminent harm. Officer Lane responded to an ongoing criminal offense involving rioting and disorderly conduct inside a public school, where multiple individuals were actively committing assaultive behavior in the presence of staff and other students. His intervention was directed toward immediately ending criminal conduct and preventing further injury. The subsequent filing of criminal charges against the four primary combatants reinforces the existence of probable cause supporting the underlying enforcement action.

From a constitutional policing perspective, Officer Lane's decision-making also reflects several principles associated with nationally recognized best practices. He attempted verbal de-escalation before using force, selected a less-lethal force option rather than escalating directly to higher levels of force, continuously reassessed the effectiveness of the intervention, immediately discontinued force once control was achieved, requested EMS evaluation for exposed individuals, completed required reporting, and cooperated fully with supervisory review. These actions collectively demonstrate adherence to proportionality, necessity, accountability, and the sanctity-of-life principles emphasized by modern policing standards.

Accordingly, after reviewing the available reports, witness statements, body-worn camera documentation, supervisory investigation, and applicable constitutional standards, it is my opinion that Officer Lane's use of force was legally justified and objectively reasonable under the Fourth Amendment, Ohio law, and prevailing constitutional policing principles. Although policy and training enhancements are appropriate to further improve future responses to large-scale school disturbances, the evidence does not support a conclusion that the force employed in this incident violated constitutional protections or applicable legal standards.

VI. Findings

The evidence reviewed during this independent assessment demonstrates that Officer Donald Lane responded to an unusually volatile and rapidly evolving incident involving multiple student combatants, a large and emotionally charged crowd, and numerous school employees who had already been unsuccessful in stopping the violence. By the time Officer Lane reached the cafeteria, the confrontation had progressed well beyond a routine student altercation. Administrators and teachers had physically attempted to intervene, the principal had reportedly been knocked to the floor, and the continued assaultive conduct presented an immediate risk of injury to students, school staff, and Officer Lane himself. The totality of these circumstances created a substantial governmental interest in rapidly restoring order and preventing additional harm.

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The available evidence supports the conclusion that Officer Lane followed a progressive decision-making process consistent with accepted constitutional policing principles. Rather than immediately resorting to force, he first attempted verbal de-escalation by repeatedly directing the students to stop fighting and ordering the surrounding crowd to move away from the disturbance. He displayed his OC spray before deployment and attempted to physically separate the combatants. Only after these less intrusive measures proved ineffective did he deploy two brief bursts of OC spray directed toward the individuals actively engaged in the fight. The force ceased immediately once the fighting stopped and Officer Lane regained control of the scene. This progression reflects measured decision-making rather than an immediate escalation to force.

Witness statements collected during the supervisory investigation generally corroborate Officer Lane's account of the incident. Although several involved students later reported that they did not hear verbal warnings before the deployment, multiple independent witnesses, including Principal Tina Loughry and teacher Ben Gester, confirmed observing Officer Lane issue warnings before using OC spray. Given the extraordinary confusion, noise, and movement associated with the disturbance, these differing perceptions are neither unexpected nor uncommon in rapidly unfolding critical incidents. The supervisory investigation appropriately evaluated these differing accounts against the available surveillance video, body-worn camera evidence, and other witness statements before reaching its conclusions.

The review further finds that Officer Lane's decision to employ OC spray was tactically reasonable under the circumstances confronting him. He was the only School Resource Officer immediately available, faced multiple actively resisting combatants, had no realistic opportunity to safely control all participants through empty-hand techniques, and reasonably perceived that additional delay would expose school staff and students to continued violence. The use of OC spray successfully terminated the assaultive behavior without requiring higher levels of force or creating prolonged physical struggles that could have resulted in more significant injuries. Although several uninvolved students experienced secondary airborne exposure to the chemical agent, those effects appear to have been an unintended but foreseeable consequence of deploying OC spray within a crowded indoor environment rather than evidence of indiscriminate force. EMS responded promptly to evaluate affected individuals, demonstrating appropriate attention to post-force medical care.

The investigation also identifies several opportunities for organizational improvement. The delayed activation of Officer Lane's body-worn camera appears attributable to the immediacy of the emergency rather than intentional noncompliance; however, the incident illustrates the continuing importance of emphasizing rapid camera activation whenever operationally feasible. Likewise, while APD policy authorizes the use of chemical agents under circumstances involving active aggression, the department would benefit from more detailed guidance addressing deployments inside schools and other densely populated facilities where collateral exposure is more likely. Enhanced training addressing multi-combatant incidents, crowd management, coordinated responses with school personnel, and tactical considerations unique to educational environments would further strengthen future responses and reinforce constitutional policing principles.

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Overall, the evidence supports the conclusion that Officer Lane acted within constitutional limits, complied substantially with applicable Akron Police Department policies, and exercised objectively reasonable judgment under exceptionally difficult circumstances. His actions reflected a measured progression through available force options, an ongoing effort to protect students and school personnel from imminent harm, and appropriate termination of force once lawful objectives had been achieved. While this review recommends several policy and training enhancements designed to improve future performance and accountability, the evidence does not support a finding that Officer Lane employed excessive force or violated constitutional standards during this incident. Instead, the incident demonstrates the difficult operational realities faced by School Resource Officers responding alone to rapidly escalating acts of violence within educational settings and underscores the importance of continued policy development, training, and organizational support to further strengthen both officer effectiveness and public confidence.

VII. Recommendations

Although the evidence supports the conclusion that Officer Lane's actions were objectively reasonable and substantially consistent with constitutional policing principles and Akron Police Department policy, every significant use-of-force incident presents opportunities to strengthen policies, training, supervision, and organizational learning. The following recommendations are designed to further enhance officer safety, student safety, constitutional compliance, transparency, and public confidence. Each recommendation is based upon nationally recognized best practices and supported by real-world examples from law enforcement agencies that have successfully implemented comparable reforms.

Recommendation 1

Develop a Dedicated School-Based Critical Incident Response Policy[1]

This incident demonstrates the unique operational challenges associated with responding to violent incidents within educational environments. While APD's current Use of Force Procedure appropriately addresses objectively reasonable force, it provides little guidance regarding large-scale disturbances occurring inside schools. APD should develop a supplemental policy specifically addressing School Resource Officer responses to multiple-combatant incidents occurring in schools.

The policy should address:

- Multi-combatant incidents
- Large crowd management
- Coordination with school administrators

[1]International Association of Chiefs of Police (IACP). *Youth Focused Policing Framework*. Alexandria, VA: IACP, 2023.

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- Student evacuation procedures
- Chemical agent considerations in educational settings
- Lockdown versus evacuation decision-making
- Preservation of evidence following school disturbances

Comparable Agency

The Charlotte-Mecklenburg Police Department maintains detailed School Resource Officer operational procedures that include coordinated responses to mass student disturbances and crowd management within schools.

Rationale

Schools present significantly different tactical considerations than traditional street encounters. Specialized guidance improves consistency while reducing unnecessary force and collateral exposure.

Recommendation 2

Expand Training on Multi-Combatant Force Decision-Making[2]

Officer Lane encountered four active combatants while simultaneously managing hundreds of uninvolved students without immediate police assistance.

APD should develop scenario-based training involving:

- Multiple simultaneous assailants
- Solo-officer interventions
- Large student crowds
- Limited staffing situations
- Dynamic threat assessment
- Tactical repositioning
- Team response after backup arrival

Comparable Agency

The Las Vegas Metropolitan Police Department conducts annual scenario-based crowd control and multi-subject force training emphasizing proportional force and tactical communication.

Rationale

[2]Police Executive Research Forum (PERF). *Guiding Principles on Use of Force*. Washington, DC: PERF, 2016.

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Traditional defensive tactics training typically involves one-on-one encounters. School disturbances often involve numerous participants requiring significantly different tactical responses.

Recommendation 3

Strengthen OC Spray Policy for Indoor Deployments[3]

APD's Chemical Defense Spray Procedure appropriately governs general OC deployment but provides limited guidance regarding indoor deployment where uninvolved persons are likely to experience secondary exposure.

The policy should specifically require officers to consider:

- Ventilation
- Occupancy
- Proximity of uninvolved persons
- Escape routes
- Alternative tactics
- Post-deployment decontamination procedures

Comparable Agency

The Seattle Police Department requires officers to specifically articulate environmental considerations before deploying chemical agents indoors whenever feasible.

Rationale

Chemical agents are highly effective but inherently indiscriminate within enclosed spaces.

Recommendation 4

Formalize School Decontamination Procedures[4]

Following any OC deployment inside a school, APD should utilize a standardized checklist requiring coordination with school administrators regarding:

- Immediate ventilation
- Student relocation
- Medical monitoring

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[3] International Association of Chiefs of Police. *Model Policy: Oleoresin Capsicum (OC) Aerosol Restraint Spray.*

[4] National Institute of Justice. *Reducing Risks Associated with Restraint and Custody.*

- Parent notification
- Classroom re-entry
- Documentation of secondary exposures

Comparable Agency

The Denver Police Department utilizes standardized post-chemical deployment procedures during school-based incidents.

Rationale

Secondary exposure can often be minimized through standardized post-incident procedures.

Recommendation 5

Reinforce Body-Worn Camera Activation During Rapidly Evolving Incidents[5]

Officer Lane reasonably explained that his attention was directed toward the immediate safety threat when he entered the cafeteria. Nevertheless, this incident demonstrates the continuing importance of documenting the earliest stages of rapidly evolving encounters whenever safely possible.

Training should emphasize:

- Activation while responding
- Activation immediately upon arrival
- Immediate verbal narration
- Documentation whenever delayed activation occurs

Comparable Agency

The New Orleans Police Department requires officers to document any delayed activation resulting from exigent circumstances.

Rationale

Early recording significantly improves transparency and strengthens public confidence.

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[5] IACP. *Body-Worn Camera Model Policy.*

Recommendation 6

Enhance De-escalation Training for School Resource Officers[6]

Although Officer Lane attempted verbal de-escalation before using force, APD should continue expanding School Resource Officer training emphasizing:

- Adolescent behavior
- Group psychology
- Conflict interruption
- Crisis communication
- Tactical patience
- Crowd influence techniques

Comparable Agency

The Cincinnati Police Department partners with local schools to provide annual adolescent crisis intervention training for SROs.

Rationale

Juvenile group dynamics differ substantially from adult encounters and require specialized communication techniques.

Recommendation 7

Expand Annual Decision-Making Training Under Barnes v. Felix[7]

The Supreme Court's decision in Barnes v. Felix (2025) significantly expanded judicial review of police force by requiring courts to examine the totality of circumstances leading to the force decision.

Training should emphasize:

- Tactical planning
- Time and distance
- Decision documentation
- Alternative strategies
- Officer-created jeopardy considerations

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[6] University of Memphis CIT Center. *Crisis Intervention Team Core Elements.*
[7] Ranalli, Mike. "Navigating the Interplay of Emergency Aid and Use of Force After Recent SCOTUS Decisions." *Police1*, April 10, 2026.

- Tactical communication

Comparable Agency

Following *Barnes*, several agencies utilizing Lexipol training updates have begun emphasizing pre-force decision-making during annual legal updates.

Rationale

Modern constitutional policing now evaluates officer decisions beginning long before force is actually used.

Recommendation 8

Increase Joint APD-School Emergency Exercises[8]

The investigation revealed that multiple staff members attempted to intervene before Officer Lane arrived.

Annual joint exercises should include:

- Fight intervention
- Lockdowns
- Officer arrival coordination
- Student evacuation
- Crowd management
- Communications

Comparable Agency

The Houston Independent School District Police Department conducts annual multidisciplinary school violence exercises involving educators, EMS, and law enforcement.

Rationale

Joint training improves coordination while reducing confusion during real incidents.

Recommendation 9

Develop an After-Action Review Program for Significant School Incidents[9]

[8] U.S. Department of Justice. *COPS Office School Safety Resources.*
[9] PERF. *Guiding Principles on Use of Force.*

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Following significant school disturbances, APD should conduct structured after-action reviews involving:

- Police supervisors
- School administrators
- Safety personnel
- EMS
- Training staff

The review should evaluate:

- What occurred
- Tactical successes
- Communication issues
- Policy compliance
- Training improvements

Comparable Agency

The Camden County Police Department conducts structured operational debriefings following significant force events.

Rationale

Continuous organizational learning improves future performance and strengthens community confidence.

Recommendation 10

Expand Annual Less-Lethal Decision-Making Training[10]

Chemical agents remain among the safest intermediate force options available when used appropriately.

Annual training should include:

- Decision-making
- Target discrimination
- Indoor deployment
- Secondary exposure
- Medical monitoring
- Documentation

[10] International Association of Chiefs of Police. *Model Policy: Oleoresin Capsicum Aerosol Restraint Spray.*

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- Decontamination

Comparable Agency

The Scottsdale Police Department requires annual proficiency and legal refresher training for all officers authorized to carry OC spray.

Rationale

Regular refresher training reinforces proportionality, constitutional decision-making, and proper deployment techniques.

VIII. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

The recommendations above should therefore not be interpreted as corrective actions addressing officer misconduct. Rather, they represent organizational improvements designed to strengthen policy clarity, enhance School Resource Officer preparedness, improve transparency, reduce future risk, and further align the Akron Police Department with evolving national best practices and recent constitutional developments following *Barnes v. Felix*. Collectively, these recommendations support APD's continued commitment to preserving life, protecting students and staff, maintaining public trust, and ensuring that officers are equipped to respond effectively to complex and rapidly evolving school-based emergencies.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**Brandon Chapman**
CASE NUMBER:	**2026-00058675**
DATE OF INCIDENT:	**05/20/2026**
DATE OF OIPA REPORT:	**07/27/2026**
LOCATION OF INCIDENT:	**1223 Louisiana Avenue, Akron, Ohio 44314**
APD DISTRICT:	**7**

I. Incident Overview

On May 20, 2026, Officer Siegferth was patrolling near East Avenue and Louisiana Avenue when an ACME manager reported that a male had just shoplifted merchandise and fled on foot. The suspect entered a nearby residence and then fled through the rear of the property. Additional officers responded and began searching the area.

While searching, Officer Siegferth observed another male, later identified as Brandon Chapman, jumping fences behind 2200 26th Street SW and attempting to evade officers who were searching nearby backyards. Chapman was later observed walking on Harpster Avenue. When Officer Siegferth approached and ordered him to stop, Chapman immediately fled on foot.

Officer Siegferth pursued Chapman on foot along Harpster Avenue and northbound on East Avenue. During the pursuit, Siegferth armed his Conducted Electrical Weapon (CEW) and repeatedly ordered Chapman to stop, warning him that he would be tased if he continued fleeing. Chapman ignored the commands and continued running.

The pursuit entered the ACME parking lot, where Chapman suddenly stopped, pivoted toward Officer Siegferth, bladed his body, and reached toward his waistband or right pocket area. Officer Siegferth believed Chapman might be armed. While attempting to stop his forward momentum, Siegferth extended his arm and made physical contact with Chapman, causing Chapman to fall to the ground. Chapman was then handcuffed without resistance.

A search incident to arrest revealed a pocketknife in the waistband area Chapman had touched moments earlier, as well as fentanyl and suspected counterfeit narcotics.

Chapman reported no injury, told Sgt. Gupta that officers had simply done their job, and photographs documented no apparent injury. Medical personnel evaluated Chapman at the scene. When Chapman later reported swallowing Xanax, he was transported to a hospital for evaluation.

II. Use-of-Force Description

Officer Siegferth used a single physical takedown maneuver during the foot pursuit of a fleeing suspect. During the pursuit, he armed his CEW and verbally warned Chapman that he would be

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tased if he continued to flee; however, no CEW deployment occurred. When Chapman abruptly stopped, bladed his body, and reached toward his waistband while the officer was rapidly closing distance, Siegferth believed Chapman might be armed. Unable to completely stop his momentum, the officer extended his arm and collided with Chapman, causing him to fall to the ground. Once on the ground, Chapman offered no resistance and was immediately handcuffed. No strikes, CEW activations, chemical spray, baton use, neck restraints, or additional force techniques were used. The force ended immediately once Chapman was secured. A pocketknife was subsequently recovered from the area of Chapman's waistband toward which he had reached.

III. Constitutional Policing Analysis

The governing constitutional standard is the Fourth Amendment objective reasonableness test articulated in *Graham v. Connor*. APD policy expressly incorporates the *Graham* factors, requiring consideration of:

1. Severity of the crime;
2. Immediate threat posed by the suspect; and
3. Active resistance or flight.

Applying those factors:

Severity of the Crime

The original investigation involved shoplifting. Standing alone, this is a relatively minor offense. However, Chapman's conduct evolved beyond mere presence in the area. Officers observed him running through backyards, jumping fences, and repeatedly fleeing police commands. He was ultimately charged with obstructing official business and drug offenses.

This factor moderately favors the use of some force to effect detention.

Active Resistance and Flight

Chapman repeatedly fled from police. APD policy specifically recognizes that objectively reasonable force may be used to restrain or subdue a person actively resisting or evading arrest by flight.

This factor strongly favors the use of force.

Immediate Threat

The most significant factor is the threat assessment at the moment force occurred. Chapman abruptly stopped, assumed a bladed stance, and reached toward his waistband. Officer Siegferth

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articulated a reasonable belief that Chapman could be armed. That belief was corroborated when a pocketknife was recovered from the waistband area immediately after arrest.

This factor strongly supports the officer's decision to use physical force to rapidly control the suspect.

Totality of Circumstances

Under modern constitutional analysis, courts examine the entire encounter rather than isolating the final seconds before force. The officer's actions throughout the encounter were measured and progressive. He attempted verbal commands, pursued a fleeing suspect, issued warnings regarding possible CEW deployment, and used only minimal physical force when confronted with behavior suggesting a possible weapon threat. The force ceased immediately upon compliance. This sequence strongly supports constitutional reasonableness under *Graham* and recent Supreme Court guidance emphasizing evaluation of the entire encounter.

Constitutional Conclusion

The force used was objectively reasonable under the Fourth Amendment. The officer employed a limited physical takedown in response to active flight and a perceived waistband threat. The force was proportionate, narrowly tailored, and immediately discontinued once Chapman was under control.

IV. APD Policy Analysis

APD policy authorizes force when reasonably necessary to accomplish lawful objectives, including effecting a lawful arrest, overcoming resistance, preventing escape, and protecting officers from physical harm.

The policy further requires that force be based on the subject's actions and discontinued when resistance ceases.

Officer Siegferth's actions were consistent with those requirements:

- Chapman actively fled from lawful detention efforts.
- The officer utilized verbal commands before physical force.
- The officer did not deploy the CEW despite arming it.
- The physical takedown was limited to bringing the suspect under control.
- No force was applied after Chapman ceased resisting.
- Medical evaluation was provided.
- Supervisory review was completed.

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Sgt. Gupta ultimately concluded that the takedown was objectively reasonable and within APD policy.

Policy Conclusion

The evidence supports a finding that Officer Siegferth acted within APD Use of Force policy and complied with reporting, supervisory review, and medical-care requirements.

V. Findings

The evidence supports the finding that the officer had a lawful basis to detain Brandon Chapman. Although Chapman was not the original shoplifting suspect being sought, Officer Siegferth observed him running through residential backyards, jumping fences, and actively attempting to evade police officers who were searching the area. When Officer Siegferth later encountered Chapman on Harpster Avenue and ordered him to stop, Chapman immediately fled on foot. Under the totality of the circumstances, Chapman's evasive conduct and continued flight provided officers with reasonable suspicion, and ultimately probable cause for Obstructing Official Business, thereby justifying the attempted detention and subsequent arrest.

The use of force employed by Officer Siegferth was objectively reasonable under the Fourth Amendment and consistent with the standards established in *Graham v. Connor*. The officer pursued Chapman only after repeated efforts to gain compliance through verbal commands failed. As the foot pursuit concluded, Chapman abruptly stopped, turned toward the officer, assumed a bladed stance, and reached toward his waistband area. Based on these actions, Officer Siegferth reasonably perceived a potential threat that Chapman might be armed. In response, he used a limited physical takedown to bring Chapman under control. The force was proportional to the circumstances confronting the officer at that moment and ceased immediately once Chapman was secured in handcuffs. The subsequent recovery of a pocketknife from the same waistband area that Chapman had reached toward further supports the reasonableness of the officer's threat assessment.

The investigation further demonstrates that Officer Siegferth acted within the requirements of APD's Resisting Arrest/Use of Force Procedure. Department policy authorizes officers to use objectively reasonable force when necessary to effect a lawful arrest, prevent escape, or overcome active resistance. Chapman repeatedly fled from lawful police commands and attempted to evade detention. The officer utilized verbal commands and warnings before resorting to physical force, did not deploy his CEW despite arming it during the pursuit, and limited his use of force to a single takedown maneuver. Once Chapman was under control and no longer resisting, no additional force was used. These actions were consistent with APD policy requirements that force be reasonable, proportional, and discontinued when resistance ceases.

The evidence also demonstrates compliance with APD's supervisory review and medical care requirements. Sgt. David Gupta responded to the scene, interviewed both the officer and Chapman, reviewed body-worn camera footage, documented the incident, and completed a supervisory

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investigation. Chapman reported that he was not injured and stated that the officer had merely "done his job." Photographs were taken to document Chapman's condition, and emergency medical personnel evaluated him at the scene. When Chapman later reported that he had ingested Xanax and was experiencing symptoms, he was transported to a hospital for further medical assessment. These actions reflect compliance with APD requirements regarding supervisory oversight and medical evaluation following a use-of-force incident.

Based on the totality of the evidence, there is no indication that excessive force was used during this encounter. The force was limited, directly related to the officer's lawful objective of apprehending a fleeing suspect, and supported by specific articulable facts that reasonably suggested a potential threat. The force ceased immediately once Chapman was under control, no injuries were reported, and the supervisory investigation concluded that the officer's actions were objectively reasonable and within policy. Accordingly, the evidence supports a finding that the use of force was lawful, constitutional, and consistent with Akron Police Department policy and accepted professional policing standards.

VI. Recommendations

Recommendation 1: Expand Foot-Pursuit Decision-Making Training

Recommendation: Provide annual scenario-based training integrating foot pursuits, threat recognition, and transition-to-contact decision making[1].

Rationale: Recent case law increasingly examines pre-force decisions as part of the totality-of-circumstances analysis[2]. Better training helps officers articulate decisions made before force becomes necessary.

Comparable Agency: Seattle Police Department incorporates force and pursuit decision-making into integrated tactical training emphasizing risk assessment and tactical repositioning.

VI. Conclusion

Based upon review of the incident reports, use-of-force documentation, and supervisory investigation, Officer C. Siegferth's actions were constitutionally reasonable, consistent with APD policy, and aligned with generally accepted police practices. Chapman actively fled from police, ignored commands to stop, abruptly turned toward the officer, and reached toward his waistband immediately before the physical takedown. A pocketknife was subsequently recovered from that same area. The force used was limited to a single takedown maneuver, ceased immediately once Chapman was controlled, and resulted in no documented injury. The APD investigation into the

[1] International Association of Chiefs of Police, *National Consensus Policy on Foot Pursuits*.
[2] *Barnes v. Felix*, 605 U.S. 73 (2025).

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officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**Keith Smith**
CASE NUMBER:	**2026-00059416**
DATE OF INCIDENT:	**05/21/2026**
DATE OF REPORT:	**08/01/2026**
LOCATION OF INCIDENT:	**666 N Howard St.**
APD DISTRCT:	**Ward 5**

I. Executive Summary

This report provides an independent review of the Akron Police Department (APD) officers' actions during Use of Force Incident No. 2026-059416 through the lens of constitutional policing, accepted national policing standards, and applicable Akron Police Department policies. The review evaluates the officers' conduct under the Fourth Amendment to the United States Constitution, relevant Supreme Court precedent, APD policies governing use of force, resisting arrest, K-9 deployment, and department rules and regulations.

The incident involved officers responding to information regarding an armed suspect who had reportedly threatened another individual with a firearm. Officers subsequently located the suspect, who fled on foot while repeatedly reaching toward his waistband. During the pursuit, officers deployed a police K-9, which apprehended the suspect after repeated verbal commands failed to obtain compliance. Following the apprehension, officers recovered a loaded handgun from the suspect.

From a constitutional perspective, the officers possessed objective facts establishing reasonable suspicion to detain the suspect and probable cause to arrest him. The totality of the circumstances including the report of an armed individual, corroborating observations, the suspect's immediate flight, repeated reaching toward his waistband, refusal to comply with commands, and eventual recovery of a loaded firearm created a rapidly evolving situation involving a significant threat to officer and public safety.

The overall use of force appears largely consistent with constitutional standards articulated in *Graham v. Connor*, particularly considering the severity of the suspected offenses, the immediate threat posed by the suspect, and his active resistance and attempted flight. Nevertheless, constitutional policing requires continual reassessment of force throughout an encounter. Therefore, the duration of the K-9 bite, supervisory review of force transitions, documentation of verbal warnings, and articulation of ongoing threat assessments warrant careful examination to ensure that force remained objectively reasonable at every stage of the apprehension.

This report concludes that the officers' decision to pursue and apprehend the suspect was legally justified. However, opportunities exist to strengthen policy language, documentation practices, supervisory review, and scenario-based training to further align APD practices with evolving national best practices in constitutional policing.

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Independent Police Auditor
Use of Force Review

II. Incident Overview

On May 21, 2026, Akron Police Department officers responded to reports involving an individual allegedly threatening another person with a firearm. Officers received information describing the suspect and his location, allowing responding personnel to identify an individual matching the reported description.

As officers attempted to investigate, the suspect immediately fled on foot. During the ensuing pursuit, officers observed the suspect repeatedly reaching toward his waistband while ignoring numerous verbal commands to stop. Based upon their training and experience, officers reasonably believed the suspect might be attempting to access or secure a firearm.

The pursuit continued through the surrounding area until officers determined that continued flight presented a substantial safety risk. A police K-9 was deployed after officers issued repeated commands directing the suspect to surrender. The suspect continued to resist apprehension, resulting in the K-9 making physical contact and securing the suspect until officers were able to safely place him into custody.

Following the arrest, officers recovered a loaded handgun from the suspect's person. The recovery of the firearm substantially corroborated the officers' assessment that the suspect posed an immediate threat during the encounter.

III. Constitutional Policing Analysis

Constitutional policing requires that every use of force be evaluated under the Fourth Amendment's prohibition against unreasonable seizures. The constitutional inquiry is objective and examines the facts confronting officers at the moment force is used rather than judging decisions with hindsight.

The officers' initial attempt to detain the suspect was supported by specific and articulable facts indicating possible criminal activity involving a firearm. The reported threats, combined with corroboration by responding officers, established an objectively reasonable basis to initiate an investigative detention. When the suspect immediately fled, the officers' reasonable suspicion increased substantially.

The constitutional justification for force continued to evolve throughout the encounter. The suspect's repeated movement toward his waistband significantly heightened the perceived threat. Courts have consistently recognized that officers are not required to wait until a firearm is displayed before taking protective action when objective facts suggest an individual may be armed.

IV. Legal Analysis

Under *Graham v. Connor*, three primary factors govern the reasonableness analysis:

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Severity of the Crime

The reported offenses involved threats with a firearm and unlawful possession of a weapon. Such allegations constitute serious criminal offenses carrying a heightened potential for violence. The seriousness of the suspected crimes weighed strongly in favor of permitting officers to use reasonable force to safely detain the suspect.

Immediate Threat

The most significant factor in this incident was the immediate threat posed to officers and the public. The suspect repeatedly reached toward his waistband while fleeing and ignored lawful commands to stop. From the perspective of a reasonable officer, these actions reasonably suggested an attempt to access a concealed firearm. The subsequent recovery of a loaded handgun reinforced the objective reasonableness of the officers' threat assessment, although constitutional analysis must remain focused on what officers reasonably knew before the weapon was recovered.

Active Resistance and Flight

The suspect actively resisted lawful detention by fleeing on foot and refusing repeated verbal commands. His continued efforts to evade arrest required officers to make rapid tactical decisions while balancing public safety, officer safety, and the suspect's constitutional rights. Active resistance and flight substantially increased the level of force that could constitutionally be employed.

Constitutional policing also requires officers to continually reassess whether the justification for force remains present. Even where initial force is justified, officers must reduce or terminate force once resistance ceases and the threat has been controlled. Consequently, the constitutional analysis extends beyond the decision to deploy the K-9 and includes whether officers promptly transitioned to lower levels of force once the suspect was safely restrained.

Overall, the available evidence indicates that the officers' decisions were guided by legitimate public safety concerns and were largely consistent with constitutional standards governing objectively reasonable force. Nonetheless, constitutional policing emphasizes continuous threat assessment, thorough documentation, supervisory accountability, and careful articulation of the reasons supporting each escalation and de-escalation decision. These principles form the basis for the policy and training recommendations presented later in this report.

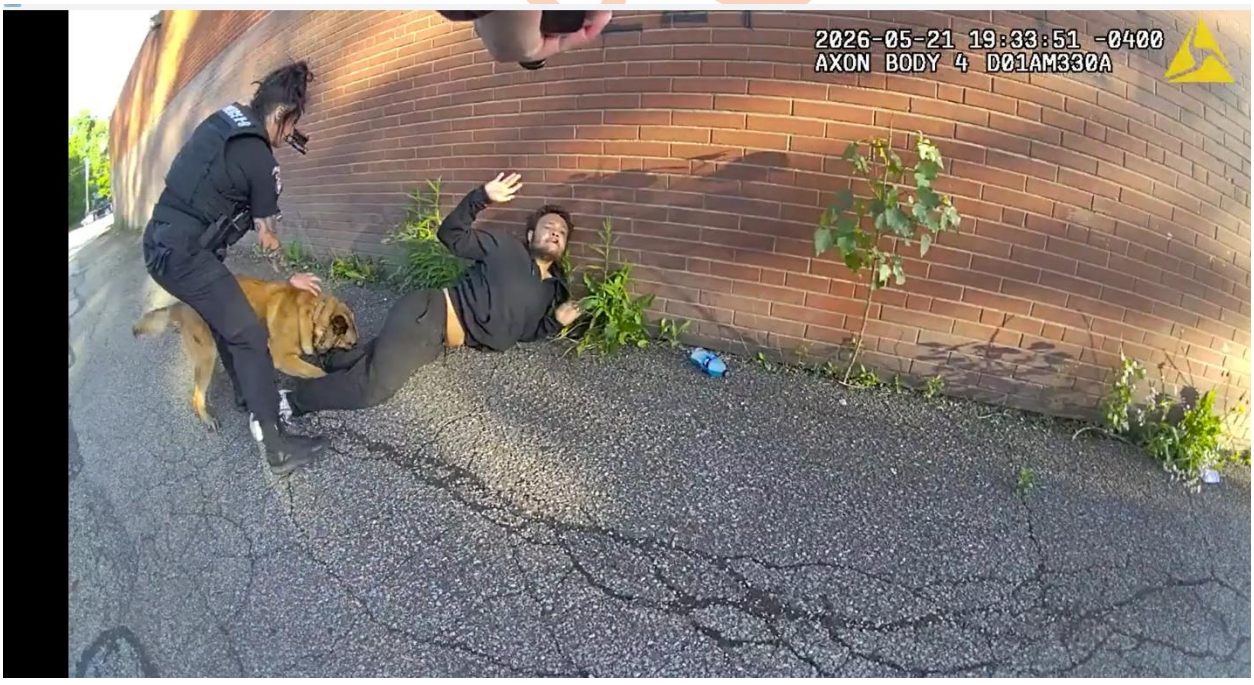
Body-Worn Camera Review

Review of Officer Alexander McGarvey's body-worn camera footage provides important context regarding the officers' use of force during the K-9 apprehension. The footage begins at approximately the 16:14 mark, where Officer McGarvey exits his patrol vehicle with his firearm in a low-ready position while the police K-9 is actively latched onto the suspect's left leg. At the same time, Officer Hight is observed holding her firearm in her left hand pointed toward the suspect while maintaining control of the K-9 leash with her right hand.

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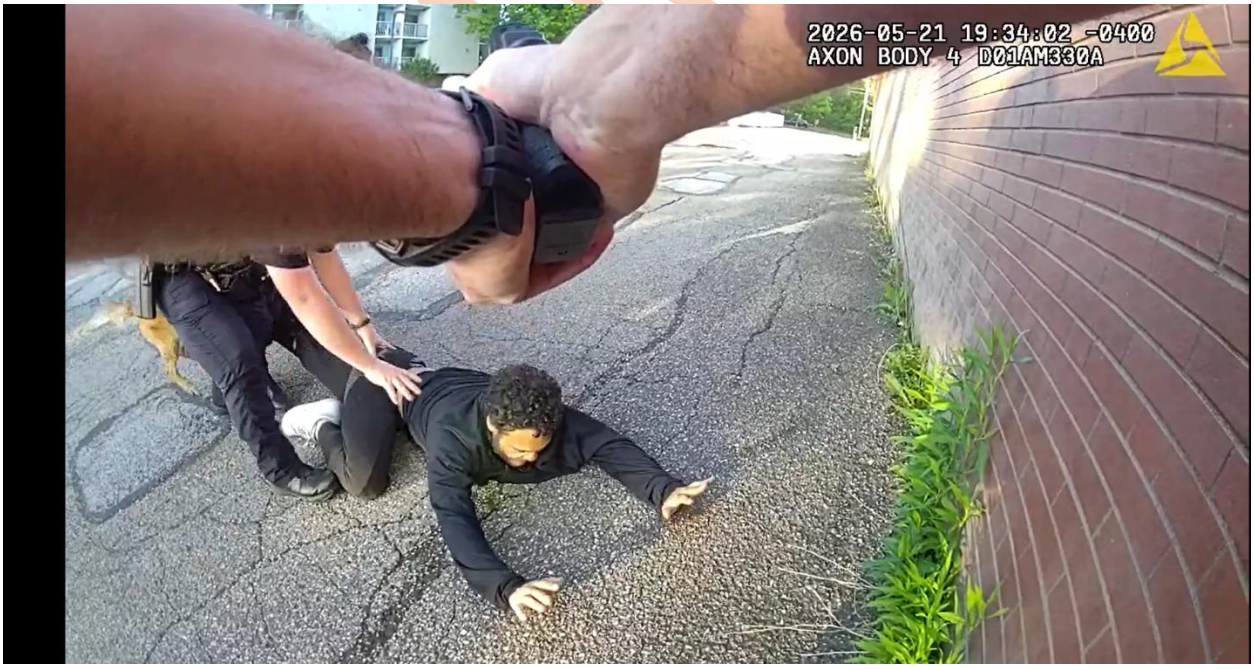
At approximately 16:20, the suspect is lying in a prone position with his head turned to the side and both arms visible. During this time, the suspect kicks the K-9 while the dog maintains its bite.



By approximately 16:23, the suspect's hands are flat on the ground and he remains face down. Despite the suspect's prone position, the K-9 continues to maintain its bite while officers continue providing verbal commands and maintain lethal-force coverage.

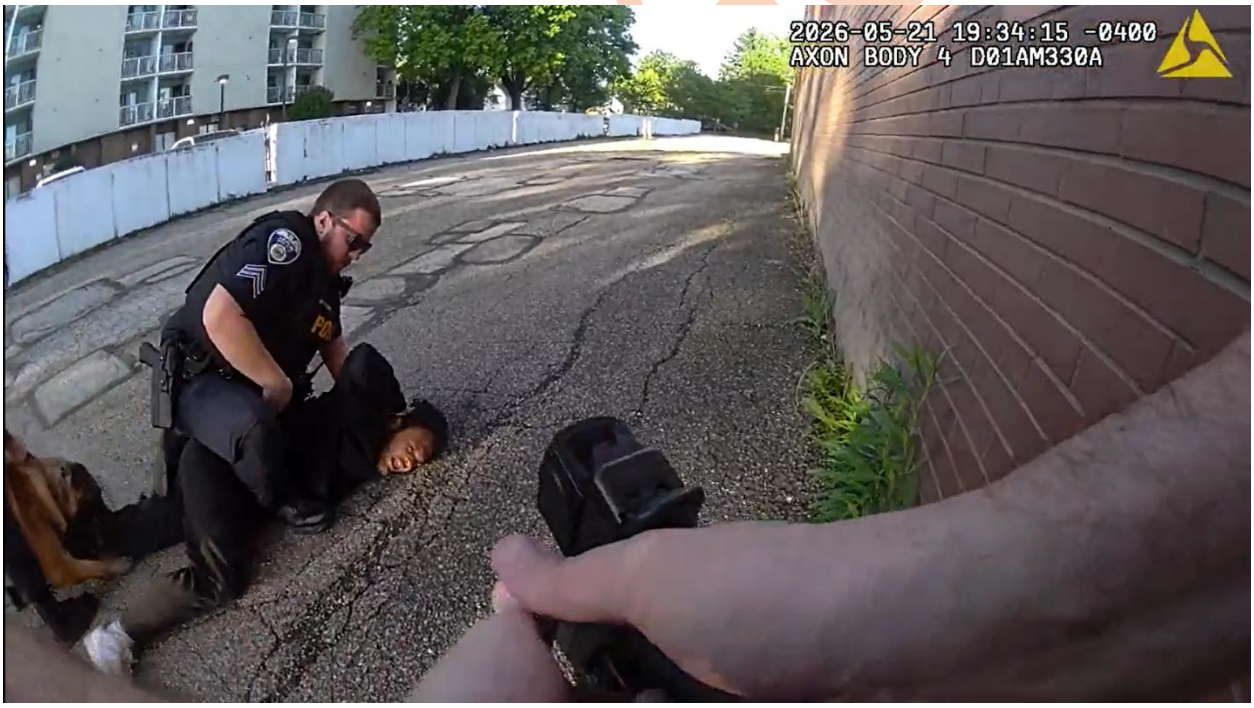


Beginning at approximately 16:28, another officer approaches the suspect and by **16:31** initiates physical control techniques by securing the suspect's arms in preparation for handcuffing. Officers continue giving verbal commands directing the suspect to place his hands behind his back.



At approximately 16:44, the suspect can be heard pleading for the dog to stop biting him. By approximately 16:57, the suspect repeatedly yells, "The dog! The dog!" while officers continue directing him to place his hands behind his back.





The K-9 remains engaged until approximately the 17:04 mark, when the dog finally releases its bite. According to the body-worn camera review, Officer Hight is observed attempting to physically pull the K-9 away but does not appear to issue a verbal release command before the dog disengages.

From a constitutional policing perspective, these observations are significant because they raise questions regarding the duration of the K-9 bite after the suspect appears to have reached a prone position and whether the continued application of force remained objectively reasonable throughout the handcuffing process. While officers continued to issue commands and the suspect had previously fled while reportedly armed, constitutional policing principles require officers to continually reassess whether the level of force remains necessary once a suspect's ability to resist has diminished. The absence of an audible verbal release command, coupled with the approximate 20-second interval between the initiation of hands-on control techniques and the dog's release, merits careful review under APD K-9 policy, APD Use of Force policy, and evolving national best practices governing police canine deployments. These observations are discussed further in the Constitutional Policing Analysis, APD Policy Analysis, Tactical Assessment, and Recommendations sections of this report.

V. APD Policy Analysis

Use of Force Procedure. The APD supervisor found the K-9 apprehension and handcuffing force objectively reasonable and within procedure. The facts support a policy-compliance conclusion if APD policy authorizes K-9 apprehension for an armed, fleeing subject who ignores a warning and poses a continuing safety risk. The investigation should, however, separately assess deployment, bite continuation, firearm-pointing, body-weight control, handcuffing, and post-force care. A global conclusion that the force was reasonable does not substitute for technique-by-technique review.

Resisting Arrest Procedure. Smith fled a lawful attempted detention, concealed his hand, pulled away, flailed his arms, and kicked Jaro. Those actions support classification as active resistance and assaultive behavior rather than passive noncompliance. The officers' transition from K-9 apprehension to hands-on control and handcuffing was consistent with the objective of overcoming resistance. The supervisory review should state the precise point when active resistance ceased and confirm that reportable force ceased promptly afterward.

K-9 Procedure. The record documents a verbal warning and a deployment to apprehend a fleeing, potentially armed subject. It also documents continued engagement while the gun remained within reach, Smith concealed a hand, kicked the dog, and resisted. Policy review is incomplete without the K-9 policy text, training records, bite-duration data, release-command timing, photographs, and an explanation of whether Jaro was trained in bite-and-hold, bark-and-hold, or another apprehension method. The supervisor's note that tactical issues were addressed with Hight should be supplemented by a written description of the issues, remedial instruction, and completion date.

Mobile Recording Device Procedure and Rules and Regulations. APD expressly found that Hight violated Mobile Recording Device Procedure 23-031 and Rule 700.05 concerning competency in performance of duty because her BWC had been docked before her shift ended. The call was dispatched at approximately 1931-1932 hours, and the supervisor stated her shift continued until 2000 hours. The subsequent command review directed documented counseling. The counseling memorandum notes that Hight acknowledged the importance of having and activating the camera.

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This finding is supported by the record. A system-level corrective action is also warranted because K-9 handlers with take-home vehicles and end of shift animal care duties face a predictable camera-readiness transition risk.

Post-force medical care and reporting. EMS was requested within minutes of the apprehension, and Smith was transported to Akron City Hospital. That response was appropriate. The package documents a left-leg dog bite and left-abdominal bruise, but it should also include a standardized canine-injury form, wound location diagram, bite photographs with scale, hospital disposition, and whether the dog's mouth remained engaged continuously or re-engaged.

VI. Use of Force Description

Officer Hight used a trained police K-9 as an apprehension force option after Smith fled from marked police vehicles and ignored a warning that the dog would be deployed. Hight opened the K-9 door and commanded Jaro to apprehend. Jaro pursued Smith, bit the back or area of Smith's left leg, and brought him to the ground. The dog maintained physical control while Smith remained prone, concealed his left hand, discarded a loaded handgun within reach, resisted handcuffing, and kicked the dog. Hight used the dog's pulling force to move Smith away from the firearm and released Jaro after Sgt. Yakubik secured one wrist in handcuffs. The record does not provide the exact bite duration or release-command timing.

Officer Hight and Sgt. McGarvey displayed and pointed their duty firearms at Smith while giving commands to show his concealed hand and while the loaded handgun remained within Smith's immediate reach. Sgt. McGarvey then used his foot to pin or secure the discarded firearm. This prevented Smith from regaining access to the weapon while officers attempted to control him.

Sgt. Yakubik stepped over Smith and used body weight initially on the lower back to stabilize him for handcuffing. Yakubik grasped Smith's right wrist, gave a command to stop reaching toward the lower body, and placed a handcuff on the wrist. As Jaro pulled Smith, Yakubik's weight shifted toward the upper back. Smith flailed and repeatedly brought his arms toward his head, preventing completion of handcuffing. Sgt. McGarvey then assisted Yakubik in bringing both hands behind Smith's back and completing handcuffing. The reports state that no further reportable force was used after Smith was secured.

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VII. Officer by Officer Analysis

Officer K. Hight, ID 1446, Car 601, K-9 Jaro. Hight had the primary role in the foot-pursuit intervention and K-9 deployment. Her warning before release, Smith's continued flight, the armed-person report, concealed hand, and waistband behavior support the initial deployment. Continuing the bite while the handgun remained within reach and Smith was kicking the dog and resisting was also potentially justified. The absence of exact timing prevents a definitive assessment of whether release occurred at the earliest safe moment. Hight's failure to have her BWC available violated

APD procedure and materially impaired review. Her report should also have documented the warning words, approximate warning-to-release interval, bite location, bite duration, release command, dog disengagement, and medical response.

Sgt. McGarvey, ID 1457, Car 45. McGarvey's observations helped establish reasonable suspicion. His firearm display was proportionate to the concealed-hand and firearm threat. Stepping on the discarded gun was a reasonable method of immediately denying access, though officers should retrieve and secure a firearm as soon as another officer can safely cover the subject. McGarvey's hands-on assistance in completing handcuffing was reasonable given active resistance. His report was generally consistent with the other accounts, though it should specify his commands and the moment he transitioned from firearm cover to hands-on assistance.

Sgt. Yakubik, ID 1515, Car 42. Yakubik arrived during an active armed-suspect apprehension and used body weight and wrist control to handcuff Smith. The technique was related to a legitimate control objective. The unplanned shift of pressure toward the upper back as the dog pulled Smith illustrates a coordination problem between handler and arrest team. Yakubik's account appropriately disclosed the shift. Training should emphasize a designated arrest-team lead, handler communication, early dog release when safe, avoidance of prolonged upper torso compression, and prompt repositioning after restraint.

Sgt. McCormick, ID 1498, preliminary investigator. McCormick responded to conduct interviews, photograph injuries, and collect evidence. The supervisor's report indicates his BWC captured Smith and witness interviews. His preliminary response appears appropriate. The investigative package would be stronger with a consolidated timeline, all force timestamps, and a standardized K-9 injury and deployment worksheet.

Lt. C. Forsch, ID 1414, final investigating supervisor. Forsch concluded the force was objectively reasonable, identified the BWC violation, sought a K-9 review from Lt. Ray, and noted tactical issues. Those are meaningful supervisory steps. The analysis, however, includes apparent template errors for example, language about Smith stepping out of a vehicle when the incident involved a foot pursuit and does not state the tactical issues, bite duration, or release timing. These deficiencies reduce the precision and auditability of the conclusion.

VIII. Tactical Assessment and De-escalation Review

The officers had limited opportunity for conventional de-escalation because Smith fled immediately after activation of emergency equipment and was reasonably believed to be armed. Hight nevertheless provided a K-9 warning, which was the principal de-escalation opportunity and could have produced voluntary surrender. The warning should be captured verbatim and repeated when feasible, with sufficient time to comply, unless delay would increase danger.

The pursuit involved marked cruisers, a K-9 deployment, drawn firearms, an unsecured gun, and officers converging from different directions. That complexity created crossfire, accidental-discharge, dog-bite, and positional-asphyxia risks. A more formal contact and cover structure

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would improve safety: one officer gives commands, one maintains lethal cover, the handler controls the dog and announces release status, and the arrest team moves only after the firearm is isolated and roles are communicated.

The tactical record supports the decision not to immediately release Jaro while Smith concealed a hand and the firearm remained reachable. Once McGarvey secured the gun and Yakubik obtained wrist control, however, the handler should reassess continuously and release the dog as soon as the arrest team can safely maintain control. The reports indicate release after one wrist was cuffed, but they do not explain why that was the earliest safe release point. This should be a mandatory field in future reviews.

Medical care was timely. De-escalation and force minimization continue after handcuffing; officers should monitor breathing, avoid prolonged prone restraint, reposition the person when safe, summon EMS for every K-9 bite, and document the medical handoff. Those steps protect both the subject and officers and preserve reliable evidence.

IX. Findings and Conclusions

Finding 1 - Lawful basis for detention. Supported. The detailed armed-person report, corroboration, evasive conduct, waistband-clutching, and flight established reasonable suspicion.

Finding 2 - Initial K-9 deployment. Likely objectively reasonable and consistent with the supervisor's conclusion, given the suspected firearm, continued flight, concealed hand, warning, and public-safety risk.

Finding 3 - Continued K-9 engagement. Not fully auditable from the supplied record. Continued engagement was justified while the firearm remained reachable and Smith resisted and kicked the dog, but exact bite duration and release timing are missing.

However, BWC footage shows an approximate 20-second interval between the initiation of hands-on control techniques and the dog's release. This merits careful review under APD K-9 policy, APD Use of Force policy, and evolving national best practices governing police canine deployments.

Finding 4 - Firearm display and firearm control. Objectively reasonable. The officers faced a concealed hand and then a loaded firearm within reach.

Finding 5 - Body-weight and handcuffing force. Objectively reasonable on the documented facts, with a tactical concern regarding coordination and the shift of pressure toward the upper back.

Finding 6 - Medical response. Appropriate and timely. EMS was requested and Smith was transported for treatment.

Finding 7 - Body-worn camera compliance. Violation sustained. Hight docked or lacked her BWC before the end of shift, contrary to Procedure 23-031 and Rule 700.05 as found by APD.

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Finding 8 - Supervisory investigation quality. Substantively adequate but incomplete. It identified the BWC violation and obtained K-9 review, but omitted exact force timing, did not describe the tactical deficiencies, and contained template language unrelated to the incident.

Finding 9 - Overall constitutional conclusion. The principal force actions were likely constitutional. The largest risk is the incomplete documentation needed to prove that the K-9 bite ended promptly when the threat and resistance diminished.

X. Policy and Training Recommendations

The following recommendations are based upon the facts of this incident, constitutional policing principles, Akron Police Department policy, contemporary legal standards, and nationally recognized policing best practices. While the available evidence supports the conclusion that the officers' use of force was objectively reasonable under the Fourth Amendment, constitutional policing requires agencies to continually improve policy, training, supervision, and accountability—even in incidents where force is legally justified.

The recommendations below are intended to reduce organizational risk, improve officer and community safety, strengthen accountability, and further align the Akron Police Department with national best practices.

Recommendation 1 - Adopt a Comprehensive Foot Pursuit Policy

Recommendation
Adopt a stand-alone Foot Pursuit Policy requiring officers and supervisors to continually evaluate whether the governmental interest in immediate apprehension outweighs the risks posed by the pursuit[1].

The policy should require officers to consider:

- seriousness of the offense
- whether the suspect is armed
- availability of containment
- environmental hazards
- fatigue
- available backup
- presence of uninvolved civilians
- opportunities for de-escalation
- supervisory oversight whenever practical

[1] Police Executive Research Forum. *Guiding Principles on Use of Force*. Washington, DC: PERF, 2016.

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Rationale
Although the pursuit in this incident was justified because officers reasonably believed Smith was armed, a formal foot pursuit policy provides structured decision-making that improves officer safety and reduces unnecessary injuries.

National research demonstrates that many serious officer injuries occur during foot pursuits rather than the arrest itself.

Real-World Example
The Philadelphia Police Department adopted a nationally recognized Foot Pursuit Policy[2] following recommendations from the Department of Justice and the Police Executive Research Forum (PERF). The policy requires continual risk assessment, supervisory review, and termination of pursuits when risks outweigh the governmental interest.

Constitutional Policing Benefit
- Reduces unnecessary pursuits
- Improves officer safety
- Enhances decision-making
- Encourages continual threat reassessment

Recommendation 2 – Strengthen K-9 Deployment Documentation[3]

Recommendation
Require K-9 handlers to specifically document:

- why deployment was necessary
- warnings given
- duration of bite
- opportunities for voluntary surrender
- threat assessment before deployment
- reassessment after deployment
- reason for release

Rationale
Officer Hight documented the deployment; however, enhanced documentation creates greater transparency during later constitutional review. Detailed articulation also assists prosecutors and civil litigation defense.

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[2] Philadelphia Police Department. *Directive 9.4: Foot Pursuits.* Philadelphia Police Department.
[3] Police Executive Research Forum, *Guiding Principles on Use of Force,* Washington, DC: PERF, 2016.

Real-World Example
The Las Vegas Metropolitan Police Department requires extensive documentation regarding canine deployments including warnings, suspect behavior, and bite duration[4].

Constitutional Policing Benefit

- Improves transparency
- Strengthens constitutional review
- Reduces litigation exposure
- Improves supervisory review

Recommendation 3 - Expand Threat Assessment Documentation

Recommendation
Require officers to specifically document changing threat assessments throughout an encounter rather than only describing the force itself.

Documentation should include:

- what officers knew initially
- what changed
- why threat level increased
- why force escalated
- when force became unnecessary

Rationale
Recent Supreme Court decisions[5] emphasize reviewing the entire encounter, not merely the instant force was used. Detailed articulation better demonstrates constitutional compliance.

Real-World Example
The Seattle Police Department revised officer reporting requirements following the federal consent decree to require documentation of evolving threat assessments[6].

Constitutional Policing Benefit

- Improves constitutional analysis
- Better reflects officer decision-making
- Strengthens supervisory review
- Enhances public confidence

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[4] Las Vegas Metropolitan Police Department. *Use of Force Policy.*
[5] *Barnes v. Felix,* 605 U.S. ___ (2025).

[6] Seattle Police Department, *Manual Section 8.300: Use of Force.*

Recommendation 4 - Incorporate "Totality of the Encounter" Review into Supervisor Training

Recommendation
Train supervisors to evaluate officer conduct beginning with:

- dispatch
- initial approach
- communications
- tactical positioning
- de-escalation
- force
- medical care
- documentation

rather than evaluating only the application of force.

Rationale
Recent Supreme Court decisions[7] recognize that constitutional reasonableness encompasses the officers' decisions throughout the entire encounter.

This broader review improves both investigative quality and organizational learning.

Real-World Example
The New Orleans Police Department, under its federal consent decree, revised supervisory review processes to examine officer tactics, communication, and decision-making throughout an incident rather than focusing solely on force[8].

Constitutional Policing Benefit
- Better investigations
- Improved accountability
- Better training recommendations
- Reduced organizational risk

Summary

The evidence supports the conclusion that the force used in Incident No. 2026-059416 was objectively reasonable under the Fourth Amendment and generally consistent with APD policy. Nevertheless, constitutional policing is founded on continuous improvement rather than mere constitutional sufficiency. The recommendations outlined above focus on strengthening APD's

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[7] *Barnes v. Felix,* 605 U.S. ___ (2025).
[8] United States v. City of New Orleans, No. 2:12-cv-01924 (E.D. La. 2012).

policy framework in areas of foot pursuits, K-9 deployments, threat assessment documentation, and supervisor review. Collectively, these reforms are designed to enhance officer safety, reduce litigation risk, increase transparency, and further align the Akron Police Department with nationally recognized best practices in constitutional policing.

XI. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

The record nevertheless reveals important accountability gaps. The most consequential is Officer Hight's failure to have an operating BWC available through the end of shift. That violation removed the clearest evidence of the warning, deployment, bite duration, release timing, and resistance. The second gap is the absence of a precise K-9 timeline and a separate analysis of continued bite engagement. The third is investigative quality control: the final report contained template language unrelated to the incident and referred only generally to tactical issues without documenting them.

Accordingly, this review concludes that the force was generally within constitutional bounds on the available evidence, while recommending policy changes that make future K-9 force more restrained, more measurable, and easier to audit. The central reform is straightforward: APD should require officers and supervisors to explain not only why force began, but why each significant force technique continued and exactly when and why it ended.

Keysha Myers

Keysha Myers

Deputy Independent Police Auditor

Reviewed and approved by

Anthony Finnell

Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME: [redacted]
CASE NUMBER: 2026-00065535
DATE OF INCIDENT: 06/04/2026
DATE OF REPORT: 08/06/2026
LOCATION OF INCIDENT: 48 Cicero Plaza.
APD DISTRCT: 4

I. Incident Overview

Officer Russell Cox, ID 1551, Car 6A, arrived first among the identified police officers. Officers Andrew Hughes, ID 1293, Car 6; Steven Motil, ID 1487, Car 7; Drew Fite, ID 1465, Car 8; and James Craft, ID 1279, Car 10, responded as assisting officers. Sergeant Karl Burton, ID 1186, Car 44, served as the investigating supervisor for the use-of-force package.

The reports consistently describe a medical crisis. [redacted] reportedly had a seizure or fainting episode, fell and struck his head, was found unconscious or altered, and had severe hypoglycemia. EMS determined that hospital evaluation was required. [redacted] was in an upstairs bedroom, fully covered by a blanket, and did not comply with requests to go voluntarily. Officers called for additional personnel and a WRAP restraint before initiating or completing the physical-control phase. After the restraint, EMS transported [redacted] to Akron General Medical Center, with Officer Cox accompanying the transport.

II. Constitutional Policing Analysis

Constitutional policing requires that officers identify the lawful objective, use authority only for that objective, select tactics proportionate to the threat and resistance, and continually reassess whether force remains necessary[1]. Here, the objective was protective and medical rather than punitive. There was no identified crime, no arrest charge, no weapon, and no reported assaultive conduct before officers initiated physical control. These facts reduce the permissible force level, but they do not eliminate the government's obligation to act when a person faces an objectively serious and immediate risk of untreated injury.

The most important constitutional question is whether officers had an objectively reasonable basis to seize [redacted] for emergency treatment. The medical facts reported by EMS loss of consciousness or seizure, head impact, altered responses, and a glucose level of 33 provided a strong emergency-aid rationale. Because the incident occurred inside a home, officers could not rely on a freestanding community-caretaking doctrine. Their actions instead had to rest on consent, exigent emergency aid, or valid Ohio statutory authority. The reports indicate family and EMS

[1] Graham v. Connor, 490 U.S. 386, 396-97 (1989).

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presence and do not identify a disputed warrantless entry; the later seizure of [redacted] person nevertheless required independent reasonableness.

Once officers decided physical intervention was required, constitutional policing favored a coordinated plan, clear explanation, medical participation, and the least force reasonably likely to accomplish safe transport. Calling additional officers and obtaining a WRAP before the struggle reduced the risk of improvisation. Conversely, the report set does not clearly document who declared legal custody, whether a physician or other authorized professional executed an emergency-hospitalization statement, what specific warnings were given, or what less-restrictive medical alternatives were considered. Those omissions weaken accountability even if the force itself was reasonable.

III. Legal Analysis

A seizure occurs when officers restrain a person's freedom of movement through physical force or a show of authority. The objective-reasonableness standard of *Graham v. Connor* governs force used to accomplish a seizure. *Graham* directs attention to the severity of the underlying offense, the immediacy of any threat, and active resistance or flight, while judging the circumstances from the perspective of a reasonable officer on scene[2]. In this incident there was no underlying criminal offense; the relevant governmental interest was prevention of serious medical harm. The absence of crime and weapons counseled restraint, while the reported hypoglycemia, altered consciousness, seizure, and head injury materially increased the urgency of intervention.

In *Estate of Hill v. Miracle*, the Sixth Circuit recognized that the traditional *Graham* factors do not fit neatly when officers use force to provide medical assistance rather than to arrest a criminal suspect[3]. The inquiry focuses on whether the person was experiencing a medical emergency, whether an immediate threat of serious harm existed, whether force was reasonably necessary to amend that threat, and whether the force used was proportionate. Applied here, the evidence supports an immediate medical danger and a reasonable need to overcome refusal or impaired decision-making. The proportionality issue turns on duration and positioning: limb control and handcuffing were more readily justified than extended body weight on the torso, neck, or back of a medically compromised person.

Emergency aid and community caretaking. *Brigham City v. Stuart* and *Michigan v. Fisher* permit warrantless action in a home when officers have an objectively reasonable basis to believe a person is seriously injured or imminently threatened with such injury[4] [5]. *Caniglia v. Strom* rejects a broad,

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2 Graham v. Connor, 490 U.S. 386, 396-97 (1989).
3 Estate of Hill v. Miracle, 853 F.3d 306 (6th Cir. 2017).
4 Michigan v. Fisher, 558 U.S. 45, 47-49 (2009).
5 Brigham City v. Stuart, 547 U.S. 398, 403-06 (2006).

standalone community-caretaking exception for homes[6]. Accordingly, APD should characterize this event as emergency aid and a protective seizure supported by specific medical facts, not as generalized caretaking authority.

Ohio emergency hospitalization law, Ohio Revised Code section 5122.10, authorizes specified professionals, including police officers, to take a person into custody for emergency psychiatric examination when the statutory mental-illness and substantial-risk criteria are met[7]. The statute also requires a written statement of circumstances and reasons, use of the least conspicuous reasonably appropriate manner, and an explanation that custody is not a criminal arrest. A critical legal distinction is that acute hypoglycemia, seizure, or head trauma is not automatically "mental illness" under Chapter 5122 [8]. If the custody was based solely on a physical medical emergency, section 5122.10 may not have been the correct legal vehicle; EMS consent law, exigent aid, incapacity principles, or physician direction may instead supply authority [9]. The report's reference to "pink slipping" should therefore be supported by documented statutory facts rather than used as shorthand for any involuntary medical transport.

The described force was likely objectively reasonable if officers reasonably believed [redacted] lacked capacity and faced imminent serious harm, and if the physical control lasted only as long as needed to secure safe transport. The strongest litigation risk lies in inadequate documentation of the custody basis, prone body-weight application, head control, and continued use of a full-body restraint after handcuffing without clearly recorded medical monitoring.

IV. APD Policy Analysis

The force was directed toward a legitimate safety objective, consisting of hands-on control, and ceased as officers transitioned to transport. The package supports necessity and proportionality at a general level. A complete policy review should separately classify each reportable technique: pulling the blanket; arm control; leg control; movement from bed to floor; full-mount or side-mount positioning; rolling prone; head stabilization; handcuffing; carrying; and WRAP application. The supervisory narrative appropriately identified Cox, Motil, and Fite as force users and Craft and Hughes as witnesses, but it did not fully analyze the duration, bodily location, or medical risk of each body-weight technique.

The incident did not involve an arrest, and no resisting-arrest charge was filed. Terms such as "defiant," "non-compliant," and "resisted" should not substitute for an arrest-based legal framework. The conduct described included pulling against officers, stiffening, tensing, keeping an arm beneath the body, and attempting to pull away after handcuffing. Those behaviors may

[6] Caniglia v. Strom, 593 U.S. 194 (2021).
[7] Ohio Revised Code §§ 5122.01, 5122.10 (effective Sept. 30, 2025).
[8] Ohio Revised Code §§ 5122.01, 5122.10 (effective Sept. 30, 2025).
[9] Ohio Revised Code §§ 5122.01, 5122.10 (effective Sept. 30, 2025).

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justify control, but policy should label them as resistance to protective custody or medical transport rather than resistance to arrest.

No conducted-energy weapon (CEW) was displayed or deployed. The absence of CEW use was tactically sound given the medical presentation, low blood sugar, close quarters, multiple officers, and availability of hands-on control. APD training should reinforce that CEWs can compound risk in medically compromised or physiologically stressed persons and are not a compliance tool for passive refusal.

Accountability would be improved by requiring officers to articulate the exact legal authority for involuntary custody, distinguish observed facts from secondhand medical information, document warnings and de-escalation attempts, and record monitoring after a full-body restraint is applied.

V. Use of Force Description

The BWC footage shows after repeated efforts to obtain voluntary cooperation, Officer Cox removed or attempted to remove the blanket covering [redacted] He held the blanket, rose onto his knees, turned or postured toward Cox, and pulled away. Cox gained control of an arm and used upper-body control while [redacted] moved between kneeling, supine, and all-fours positions on the bed. Officer Fite controlled an arm and assisted with upper-body stabilization. Officer Motil controlled [redacted] legs to prevent kicking or uncontrolled movement. The officers slid or pulled [redacted] from the bed to the floor while maintaining control of his extremities.

On the floor, [redacted] remained tense and resisted efforts to be rolled and handcuffed. Cox used mount and side-control positions over the upper body; Motil straddled or controlled the legs; and Fite manipulated the arms, applied one handcuff, freed the opposite arm from beneath the body, and completed handcuffing with Cox's assistance. The supervisory review states, and the BWC footage shows that Cox straddled [redacted] back and held his head in place, after which Fite temporarily assumed head control while Cox secured the remaining arm. Once handcuffed, officers attempted to calm [redacted] When he pulled away as Motil reached to double lock the handcuffs, officers moved him onto a prepared WRAP and secured his body and legs. Officers then carried him downstairs, placed him on an EMS stretcher, and transferred him for hospital transport. No strikes, chemical agents, CEW applications, neck restraints, impact weapons, or firearms were reported.

VI. Officer by Officer Analysis

Officer Russell Cox, ID 1551, Car 6A. Cox was the primary officer and made the transition from verbal engagement to physical control. His decision to summon additional officers before using force was prudent. His arm control and participation in handcuffing were closely connected to the medical-transport objective. The highest-risk aspect of his conduct was the reported full-mount/straddling position over the upper body or back and use of a hand to hold the head against the floor. The constitutionality of that force depends on minimal duration, avoidance of neck

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compression, and immediate repositioning once the hands were secured. His report should have specified the legal authority for involuntary custody, the duration and location of body-weight pressure, and the subject's breathing and responsiveness.

Officer Steven Motil, ID 1487, Car 7. Motil controlled the lower body and legs, helped move [redacted] from the bed, and straddled the legs while the arms were secured. Lower-body control reduced the risk of kicking and distributed control among officers. His attempt to double-lock the cuffs were proper. After renewed pulling, he participated in moving [redacted] to the WRAP. Motil's report provided useful medical context but used "pink slip" terminology without documenting who made the statutory determination or completed the required statement.

Officer Drew Fite, ID 1465, Car 8. Fite controlled the legs and arms, cleared pillows to create working space, applied the first handcuff, assisted the prone roll, freed the trapped arm, and completed handcuffing. These actions were functionally related to securing transport. Fite also reportedly held the head in place while Cox worked on the arm. Training should emphasize stabilizing the shoulder girdle rather than pressing the head or neck, and documenting the precise technique used.

Officer James Craft, ID 1279, Car 10. Craft arrived with the WRAP after the handcuffing phase, observed Cox remove his weight, participated in verbal calming, assisted with WRAP application, and helped carry [redacted] downstairs. His account indicates that [redacted] was verbally upset but did not resist the WRAP application. That fact raises a policy question whether the full-body restraint remained necessary after handcuffing and verbal stabilization, or whether EMS stretcher restraints could have sufficed. Craft's report appropriately limited his claimed involvement.

Officer Andrew Hughes, ID 1293, Car 6. Hughes retrieved and delivered the WRAP and assisted in its application after [redacted] was handcuffed. He did not report using force during the struggle. His role underscores the need for a designated safety officer whenever a restraint device is used, including continuous observation of airway, breathing, circulation, mental status, position, and distress.

Sergeant Karl Burton, ID 1186, Car 44. Burton responded after the subject was secured, interviewed officers, attempted to interview [redacted] at the hospital, reviewed BWC footage, classified force users and witnesses, and concluded the force was proportional and objectively reasonable. The investigation would be stronger with a technique-by-technique necessity analysis; timestamps and duration; reconciliation of which wrist was cuffed first; identification of the decision-maker for emergency custody; evaluation of WRAP necessity after handcuffing; and explicit review of prone pressure, head control, and medical monitoring.

VII. Tactical Assessment and De-escalation Review

The officers used several sound tactics: they sought voluntary compliance, summoned additional personnel, obtained a restraint device before transport, used multiple officers to divide control

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responsibilities, avoided strikes and weapons, and transferred the subject to EMS. The small upstairs bedroom, bed, blankets, pillows, and narrow egress created predictable control and transport challenges. Moving the encounter to the floor reduced fall risk during handcuffing but introduced prone-restraint and body-weight risks.

The available reports do not describe a formal tactical pause or unified plan immediately before hands-on contact. A preferred approach would designate one communicator, one incident leader, one medical liaison, and one safety monitor; confirm the legal and medical basis for custody; explain the plan and consequences in simple language; remove unnecessary personnel from the bedroom; position EMS nearby; and decide in advance how to transition from bed to stretcher while minimizing prone time. When time and medical condition permit, officers should use time, reassurance, family input, glucose treatment or other clinician-directed care, and seated or lateral positioning before initiating a floor-control sequence.

The post-handcuff decision is the most important tactical review point. [redacted] reportedly continued to pull away when Motil touched the cuffs, but Craft later described no resistance during WRAP application. A supervisor or designated leader should explicitly reassess whether handcuffs alone, soft restraints, stretcher straps, or WRAP are necessary. If WRAP is used, officers should keep the person upright or lateral as soon as feasible, avoid maximal flexion, and continuously monitor breathing and consciousness with EMS participation.

VIII. Findings and Conclusions

Finding 1: The officers had a legitimate and substantial basis to intervene in the medical emergency.

The reported seizure, fall, loss of consciousness, possible head injury, altered responses, and blood-glucose reading of approximately 33 gave officers an objectively reasonable basis to believe that [redacted] faced immediate risk of serious harm without treatment. The intervention served a protective rather than punitive purpose.

Conclusion: Supported by the evidence and consistent with constitutional policing and APD's medical-emergency force provision.

Finding 2: Some degree of hands-on force was likely necessary after voluntary cooperation could not be obtained.

Cox attempted to obtain compliance and summoned additional officers before initiating physical restraint. [redacted] continued to refuse transport, retained the blanket, pulled away, stiffened his body, withheld his arms, and resisted repositioning. Under the circumstances, officers were not required to abandon a medically endangered person merely because he resisted treatment.

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Conclusion: The initiation of controlled hands-on restraint was likely objectively reasonable and within APD policy.

Finding 3: The officers' selection of grappling and limb control instead of weapons was tactically preferable.

No officer used punches, kicks, chemical defense spray, a CEW, baton, firearm, or other impact weapon. Coordinated hands-on control by multiple officers reduced the likelihood of more injurious force.

Conclusion: The general force-selection strategy was proportionate to the protective objective and preferable to weapon-based alternatives.

Finding 4: The use of body weight, prone positioning, and head control was not sufficiently documented or analyzed.

The records establish that Cox used full-mount and side-mount positions, straddled [redacted] back, and held his head in place. Fite later assumed head control. The reports do not establish the amount, location, or duration of pressure, whether the head was pressed downward, or how long [redacted] remained prone. These omissions are especially significant because he was medically compromised and may have suffered a head injury.

Conclusion: Insufficient evidence for an unqualified within-policy finding concerning these discrete techniques. The record supports documentation and supervisory-analysis deficiency and requires detailed body-worn-camera review.

Finding 5: Handcuffing was likely reasonable as a temporary protective restraint.

[redacted] continued to pull away, stiffen, and withhold his arms. Handcuffs allowed officers to reduce body weight and prepare for safer movement and transportation.

Conclusion: Likely objectively reasonable and within policy, subject to confirmation that the cuffs were properly fitted, double-locked, and monitored.

Finding 6: The necessity of the WRAP was not fully established in the investigative package.

Motil reported renewed pulling away when he attempted to double-lock the handcuffs, providing a legitimate safety rationale for additional restraint. Craft reported that [redacted] did not

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resist during application. The reports do not explain why handcuffs and coordinated officer control were insufficient, what alternatives were considered, or how [redacted] was positioned and monitored in the device.

Conclusion: The WRAP may have been tactically justified because officers had to move a resisting person down a staircase, but the package does not contain sufficient analysis for an unqualified finding. This is best classified as within the range of possible reasonableness with policy, training, and documentation concerns.

Finding 7: Officers appropriately reduced the intensity of force after handcuffing.

Craft observed Cox stand and remove his weight after the cuffs were applied. The officers then attempted to calm [redacted] before applying the WRAP. There is no indication that officers struck or punished him after control was achieved.

Conclusion: Consistent with APD's requirement to reduce or discontinue force when resistance ceases or the person comes under control.

Finding 8: The reports did not adequately document medical monitoring after restraint.

[redacted] was already under EMS care and was promptly transported to a hospital. However, the APD reports do not specify his respiratory status, level of consciousness, circulation, positioning, skin color, complaints, or monitoring while handcuffed and secured in the WRAP.

Conclusion: Medical care was available and transportation occurred, but APD documentation was insufficient to demonstrate continuous restraint-related monitoring.

Finding 9: Craft and Hughes were improperly or incompletely classified as witness officers.

Both officers assisted with the WRAP after reportable force had already been used. Craft also assisted in carrying [redacted] downstairs. APD policy defines an involved officer to include one who assists in controlling or goes hands-on with a subject after force has been used.

Conclusion: The supervisory classification was inconsistent with the policy definition. Craft and Hughes should have been identified as assisting involved officers for the portions of the restraint in which they physically participated.

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Finding 10: The legal basis for involuntary transportation was not clearly documented.

The records alternately refer to a contemplated pink slip and later state that no pink slip was completed. The incident appears to have arisen from a physiological medical emergency rather than clearly documented qualifying mental illness.

Conclusion: The officers likely possessed emergency protective authority, but the package should have clearly articulated whether the legal basis was medical incapacity, emergency aid, psychiatric hospitalization, or another authority. The failure to do so constitutes legal-articulation and supervisory-review deficiency.

Finding 11: The supervisory investigation was adequate in basic reconstruction but incomplete in analysis.

Sergeant Burton reviewed body-worn-camera footage, interviewed officers, attempted to interview [redacted] and prepared a sequence of events. He did not, however, separately evaluate each force technique, reconcile important inconsistencies, assess medical risks, justify the WRAP independently, or classify all hands-on officers correctly.

Conclusion: The investigation met foundational requirements but did not provide the depth necessary for a medically complex, multi-officer force event.

Finding 12: The available evidence does not establish retaliatory, punitive, or malicious force.

The officers' actions remained directed toward medical transport. No officer used abusive weapon force, continued striking after control, or filed criminal charges to justify the encounter after the fact.

Conclusion: No evidence of punitive or retaliatory force.

Overall Findings Conclusion

The officers were confronted with a genuine and potentially life-threatening medical emergency involving a person who refused treatment and physically resisted efforts to secure him. Their decision to summon additional officers, avoid weapons, and use coordinated hands-on control was generally consistent with constitutional policing and APD's medical-emergency use-of-force framework.

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The record supports a preliminary conclusion that the initiation of force, limb control, movement to the floor, and handcuffing were likely objectively reasonable. The evidence is less complete regarding the amount and duration of body weight, prone positioning, head stabilization, and the independent necessity and monitoring of the WRAP. Those concerns do not necessarily establish excessive force, but they prevent an unqualified finding that every technique was fully documented, tactically sound, and compliant with policy.

The principal deficiencies identified in this review concern force articulation, medical-risk assessment, involved-officer classification, supervisory analysis, the legal basis for involuntary transport, and documentation of post-restraint monitoring. The incident therefore appears best characterized as a use of force undertaken for a legitimate medical purpose that was generally proportional in overall strategy but accompanied by tactical, policy, reporting, and supervisory concerns requiring corrective recommendations.

IX. Policy and Training Recommendations

The following recommendations address the policy, training, documentation, medical-safety, and supervisory issues identified in this incident. They are intended to strengthen APD's response to medical emergencies involving impaired decision-making, physical resistance, and involuntary transportation.

Recommendation 1 — Adopt a dedicated Medical-Emergency and Medical-Incapacity Response Policy.

Recommended action: APD should adopt a standalone policy, or a clearly designated section within the Use of Force Procedure, governing encounters in which a person refuses urgently necessary medical treatment because a seizure, hypoglycemia, head injury, intoxication, neurological event, or other physiological condition may have impaired the person's decision-making capacity.

The policy should require officers to document:

- The objective medical facts known to them;
- The source of medical information;
- The apparent risk of delaying treatment;
- The basis for believing the person lacked decision-making capacity;
- The legal authority supporting involuntary custody or transport;
- The voluntary-compliance efforts undertaken;
- The role of EMS and medical control;
- The force options considered;
- Why the selected restraint was necessary; and
- The medical monitoring provided after restraint.

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Rationale: APD's current procedure recognizes force during a medical or mental-health emergency when the person cannot make a rational decision, serious harm is imminent, force is necessary, and no more force than reasonably necessary is used[10]. The procedure does not provide sufficient operational guidance for determining capacity, coordinating with EMS, distinguishing medical incapacity from mental illness, or documenting the legal basis for involuntary transport.

This incident illustrates the resulting ambiguity. The records identified a seizure, possible head injury, altered responses, and a blood-glucose reading of approximately 33, but the reports generally stated only that [redacted] "had to go" to the hospital. The records also alternated between an anticipated psychiatric "pink slip" and a later notation that no pink slip was completed.

Real-world example: The Seattle model use-of-force policy directs officers to begin assessment and planning before arriving, apply a critical decision-making framework, identify legitimate objectives, consider available resources and alternatives, and continually reassess whether force remains necessary. It also requires focused health-and-welfare monitoring during team restraints[11].

Recommendation 2 — Clearly distinguish emergency medical incapacity from Ohio psychiatric emergency hospitalization.

Recommended action: APD policy and training should expressly differentiate among:

- Emergency medical aid;
- Incapacity to provide or refuse informed medical consent;
- Protective restraint requested by EMS;
- Emergency psychiatric hospitalization under Ohio Revised Code § 5122.10;
- Criminal arrest or detention; and
- Generalized welfare or community-caretaking activity.

Officers should be instructed not to use the term "pink slip" as a generic description for any involuntary medical transport. When §5122.10 is invoked, the required written statement and statutory factual basis should be completed and included in the investigative package. When transport is instead based on medical incapacity or emergency aid, the report should state that basis directly.

Rationale: Physiological incapacity caused by hypoglycemia, seizure activity, head trauma, or another medical event does not automatically establish that the person is a "person with a mental illness subject to court order." Conflating the two legal frameworks creates uncertainty concerning officers' authority, statutory documentation, the destination for evaluation, and the factual elements that must be established.

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[10] Akron Police Department, "Resisting Arrest/Use of Force Procedure," P-2021-013, January 4, 2021.
[11] Seattle Police Department, *Model Use of Force Policy*, accessed July 31, 2026.

The submitted record contains conflicting references to whether [redacted] would be psychiatrically hospitalized and whether any emergency hospitalization form was completed. A clearer policy would reduce legal risk and improve officer articulation.

Real-world example: The IACP maintains separate policy resources for responses to persons experiencing a mental-health crisis and cautions agencies to adapt model policies to controlling state law, judicial decisions, local ordinances, and agency operations.

Recommendation 3 — Require an EMS–law enforcement restraint plan before non-emergency physical intervention.

Recommended action: When officers are assisting EMS with a medically compromised person and immediate force is not required to stop an active assault or imminent medical catastrophe, policy should require a brief coordinated plan before physical contact begins.

The plan should identify:

- The legal and medical objective;
- A single primary communicator;
- The EMS lead;
- The officer directing the restraint;
- Each officer's assigned limb or responsibility;
- The intended restraint method;
- Medical contraindications;
- The movement path to the stretcher;
- The officer responsible for monitoring breathing and responsiveness; and
- The conditions requiring immediate termination or modification of the restraint.

Rationale: Multi-officer restraint can reduce the need for strikes or weapons, but uncoordinated multi-officer force can also produce cumulative pressure, conflicting movements, unnecessary prone time, and unclear accountability. In this incident, the reports reflect differing descriptions of who controlled the arms and legs, who placed the first handcuff, and who controlled [redacted] head.

Real-world example: Seattle's model policy recommends designating a "Safety Officer" during team restraint to monitor the restrained person's health and welfare. The same model directs agencies not to transport restrained persons prone and to monitor them before, during, and after transportation[12].

[12] Seattle Police Department, *Model Use of Force Policy*, accessed July 31, 2026.

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Recommendation 4 — Establish a mandatory Restraint Safety Officer role during multi-officer medical restraints.

Recommended action: Whenever three or more officers participate in restraining a medically compromised or crisis-affected person, the incident commander should designate one officer as the Restraint Safety Officer.

That officer should not be assigned primary limb-control duties unless operationally unavoidable. The Safety Officer should:

- Observe the person's face, airway, breathing, and level of consciousness;
- Monitor the location of each officer's body weight;
- Warn officers against pressure on the neck, head, chest, diaphragm, or upper back;
- Track the duration of prone restraint;
- Direct officers to reduce pressure after handcuffing;
- Confirm that the person is moved to a recovery, seated, or other medically appropriate position;
- Communicate changes in condition to EMS; and
- Ensure that the monitoring is documented.

Rationale: In a team restraint, each officer may perceive that the force he or she is applying is moderate even though the combined force imposes substantial pressure. A designated safety role creates clear responsibility for observing risks that involved officers may not recognize while concentrating on gaining control.

The supervisory account in this matter described Cox straddling [redacted] back and Cox and Fite successively holding his head in place. It did not identify any officer who was continuously assigned to monitor respiration, consciousness, or the cumulative effect of body weight.

Real-world example: Seattle's model policy specifically calls for designation of a Safety Officer during team restraints and requires monitoring before, during, and at the conclusion of transport[13].

Recommendation 5 — Prohibit prolonged prone restraint and restrict pressure on the head, neck, and torso.

Recommended action: APD should revise its Use of Force Procedure to state that prone positioning is a temporary control position, not a holding or transportation position. The policy should require officers to move a restrained person from prone to a seated, side-recovery, or other medically appropriate position as soon as practicable after the hands are secured.

[13] *Id.*

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The policy should prohibit:

- Kneeling, sitting, or standing on the neck, head, spine, chest, or torso;
- Sustained downward pressure on the head;
- Using body weight on the upper back after handcuffing unless an immediate threat requires brief reapplication;
- Transporting a person in a prone position; and
- Using restraints in a manner that restricts breathing.

Any temporary head stabilization should be limited to what is objectively necessary to prevent an immediate injury, bite, head strike, or other specific threat, and the report should describe the exact hand placement, justification, and duration.

Rationale: APD's current materials prohibit chokeholds and unnecessary violence, require force to stop when resistance ends, and place responsibility for the restrained person's safety on officers. They do not provide sufficiently detailed operational restrictions concerning prone restraint, body-weight pressure, or head stabilization.

APD's May 2026 Chief's Order also demonstrates heightened departmental concern regarding force directed toward the face, head, or neck, limiting punches or strikes to circumstances involving a physical assault, imminent physical assault, or greater threat.

Real-world example: Seattle policy provides that, absent exigent circumstances, prone subjects are to be moved onto their side in a recovery position and prohibits restraint that compromises a person's ability to breathe[14]. The Department of Justice separately prohibits chokeholds and carotid restraints except when deadly force is authorized, reflecting the national movement toward strict limits on neck-related restraint[15].

Recommendation 6 — Adopt a comprehensive WRAP and full-body restraint policy.

Recommended action: APD should adopt a written procedure governing the WRAP or any comparable full-body restraint. The policy should define the device as a reportable use of force and address:

- Authorized users and required training;
- Permissible circumstances;
- Prohibited uses;
- The requirement for an independent necessity assessment after handcuffing;

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[14] Seattle Police Department, "Use of Force Core Principles, Definitions, and Force Tools," Policy 8.000–8.200, accessed July 31, 2026.
[15] United States Department of Justice, "Department of Justice Policy on Use of Force," Justice Manual § 1-16.000, accessed July 31, 2026.

- Approved positioning;
- Restrictions against prone transport;
- Continuous visual and medical monitoring;
- Fit, circulation, respiratory, and consciousness checks;
- EMS response;
- Maximum duration before supervisory reassessment;
- Removal or loosening criteria;
- Hospital notification;
- Documentation of each participating officer;
- Photographs of the restraint as applied, when appropriate; and
- Supervisory review of the device data or restraint record, if available.

The policy should state that prior resistance alone does not automatically justify a full-body restraint after the person is handcuffed. Officers must articulate why handcuffs, officer control, EMS soft restraints, a stair chair, or other less restrictive alternatives were insufficient.

Rationale: In this incident, the WRAP was applied after handcuffing. Motil described renewed pulling away, while Craft reported that [redacted] did not resist the application itself. The use-of-force package did not identify an APD WRAP policy, a defined authorization threshold, required position, monitoring standard, or maximum duration.

Real-world example: Seattle's use-of-force policy requires close monitoring of persons placed in a hobble restraint for signs of serious medical conditions, including labored breathing and sweating, and requires immediate medical treatment when indicated[16]. Its model policy further prohibits prone transportation and requires monitoring throughout transport.[17]

Recommendation 7 — Require continuous post-restraint medical monitoring and documented transition from force to care.

Recommended action: APD policy should require officers to document a clear transition from force to medical care as soon as control is achieved. For medically compromised persons, officers should continuously monitor and periodically document:

- Level of consciousness;
- Responsiveness;
- Breathing rate and quality;
- Ability to speak;
- Skin color and temperature;
- Circulation to restrained limbs;
- Complaints of pain or difficulty breathing;
- Vomiting or seizure activity;

[16] Seattle Police Department, *Seattle Police Manual: Use of Force Policy*, accessed July 31, 2026
[17] Seattle Police Department, Model Use of Force Policy, accessed July 31, 2026.

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- Body position;
- Duration in each restraint position; and
- The time EMS assumed direct monitoring.

Officers should immediately summon or alert EMS to any deterioration, loss of responsiveness, breathing difficulty, sudden cessation of resistance, unusual calmness, or other material change.

Rationale: Medical personnel were present and [redacted] was transported promptly, but APD's reports did not adequately describe monitoring while he was prone, handcuffed, secured in the WRAP, carried downstairs, and transferred to the stretcher. The existence of EMS at the scene should not substitute for documenting what officers observed while they maintained custody and restraint.

APD policy already requires medical attention when the person is unable to communicate, becomes unconscious, requests care, or otherwise requires treatment. APD Rules and Regulations similarly require humane treatment and impose responsibility for the safety and well-being of restrained persons.

Real-world example: Seattle requires officers to monitor restrained persons for signs of serious medical conditions and obtain immediate treatment as necessary. Its model policy requires monitoring before, during, and after transportation[18].

Recommendation 8 — Require one primary communicator and medically appropriate de-escalation techniques.

Recommended action: APD policy should direct officers, when feasible, to designate one primary communicator during a medical or behavioral crisis. Other officers should avoid overlapping commands unless an immediate safety need requires intervention.

The communicator should:

- Use short, concrete instructions;
- Allow increased processing time;
- Repeat information calmly;
- Explain the medical concern and intended action;
- Avoid framing symptoms as intentional defiance;
- Offer realistic choices;
- Explain how the person can reduce or avoid restraint;
- Consider using family, caregivers, or trusted persons;
- Coordinate with EMS; and

[18] Seattle Police Department, *Seattle Police Manual: Use of Force Policy*, accessed July 31, 2026; Seattle Police Department, *Model Use of Force Policy*, accessed July 31, 2026.

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- Document why continued communication was no longer safe or effective.

Rationale: Seizure activity, hypoglycemia, and head trauma may impair comprehension, memory, orientation, emotional regulation, and the ability to follow rapid multi-step commands. Officers should not assume that delayed or inconsistent responses are intentional resistance.

Cox reported multiple attempts to obtain cooperation, but the reports did not adequately document the words used, the duration of the engagement, family participation, EMS communication, or whether additional processing time was provided.

Real-world example: PERF's ICAT curriculum combines crisis recognition, tactical communications, and operational safety rather than treating communication and tactics as separate subjects[19].

Recommendation 10 — Require complete force attribution for every hands-on officer.

Recommended action: APD should revise BlueTeam and policy requirements so every officer who touches, restrains, carries, directs, or assists in controlling a person after reportable force has begun is classified as an involved officer and individually linked to each technique used.

Required entries should include:

- Officer name and ID;
- Exact technique;
- Body area controlled;
- Beginning and ending point;
- Approximate duration;
- Reason the technique was initiated;
- Subject behavior immediately preceding it;
- Whether the technique was effective;
- Why was it discontinued;
- Any observed medical effect; and
- Whether the officer participated in post-restraint monitoring or transport.

Rationale: APD's existing definition already includes officers who assist in controlling or go hands-on with a person after force has been used[20]. Nevertheless, the supervisor classified Craft and Hughes as witnesses even though they assisted with application of the WRAP, and Craft also assisted in carrying [redacted] downstairs.

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[19] Police Executive Research Forum, *Integrating Communications, Assessment, and Tactics: Training Guide for Defusing Critical Incidents* (Washington, DC: Police Executive Research Forum, 2016).
[20] Akron Police Department, "Resisting Arrest/Use of Force Procedure," P-2021-013, January 4, 2021.

Incomplete attribution obscures the cumulative force applied, prevents meaningful assessment of each officer's conduct, and weakens early-intervention and training data.

Real-world example: Seattle's force-reporting policy emphasizes vigorous and transparent oversight systems to ensure accountability and public trust[21].

Recommendation 9 — Require technique-by-technique supervisory findings rather than a single overall conclusion.

Recommended action: APD's supervisory checklist should require a separate finding for every material phase of force, including:

- Decision to intervene;
- Transition from communication to physical contact;
- Movement from furniture or an elevated surface;
- Grappling;
- Limb control;
- Body-weight application;
- Supine or prone positioning;
- Head stabilization;
- Handcuffing;
- Continued force after handcuffing;
- Full-body restraint;
- Lifting or carrying;
- Transport position;
- Medical monitoring; and
- Termination of restraint.

For each phase, the supervisor should determine whether it was lawful, objectively reasonable, necessary, proportional, consistent with training, properly documented, and medically appropriate.

Rationale: Sergeant Burton reconstructed the incident and concluded that officers used mainly grappling and body weight that was proportional to [redacted] resistance. The conclusion did not separately evaluate the movement from the bed, duration of prone restraint, head control, post-handcuffing force, WRAP decision, carrying, or monitoring.

An overall finding may conceal an unjustified intermediate technique within an otherwise justified encounter. Technique-specific findings also allow agencies to distinguish constitutional violations from policy, tactics, training, equipment, or documentation concerns.

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[21] Seattle Police Department, "Use of Force—Reporting and Investigation," Policy 8.400, accessed July 31, 2026.

Real-world example: Seattle's reporting and investigation framework describes force oversight as a responsibility requiring vigorous and transparent systems designed to maintain accountability and community trust[22].

Recommendation 10 — Require supervisors to reconcile material discrepancies before approving a force package.

Recommended action: Supervisors should identify and resolve material inconsistencies among officer reports, CAD records, body-worn-camera footage, medical records, witness statements, and BlueTeam entries. When a discrepancy cannot be resolved, the supervisor should expressly identify it and explain its significance.

Required reconciliation topics should include:

- The legal authority for custody;
- Whether a psychiatric hold was initiated;
- The sequence of restraint;
- Which officer used each technique;
- Which wrist was cuffed first;
- The person's position during force;
- Whether the person actively resisted at each stage;
- The amount and duration of body weight;
- The justification for additional restraints; and
- The subject's medical status before and after force.

Rationale: This case contained differing accounts concerning the contemplated pink slip, the first wrist handcuffed, the officers controlling particular limbs, whether [redacted] was pulled or slid from the bed, who controlled his head, and whether he continued resisting when the WRAP was applied.

Identifying a discrepancy does not imply dishonesty. Different viewpoints are expected during a rapidly evolving struggle. Supervisory review should determine whether the differences are immaterial, explainable by perspective, or significant to the policy analysis.

Real-world example: PERF's Critical Decision-Making Model emphasizes separating facts from assumptions, identifying information gaps, consulting available sources, acting, and then reviewing and reassessing the decision[23].

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[22] Seattle Police Department, "Use of Force—Reporting and Investigation," Policy 8.400, accessed July 31, 2026.
[23] Police Executive Research Forum, "ICAT Module 2: Critical Decision-Making Model" (Washington, DC: Police Executive Research Forum, accessed July 31, 2026).

Recommendation 11 — Create a joint APD–AFD protocol for involuntary medical transport and police-assisted restraint.

Recommended action: APD and AFD should jointly develop a written protocol addressing roles and responsibilities when EMS requests police assistance with a refusing patient.

The protocol should define:

- Who determines medical necessity;
- Who assesses decision-making capacity;
- When medical control must be contacted;
- Who explains the decision to the patient;
- When officers may use physical force;
- Who directs the restraint;
- Approved and prohibited restraint devices;
- Whether police handcuffs should remain during ambulance transport;
- Positioning and monitoring requirements;
- The process for moving patients on stairs;
- Documentation responsibilities;
- Transfer-of-custody requirements; and
- Post-incident review for medical high-risk restraints.

Rationale: In this incident, AFD determined that [redacted] required hospital evaluation and requested APD assistance. The record does not clearly establish who made the capacity determination, whether medical control was contacted, who directed the movement from the bed, or who was responsible for restraint monitoring. A joint protocol would reduce uncertainty and prevent police and EMS personnel from assuming that the other agency has addressed a critical legal or medical requirement.

Real-world example: PERF's ICAT framework encourages officers to identify and use available resources, communicate with other responders, develop a coordinated plan, and reassess as conditions change[24].

Recommendation 12 — Establish an annual medical-restraint audit and public aggregate reporting process.

Recommended action: APD should conduct an annual audit of force used during welfare checks, emergency medical responses, mental-health calls, and involuntary transports.

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[24] Police Executive Research Forum, *Integrating Communications, Assessment, and Tactics: Training Guide for Defusing Critical Incidents* (Washington, DC: Police Executive Research Forum, 2016).

The audit should analyze:

- Number and type of incidents;
- Medical condition involved;
- Force techniques;
- Prone-restraint duration;
- Use of body weight;
- Use of WRAP or similar restraints;
- Injuries and hospital admissions;
- Demographic information;
- Officers and supervisors involved;
- Completeness of force attribution;
- Medical monitoring;
- Policy findings;
- Corrective training;
- Recurring equipment or policy concerns; and
- Outcomes of supervisory and command review.

Aggregate findings should be presented to APD leadership, the Independent Police Auditor, and the appropriate civilian-oversight body. Public reporting should protect medical privacy while identifying systemic trends.

Rationale: Individual incident review identifies whether a particular officer acted within policy. Aggregate analysis identifies recurring conditions that individual reviews may overlook, including disproportionate use of prone restraint, repeated reliance on full-body restraints, incomplete officer classification, or recurring failures to document medical monitoring.

Real-world example: Seattle's model policy calls for annual agency review and analysis of uses of force and public reporting to support transparency and accountability[25].

X. Conclusion

Based on available reports, body-worn camera review, and constitutional/legal standards, use of force was **Objectively Reasonable and Within Policy.** OIPA concurs with the finding.

The APD officers' emergency intervention and general decision to use coordinated hands-on force were supported by a legitimate medical necessity and were likely constitutionally reasonable. The incident was not shown to involve punitive, retaliatory, malicious, or weapon-based force. However, the record identifies substantial policy, tactical, reporting, medical-monitoring, and supervisory-review concerns. The force should therefore be classified as generally within the range of objective reasonableness, with significant tactical and administrative deficiencies requiring

[25] Seattle Police Department, *Model Use of Force Policy*, accessed July 31, 2026.

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policy revision, enhanced training, improved force attribution, and more rigorous supervisory review.

The principal organizational lesson is that medically compelled restraint cannot be evaluated or managed as a conventional resisting-arrest encounter. Officers must understand the medical condition, identify the legal authority for intervention, use medically informed de-escalation, coordinate with EMS, employ the least restrictive effective restraint, minimize prone time and body pressure, continuously monitor the restrained person, and document every technique and participant.

Implementation of the recommendations provided would strengthen APD's ability to protect life while reducing the risk of avoidable injury, constitutional challenge, inconsistent reporting, and incomplete accountability. It would also provide officers and supervisors with clearer guidance when they confront the difficult intersection of emergency aid, individual autonomy, medical incapacity, and police use of force.

Keysha Myers

Keysha Myers

Deputy Independent Police Auditor

Reviewed and approved by

Anthony Finnell

Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME: [redacted]
CASE NUMBER: 2026-00068907
DATE OF INCIDENT: 06/11/2026
DATE OF OIPA REPORT: 07/26/2026
LOCATION OF INCIDENT: [redacted] **Akron, Ohio 44307**
APD DISTRICT: 2

I. Incident Overview

On June 11, 2026, at approximately 8:00 a.m., Officer Logan Marcum was dispatched to [redacted] Akron, Ohio, to investigate a reported stolen vehicle. The reporting party, [redacted] advised that while she had been asleep, her son, [redacted] had taken her vehicle without permission after locating her hidden purse and keys. She informed Officer Marcum that [redacted] did not have permission to use the vehicle, was not authorized to drive it on a regular basis and requested that criminal charges be pursued if legally appropriate. [redacted] and the vehicle were no longer at the residence when Officer Marcum initially responded. After collecting the necessary information, Officer Marcum cleared the scene.

Approximately thirty minutes later, dispatch received another call advising that [redacted] had returned to the residence with the vehicle. Officer Marcum returned to the location and confirmed that Ms. [redacted] still wished to pursue criminal charges. [redacted] voluntarily exited the residence and initially spoke with Officer Marcum. During the conversation, [redacted] acknowledged that he did not have permission to take the vehicle but stated that he had experienced an emergency. When asked to explain the emergency, he refused and attempted to discontinue the conversation by walking toward the enclosed porch and residence.

Recognizing that probable cause existed for [redacted] arrest and that [redacted] was attempting to leave the lawful detention, Officer Marcum attempted to prevent him from re-entering the residence. [redacted] physically resisted by pulling away from Officer Marcum and firmly gripping the porch door frame while attempting to pull himself inside. Officer Marcum maintained physical control while issuing repeated verbal commands directing [redacted] to get on the ground and stop resisting. Officer Pearson arrived moments later and assisted in breaking [redacted] grip on the doorway. Officer Marcum then performed a rear body-lock takedown to bring [redacted] safely to the ground.

While on the ground, [redacted] continued to resist officers' efforts to place him into handcuffs by refusing commands and physically preventing officers from controlling his arms. Officer Marcum maintained control of [redacted] while Officer Pearson stabilized his lower body. Officer Kovach arrived shortly thereafter and assisted in completing the handcuffing process without applying additional force. Following the arrest, EMS responded and transported [redacted] to Akron General Medical Center due to an elevated heart rate and a pre-existing fracture of his right fifth finger. After medical clearance, [redacted] was transported to the Summit County Jail without further incident.

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The investigating supervisor responded to the scene, interviewed the reporting party, reviewed available body-worn camera footage, interviewed [redacted] at the hospital, and completed the required supervisory investigation. The supervisor concluded that [redacted] had actively resisted arrest and that officers used force necessary to overcome that resistance while ensuring [redacted] received prompt medical evaluation.

II. Use-of-Force Description

The use of force in this incident consisted exclusively of physical control techniques employed during the lawful arrest of [redacted] after he actively resisted officers' attempts to place him into custody.

Following confirmation that the complainant wished to pursue criminal charges and [redacted] admission that he lacked permission to use the vehicle, Officer Marcum attempted to prevent [redacted] from retreating into the residence. [redacted] physically resisted by pulling away from Officer Marcum while firmly gripping the porch doorway in an effort to pull himself inside. Officer Marcum maintained physical control and repeatedly instructed [redacted] to stop resisting and get on the ground.

After Officer Pearson arrived, he assisted by attempting to dislodge [redacted] from the doorway. When initial efforts proved unsuccessful, Officer Pearson pulled [redacted] arm free from the door frame. Immediately thereafter, Officer Marcum executed a rear body-lock takedown, bringing [redacted] to the ground in order to gain physical control.

Once on the ground, Officer Marcum maintained a mounted control position while applying arm-control techniques designed to position [redacted] for handcuffing. Officer Marcum repeatedly instructed [redacted] to roll onto his stomach and move his arms into positions that would permit handcuffing. [redacted] continued physically resisting by refusing commands and preventing officers from controlling his arms.

Officer Pearson repositioned himself to [redacted] lower body, straddling [redacted] legs while additional officers responded. Upon their arrival, Pearson applied a figure-four leg control to prevent continued kicking or movement while Officer Marcum and Officer Kovach completed the handcuffing process.

Officer Kovach arrived after the struggle had largely been contained. He assisted in securing [redacted] in handcuffs without independently applying reportable force.

Immediately after [redacted] was restrained, officers assisted him to his feet. EMS was summoned to evaluate [redacted] because of an elevated heart rate and complaints related to a previously fractured finger. [redacted] was transported to Akron General Medical Center for medical evaluation before being transported to the Summit County Jail following medical clearance. The reports indicate that no additional force was used after [redacted] was secured in handcuffs.

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III. Constitutional Policing Analysis

Constitutional policing requires that all seizures of persons and every application of force comply with the Fourth Amendment's prohibition against unreasonable searches and seizures. The central inquiry is whether officers' actions were objectively reasonable under the totality of the circumstances, rather than judged with hindsight. *Graham v. Connor* directs courts to evaluate force from the perspective of a reasonable officer on the scene, recognizing that officers frequently make split-second decisions during rapidly evolving encounters.

In this incident, Officer Marcum possessed probable cause to arrest [redacted] before any force was used. The complainant unequivocally reported that [redacted] had taken her vehicle without permission, stated that he had no authority to use it, and requested criminal prosecution. During the encounter, [redacted] admitted that he did not have permission to take the vehicle, although he claimed an unspecified emergency justified his actions. Those facts provided an objectively reasonable basis to believe that a criminal offense had occurred, authorizing a custodial arrest under Ohio law.

The constitutional analysis became more significant once [redacted] attempted to terminate the encounter and retreat into the residence. At that point, Officer Marcum was no longer conducting a consensual conversation but attempting to effect a lawful arrest supported by probable cause. [redacted] effort to pull away and retreat into the enclosed porch while gripping the doorway constituted active physical resistance to lawful police authority. Officers are not constitutionally required to allow an arrestee to retreat into a residence where access to weapons, barricading, or further confrontation could increase risks to officers and occupants.

The force employed appears proportional to the resistance encountered. Officers initially relied upon verbal commands. Physical force was introduced only after [redacted] physically resisted detention by pulling away and anchoring himself to the doorway. Once his grip was broken, Officer Marcum used a rear body-lock takedown to bring [redacted] under control. On the ground, officers used body positioning, arm-control techniques, and lower-body stabilization to overcome [redacted] continued resistance until handcuffs could be applied. Importantly, the available reports do not indicate the use of punches, kicks, knee strikes, elbow strikes, chemical spray, a conducted electrical weapon, baton, or deadly force. The force ceased immediately after [redacted] was handcuffed, consistent with constitutional principles requiring officers to use no greater force than reasonably necessary.

The officers also demonstrated constitutional attention to [redacted] medical condition. After the arrest, EMS was requested and [redacted] was transported for medical evaluation due to an elevated heart rate and a previously fractured finger. Prompt medical care following a use-of-force incident is consistent with both APD policy and evolving constitutional standards recognizing an officer's duty to respond reasonably to an arrestee's apparent medical needs.

From the presently available evidence, the officers' conduct appears consistent with the objective-reasonableness standard established in *Graham v. Connor*. The evidence supports the conclusion that the officers possessed lawful authority to arrest [redacted] employed force in response to active resistance, limited the force to physical control techniques appropriate for the circumstances, and discontinued force once [redacted] was restrained. Subsequent review should continue to consider the body-worn camera recordings as the most complete record of the encounter, particularly regarding the timing of the arrest announcement, opportunities for additional verbal de-escalation, and the proportionality of each discrete use of force under the totality of the circumstances.

IV. APD Policy Analysis

The actions of Officers Marcum, Pearson, and Kovach were reviewed for consistency with the Akron Police Department's Resisting Arrest/Use of Force Procedure (P13-2021), applicable provisions of the APD Rules and Regulations, and accepted constitutional policing principles. The analysis considers both the officers' tactical decision-making and their compliance with reporting, supervisory, and medical responsibilities.

The available evidence indicates that Officer Marcum possessed lawful authority to detain and arrest [redacted] before force was used. After the complainant confirmed that [redacted] did not have permission to use her vehicle and wished to pursue criminal charges, Officer Marcum interviewed [redacted] who admitted he lacked permission to take the vehicle. When [redacted] attempted to terminate the encounter and retreat into the residence, Officer Marcum attempted to prevent his escape. [redacted] physically resisted by pulling away and anchoring himself to the porch doorway, thereby creating a situation requiring officers to overcome active resistance. The APD Use of Force Procedure authorizes officers to employ objectively reasonable force necessary to accomplish a lawful arrest when a subject actively resists or attempts to evade custody. The sequence described in the officers' reports is consistent with that policy framework.

The force employed remained within the lower range of reportable force authorized by APD policy. Officer Marcum used a rear body-lock takedown, body-weight stabilization, and arm-control techniques. Officer Pearson assisted in breaking [redacted] grip on the doorway, attempted to stabilize [redacted] during the takedown, and later applied a figure-four leg control while officers completed the handcuffing process. Officer Kovach reported that he observed officers maintaining control of [redacted] on the ground and assisted only by applying handcuffs, without independently using reportable force. No evidence indicates that officers escalated to intermediate weapons, conducted electrical weapons, chemical spray, impact weapons, or strikes. The force used appears to have been directly related to [redacted] active resistance and ceased once control was established.

The officers also appear to have complied with APD's reporting requirements. Individual use-of-force reports were completed by Officers Marcum and Pearson, while Officer Kovach documented that he did not personally apply force. The incident was documented in BlueTeam, and the case report specifically notes the existence of the use-of-force investigative package, satisfying discovery requirements contemplated by APD policy.

Supervisory responsibilities likewise appear to have been fulfilled. Sergeant Burton responded to the incident, interviewed the complainant, interviewed [redacted] at the hospital, reviewed body-worn camera footage, documented the sequence of events, evaluated officer and witness statements, and completed the required supervisory investigation. These actions substantially conform to APD's supervisory responsibilities requiring review of evidence, witness interviews, subject interviews, medical considerations, and documentation of investigative findings following a reportable use of force.

Medical care also appears consistent with APD policy. Following the arrest, EMS responded because [redacted] exhibited an elevated heart rate and complained of a previously fractured finger. Officers transported [redacted] for evaluation before booking him into the Summit County Jail. APD policy and departmental rules require prompt medical attention for injured or ill prisoners, and the available documentation reflects compliance with that requirement.

Although the officers' conduct appears generally consistent with APD policy, this incident highlights several opportunities for continued improvement. Arrests occurring at residential thresholds present heightened constitutional and tactical risks because subjects may gain access to weapons, retreat into the home, or create ambiguity concerning the location of the seizure. Future training emphasizing coordinated arrest tactics, pre-arrest positioning, communication between responding officers, and articulation of the decision to prevent re-entry into a residence would further strengthen compliance with constitutional policing principles while enhancing officer safety.

V. Legal Analysis

The legal issues presented by this incident concern four principal questions: (1) whether officers possessed lawful authority to arrest [redacted] (2) whether [redacted] was lawfully seized under the Fourth Amendment; (3) whether the force used during the arrest was objectively reasonable; and (4) whether the officers' post-force actions satisfied constitutional obligations.

The officers' authority to arrest [redacted] appears legally supported by probable cause. The complainant reported that [redacted] took her vehicle without permission, confirmed that he had no authorization to use it, and requested prosecution. Upon returning to the residence, [redacted] admitted that he lacked permission to take the vehicle, although he claimed an unspecified emergency. Under the totality of these circumstances, a reasonable officer could conclude that probable cause existed to arrest [redacted] for offenses relating to the unauthorized taking of the vehicle.

Once probable cause existed, the Fourth Amendment permitted officers to effectuate a custodial arrest using objectively reasonable force. The Supreme Court's decision in *Graham v. Connor*, 490 U.S. 386 (1989), requires courts to balance the nature of the intrusion against the governmental interests at stake. Relevant factors include the severity of the suspected offense, whether the suspect poses an immediate threat to officer or public safety, and whether the suspect is actively resisting arrest or attempting to evade arrest by flight.

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Applying those factors here, [redacted] was suspected of a felony-level property offense involving the unauthorized taking of a motor vehicle. Although he was not reported to be armed, his attempt to retreat into the residence materially increased officer safety concerns because officers could not reasonably know whether weapons or other occupants were inside the home. More importantly, [redacted] was not merely refusing commands; according to all three officers' reports, he physically resisted arrest by pulling away from Officer Marcum, gripping the door frame, refusing repeated commands, and continuing to resist efforts to control his arms after being taken to the ground.

Under *Graham*, active resistance generally justifies a corresponding increase in the level of force reasonably necessary to gain control. The officers' response remained limited to physical control techniques. They did not escalate to strikes, intermediate weapons, or deadly force. Once [redacted] was handcuffed, the reports indicate that force ceased immediately. This progression is generally consistent with Fourth Amendment reasonableness principles.

The Supreme Court's decision in *Barnes v. Felix*, 605 U.S. ___ (2025), reinforces that use-of-force analysis should not isolate only the moment force is applied but instead evaluate the entire encounter under the totality of the circumstances. Under that framework, Officer Marcum's earlier decisions, including his attempt to maintain control of [redacted] before he re-entered the residence, his request for backup based upon prior experience with [redacted] and the officers' repeated verbal commands before employing greater force, are all relevant to evaluating objective reasonableness. Those circumstances tend to support the conclusion that officers attempted to resolve the encounter using progressively greater levels of control only after [redacted] actively resisted lawful arrest.

The officers also satisfied their constitutional obligation to respond reasonably to [redacted] apparent medical needs. EMS was requested promptly following the arrest, [redacted] was transported to Akron General Medical Center for evaluation, and only after receiving medical clearance was he transported to jail. These actions reduce potential exposure to claims of deliberate indifference to serious medical needs under the Fourteenth Amendment.

From a civil liability perspective, the presently available evidence suggests that the officers' actions would likely be viewed as objectively reasonable under existing Fourth Amendment jurisprudence. Nevertheless, litigation could focus on whether additional verbal warnings or alternative arrest tactics were reasonably available before physical intervention occurred at the doorway. While the evidence presently supports the officers' decisions, continued emphasis on tactical communication and coordinated arrest planning would further strengthen constitutional defensibility in future incidents.

VI. Officer-by-Officer Analysis

Officer Logan Marcum served as the primary investigating officer and arresting officer throughout the incident. His reports demonstrate that he initially attempted to resolve the investigation through verbal communication, questioned [redacted] regarding the vehicle, and obtained an admission that [redacted] lacked permission to use it. Only after [redacted] attempted to terminate the encounter and

physically retreat into the residence did Officer Marcum employ physical restraint. Throughout the incident, Officer Marcum repeatedly issued commands directing [redacted] to stop resisting and get on the ground before employing additional control techniques. His subsequent use of a rear body-lock takedown, arm-control techniques, and stabilization measures appears directly responsive to [redacted] continued active resistance. Based upon the currently available evidence, Officer Marcum's use of force appears consistent with constitutional standards and APD policy, although additional articulation regarding tactical considerations at the residential threshold would strengthen future reports.

Officer Jamaul Pearson functioned primarily as the assisting officer. His actions focused on helping overcome [redacted] resistance by breaking [redacted] grip on the doorway, attempting to stabilize [redacted] during the takedown, controlling [redacted] lower body, and applying a figure-four leg control while Officer Marcum completed the arrest. Pearson's report reflects measured assistance designed to facilitate handcuffing rather than independent applications of higher-level force. His actions appear proportionate to the level of resistance encountered and consistent with accepted team arrest tactics.

Officer Jerry Kovach responded after Officer Marcum requested emergency assistance. Upon arrival, he observed [redacted] already under physical control and assisted only in completing the handcuffing process. Kovach specifically documented that he did not independently apply reportable force. His actions reflect appropriate officer assistance in concluding the arrest while minimizing additional force once sufficient officers were available.

Sergeant Burton fulfilled the responsibilities of the investigating supervisor. His investigation included interviews with the complainant, review of body-worn camera footage, an interview with [redacted] at the hospital, assessment of the officers' actions, and documentation of investigative findings. The supervisory investigation demonstrates compliance with APD's expectation that reportable uses of force receive independent supervisory review.

Collectively, the officers demonstrated coordinated efforts to overcome active resistance while avoiding escalation to higher levels of force. The overall tactical approach reflects restraint, measured escalation, and prompt transition to medical care following the arrest.

VII. Findings

After reviewing the incident reports, supervisory investigation, CAD records, and applicable APD policies, the available evidence supports the following findings.

The officers possessed probable cause to arrest [redacted] based upon the complainant's statements, [redacted] own admission that he lacked permission to use the vehicle, and the complainant's continued desire to pursue criminal charges. The attempted arrest therefore constituted a lawful seizure under the Fourth Amendment.

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[redacted] actively resisted arrest by attempting to retreat into the residence, pulling away from Officer Marcum, gripping the doorway to prevent officers from taking him into custody, and continuing to physically resist while officers attempted to handcuff him. This level of resistance justified the officers' use of physical control techniques to complete the arrest.

The force employed remained proportionate to the resistance encountered. Officers relied exclusively upon physical control methods, including a rear body-lock takedown, body-weight stabilization, arm-control techniques, and lower-body restraint. No evidence indicates unnecessary escalation to higher-force options, and force ceased once [redacted] was restrained.

The officers complied with APD's reporting requirements by documenting the use of force, preparing the required investigative materials, and ensuring supervisory review. Sergeant Burton completed an investigation consistent with departmental policy by reviewing evidence, interviewing witnesses and the subject, and documenting his findings.

The officers also satisfied their obligation to provide medical care. EMS was summoned promptly, [redacted] was evaluated at the scene, transported for hospital treatment, and medically cleared before booking.

From a constitutional policing perspective, the officers' conduct appears consistent with the Fourth Amendment's objective reasonableness standard and APD policy governing the use of force. While no significant policy violations are evident from the available documentation, the incident illustrates the continuing value of enhanced training in coordinated arrest tactics at residential thresholds, pre-arrest planning, articulation of force decisions, and tactical de-escalation whenever circumstances permit. These opportunities are addressed in the recommendations that follow.

VIII. Policy and Training Recommendations

The following recommendations are based upon the incident review, constitutional policing principles, APD policy, and nationally recognized best practices. Although this review does not identify significant policy violations, every use-of-force investigation presents an opportunity to strengthen policy, improve tactical decision-making, reduce injury risks, and enhance public confidence.

1. Expand Training on Arrests at Residential Thresholds

Recommendation

Revise APD's arrest tactics training to include dedicated scenario-based instruction on arrests occurring at residential thresholds, emphasizing officer positioning, coordinated arrest planning,

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communication between officers, and preventing unnecessary entry into constitutionally protected spaces.[1]

Rationale

Residential doorways present unique constitutional and tactical challenges. Officers must balance their authority to complete a lawful arrest against heightened Fourth Amendment protections afforded to the home. Proper positioning before initiating physical contact reduces the likelihood of a prolonged struggle at the doorway, minimizes opportunities for subjects to gain access to weapons or retreat into the residence, and decreases the likelihood of injuries to both officers and subjects.

In this incident, Officer Marcum confronted [redacted] at the enclosed porch doorway while attempting to prevent his retreat into the residence. Although the officers' actions appear constitutionally reasonable, structured training on threshold arrests would further strengthen officer decision-making and articulation in future encounters.

Real-World Example

The Seattle Police Department incorporates residential-contact and threshold-arrest scenarios into its Defensive Tactics and Crisis Intervention training. Officers are trained to coordinate contact and cover responsibilities before initiating arrests near residences and to evaluate tactical repositioning whenever feasible.

2. Strengthen Documentation of De-escalation Efforts

Recommendation

Require officers to specifically document what de-escalation techniques were attempted, whether additional de-escalation opportunities existed, and why immediate physical intervention became objectively necessary.[2]

Rationale

Constitutional policing requires officers to consider de-escalation whenever it is safe and practical. Although de-escalation is not required when immediate action is necessary to prevent escape or overcome active resistance, documenting the decision-making process strengthens constitutional analysis, improves supervisory review, and enhances public confidence.

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[1] Police Executive Research Forum. *Guiding Principles on Use of Force.* Washington, DC: Police Executive Research Forum, 2016.
[2] U.S. Department of Justice, Office of Community Oriented Policing Services. *Collaborative Reform Initiative: An Assessment of the Las Vegas Metropolitan Police Department.*

In this incident, officers appropriately issued repeated verbal commands before using physical force. Future reports would benefit from more detailed articulation explaining why additional verbal persuasion was no longer feasible once [redacted] physically resisted arrest.

Real-World Example

The Las Vegas Metropolitan Police Department revised its use-of-force policy following the Department of Justice's Collaborative Reform Initiative to require officers to document de-escalation efforts or explain why such efforts were not feasible under the circumstances.

3. Enhance Team Arrest Coordination Training

Recommendation

Expand defensive tactics training to reinforce clearly defined team roles during multi-officer arrests, including designated contact officers, control officers, handcuff officers, and cover officers.[3]

Rationale

Clearly assigned responsibilities improve communication, reduce redundant force applications, shorten the duration of physical struggles, and reduce the likelihood of officer or subject injury. Team coordination also improves accountability by allowing each officer to articulate his or her specific responsibilities during the encounter.

In this incident, Officers Marcum, Pearson, and Kovach demonstrated coordinated efforts during the arrest. Formalizing these responsibilities through recurring scenario-based training would further improve operational consistency.

Real-World Example

The Denver Police Department incorporates coordinated multi-officer arrest scenarios into annual defensive tactics training, emphasizing clearly assigned responsibilities and communication throughout physical arrest situations.

4. Improve Articulation of Subject Resistance

Recommendation

[3] Police Executive Research Forum. *Integrating Communications, Assessment, and Tactics (ICAT).* Washington, DC: Police Executive Research Forum, 2017.

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Provide annual legal and report-writing training requiring officers to specifically distinguish passive resistance, defensive resistance, active resistance, assaultive behavior, and attempts to flee when documenting use-of-force incidents.[4]

Rationale

The constitutional reasonableness of force often depends upon the precise level of resistance encountered. Courts increasingly evaluate officers' descriptions of subject behavior when determining whether force was objectively reasonable. More precise articulation improves supervisory review, strengthens legal defensibility, and promotes consistent force analysis.

Although the officers consistently described [redacted] physical resistance, additional detail regarding the progression of his resistance and the specific behaviors prompting each force decision would strengthen future documentation.

Real-World Example

The Camden County Police Department (New Jersey) emphasizes behavior-based reporting in which officers describe specific observable actions rather than generalized statements that a subject "resisted arrest."

5. Incorporate *Barnes v. Felix* into Annual Constitutional Law Training

Recommendation

Update APD's annual legal update curriculum to include instruction on the United States Supreme Court's decision in *Barnes v. Felix* (2025) and its implications for evaluating use-of-force incidents under the Fourth Amendment.[5]

Rationale

Barnes clarified that courts evaluating excessive-force claims must consider the totality of the circumstances, including officers' tactical decisions leading up to the application of force, rather than evaluating only the precise moment force was used. Incorporating this decision into annual legal training will improve officers' understanding of constitutional decision-making and report articulation.

Real-World Example

[4] International Association of Chiefs of Police. *National Consensus Policy on Use of Force.* Alexandria, VA: International Association of Chiefs of Police, 2020.
[5] *Barnes v. Felix*, 605 U.S. ___ (2025).

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Several state Peace Officer Standards and Training (POST) academies have begun incorporating *Barnes* into constitutional policing curricula to emphasize that officers' pre-force tactical decisions are relevant to later judicial review.

6. Expand Report Writing Training on Tactical Decision-Making

Recommendation

Require officers to document not only what force was used but also why specific tactics were selected, what alternatives were considered, and why lesser-force options were ineffective or impractical under the circumstances.[6]

Rationale

Detailed articulation of tactical reasoning improves supervisory review, assists prosecutors and civil litigators in evaluating officer conduct, and demonstrates thoughtful constitutional decision-making. Comprehensive reporting also provides valuable information for organizational learning and future training.

Real-World Example

The Metropolitan Police Department (Washington, D.C.) emphasizes articulation of tactical decision-making during supervisory force reviews and officer report-writing instruction.

IX. Conclusion

This review concludes that the officers' actions during the June 11, 2026, incident were, based on the available evidence, consistent with the Fourth Amendment's objective reasonableness standard and substantially consistent with Akron Police Department policy governing the use of force and resisting arrest.

The encounter illustrates an appropriate progression from voluntary conversation to lawful detention, followed by a measured escalation of force only after [redacted] actively resisted arrest. Officers employed physical control techniques specifically directed toward overcoming resistance and gaining control of [redacted] for handcuffing. They avoided higher-force options, ceased force immediately upon achieving control, and promptly arranged for medical evaluation.

From a constitutional policing perspective, the incident reflects several positive indicators, including restraint in the selection of force options, teamwork among responding officers, timely

[6] U.S. Department of Justice, Office of Community Oriented Policing Services. *Collaborative Reform Initiative: An Assessment of the Metropolitan Police Department, Washington, D.C.* Washington, DC: U.S. Department of Justice, 2015.

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supervisory involvement, comprehensive reporting, and appropriate post-force medical care. These factors collectively support the conclusion that the officers acted with due regard for constitutional limitations while fulfilling their public safety responsibilities.

At the same time, the incident highlights broader lessons that extend beyond the individual officers involved. Recent Supreme Court decisions, particularly *Barnes v. Felix* (2025), emphasize that courts now evaluate the entire encounter rather than isolating the precise moment force is used. Consequently, future training should continue to emphasize pre-force tactical decision-making, coordinated arrest planning, de-escalation where feasible, and thorough articulation of officers' reasoning throughout an encounter. Such training not only strengthens constitutional compliance but also enhances officer safety, reduces injury risks, and improves public confidence in police decision-making.

In conclusion, the evidence presently available supports the finding that the officers' use of force was **Objectively Reasonable**, proportionate to the resistance encountered, and generally consistent with both constitutional policing principles and APD policy. OIPA concurs with the findings by APD. The recommendations contained in this report are offered not as corrective measures for misconduct, but as opportunities to further strengthen APD's commitment to professional, transparent, and constitutionally sound policing.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Citizen Complaint Review

SUBJECT NAME:	**Betty Pickens**
COMPLAINT NUMBER:	**26TR-0405 / Case No. 2026-00069735**
DATE OF INCIDENT:	**06/12/2026**
DATE OF REPORT:	**07/31/2026**
LOCATION OF INCIDENT:	**1387 Doty Drive, Akron, Ohio 44306**
APD DISTRICT:	**4**

I. Introduction

On June 12, 2026, at approximately 9:45 p.m., Akron police were dispatched to 1387 Doty Drive in response to a reported neighbor dispute. Dispatch notes described the event as a fight or attempted fight between neighbors. The caller, Betty Pickens, reported that her neighbor, identified in the investigative record as Brianna Butler, was angry with her because of continuing complaints involving children making noise and banging on walls. Dispatch information also indicated that Butler had allegedly blocked Pickens's vehicle and was yelling.

Upon arrival, the officers encountered Pickens and Butler in the context of an ongoing noise and neighborhood conflict. According to the complaint investigation, the officers initially spoke with the women separately. Officer Massengill gathered information from each party and determined that no immediate arrest would be made. Because officers had apparently responded to prior disputes at the same location, Massengill attempted to move beyond merely separating the parties and sought to facilitate a conversation that might reduce future calls for service.

The effort at joint discussion was unsuccessful. Neither Pickens nor Butler was able to resolve the disagreement, and the officers ultimately separated them and advised both parties regarding future conduct.

Pickens submitted a formal citizen complaint several days later. In the complaint, she stated that Officer Massengill made a race-related statement to Butler while the parties were still close enough for Pickens to hear. Pickens recalled Massengill telling Butler to look at her skin color and then his and stating that Butler could not speak to "these people" any way she wanted. Pickens interpreted the statement as introducing race into a dispute that had not previously involved race and as suggesting solidarity between Massengill and Butler against her.

Pickens also alleged that Massengill told her that he did not want to complete a report because Butler had "a lot to lose." She viewed that statement as evidence that the officer was more concerned with shielding Butler from housing or other consequences than with evaluating the facts impartially. Pickens emphasized that she and her family had also experienced significant disruption because of the continuing conflict, including lost sleep, missed school, and missed work.

Sergeant Scott Myers was assigned to investigate the complaint. He reviewed the complaint materials and body-worn-camera footage and interviewed Pickens by telephone. During that

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discussion, Pickens clarified that she had not expressly requested an APD incident report during the original encounter. Myers explained that the body-worn-camera footage showed Massengill discussing whether the incident might be reported to AMHA, rather than refusing to create police documentation. Pickens accepted that explanation and agreed not to pursue the report-refusal component of her complaint.

The racial-bias allegation remained. Myers informed Pickens that the body-worn-camera footage confirmed that Massengill discussed race with Butler, although not in the exact language Pickens initially recalled. Pickens acknowledged that she may not have remembered the precise wording. When asked whether Massengill treated her differently, Pickens initially responded that he had not and stated that he remained professional with both parties. She nevertheless maintained that using race to relate to Butler reflected favoritism and that the encounter had continuing consequences for her in the neighborhood.

Pickens later submitted an email providing further explanation. She stated that the officer's approach appeared to focus disproportionately on Butler's circumstances and what Butler might lose if she were held accountable. Pickens believed that insufficient attention was given to her allegations that Butler blocked her vehicle and attempted to assault her. She described the officer's conduct as professionally worded but substantively favorable to Butler and asserted that the handling of the incident caused her to become the target of neighborhood hostility.

Officer Massengill was offered an opportunity to submit a written response but declined. The investigator determined that the complaint could be resolved through review of the body-worn-camera evidence and other materials. Myers ultimately classified the racial-bias allegation as unfounded, finding that Massengill spoke with both parties, attempted to resolve a repeated neighborhood problem, used de-escalation techniques, gave similar advice to both women, and did not demonstrate racial bias against Pickens.

The APD clearance letter dated July 9, 2026, informed Pickens that the allegation had been classified as unfounded and defined that classification as meaning that the incident did not occur. The underlying race-related discussion, however, was acknowledged in the investigative report. The actual dispute was therefore not whether the officer discussed race, but whether the statement and his overall approach demonstrated racial bias, favoritism, improper alignment, or a lapse in professional judgment.

II. Constitutional Policing Analysis

Constitutional policing requires more than technical compliance with the Fourth Amendment. It encompasses the lawful, fair, impartial, transparent, and respectful exercise of police authority. An officer may avoid unlawful detention or excessive use of force and still engage in communication that weakens legitimacy or creates a reasonable appearance that one person received preferential consideration. For that reason, this incident must be evaluated not only for evidence of intentional

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racial discrimination, but also through the principles of procedural justice, neutrality, equal treatment, dignity, and public trust.

Procedural justice generally rests on several related principles: providing individuals an opportunity to be heard, making decisions based on neutral and consistently applied criteria, treating people with dignity and respect, and demonstrating trustworthy motives. In a neighbor dispute, these principles are especially important because officers often cannot conclusively resolve conflicting factual allegations. The legitimacy of the police response may therefore depend as much on how officers listen, explain, communicate, and exercise discretion as on whether they arrest one of the parties.

The available evidence indicates that Officer Massengill gave both parties an opportunity to speak and initially separated them to obtain information. That approach was consistent with sound conflict-management practices because it reduced immediate confrontation and allowed each participant to provide her version without interruption. The subsequent effort to bring the parties together appears to have been intended to reach a practical resolution to a recurring neighborhood problem rather than to favor one person. When the joint discussion failed, the officers separated the parties and advised them to avoid one another. These actions are consistent with a legitimate de-escalation objective.

The more difficult issue involves Officer Massengill's use of race as a rapport-building device. According to the investigative record, Massengill attempted to relate to Butler by referring to their race. The investigator characterized this as a de-escalation technique. The record does not establish that Massengill used racial slurs, threatened Pickens, denied her assistance, or expressly stated that Butler would receive favorable treatment because of race. Pickens also acknowledged that Massengill was professional with both parties and did not overtly treat her differently. These facts weigh against the conclusion that he intentionally discriminated against Pickens.

Intentional discrimination, however, is not the only relevant concern. Police legitimacy depends in part on whether officers appear neutral to a reasonable participant. In an adversarial encounter, an officer who expressly references a shared racial identity with one party risks communicating affiliation, solidarity, or partiality. That risk exists even when the officer's actual purpose is to calm the person or persuade her to act responsibly.

Massengill's apparent message could have been conveyed in race-neutral terms. He could have emphasized that Butler's conduct might affect her housing, children, employment, community standing, or legal situation. He could have reminded both parties that repeated conflict could result in criminal charges, landlord action, or further police involvement. By invoking shared racial identity, the officer introduced an additional and unnecessary variable into an already contentious encounter.

The issue is therefore not limited to whether Massengill harbored racial animus toward Pickens. A broader constitutional-policing review must assess whether his words reasonably conveyed that Butler received a form of personal identification or empathy that Pickens did not. Pickens's

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perception that the officer focused on what Butler might lose, rather than on the conduct Pickens reported, is relevant to that assessment. Her perception does not itself prove unconstitutional bias, but it demonstrates the foreseeable legitimacy cost of the communication strategy.

The officer's explanation of enforcement and reporting decisions is another important procedural-justice issue. Pickens initially believed Massengill refused to complete a police report because Butler had too much to lose. The later body-worn-camera review apparently clarified that Massengill was referring to reporting the situation to AMHA. Even though Pickens accepted the clarification, the misunderstanding indicates that the original explanation may not have been sufficiently clear.

When officers decide that no arrest or criminal report is warranted, they should clearly explain:

- What information has been documented;
- Why no arrest is being made;
- Whether the allegations fail to establish probable cause;
- Whether the matter is civil, criminal, or administrative;
- Whether another agency or landlord may be notified; and
- What options remain available to the reporting party.

A clear explanation would have reduced the likelihood that Pickens interpreted the decision as an effort to protect Butler. Transparency is especially important when the reporting party believes she described potentially criminal conduct, including an attempted assault and obstruction of her vehicle.

The investigative process also implicates procedural justice. APD appropriately reviewed the body-worn-camera evidence, interviewed Pickens, permitted her to supplement her account, and offered Massengill an opportunity to respond. These steps supported a fact-based review. However, the investigation appears to have framed the complaint principally as a binary question: whether Massengill was racially biased against Pickens.

That framing may have been too narrow. Pickens's allegations involved several related but distinct concerns:

1. Intentional racial bias;
2. Favoritism toward Butler;
3. Appearance of partiality;
4. Inadequate consideration of Pickens's allegations;
5. Improper race-based communication;
6. Failure to clearly explain the report and enforcement decision; and
7. Professionalism and public-trust implications.

An investigation may reasonably conclude that intentional racial discrimination was not established while still finding that an officer used poor judgment, created an appearance of

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partiality, or employed an inappropriate communication strategy. Treating those questions as interchangeable can cause a legitimate professionalism or policy concern to disappear simply because discriminatory intent cannot be proven.

The unfounded classification further complicates the legitimacy analysis. The closure letter defined unfounded as meaning that the incident did not occur. Yet the investigating supervisor acknowledged that Massengill did discuss race with Butler. The disputed conduct therefore occurred in some form. The unresolved question was whether that conduct constituted bias or favoritism.

Using an "incident did not occur" disposition under those circumstances may create confusion and undermine confidence in the complaint process. A complainant who knows that the underlying statement occurred may reasonably interpret the classification as denying an established fact. A more precise disposition system would distinguish among conduct that did not occur, conduct that occurred and complied with policy, conduct that occurred but cannot be proven improper, and conduct that occurred but reveals a policy or training deficiency.

From an equal-protection perspective, the current record does not establish that Massengill intentionally deprived Pickens of police services because of her race. There is no documented arrest, citation, denial of access, or other clearly adverse police action imposed on Pickens. Both parties were interviewed, neither was arrested, and both were advised concerning the ongoing dispute. Pickens's acknowledgment that she was not overtly treated differently also weighs against a finding of purposeful racial discrimination.

Nonetheless, constitutional policing should not be reduced to the minimum threshold required to prove a Fourteenth Amendment violation. Agencies have a legitimate interest in holding officers to a higher standard of apparent neutrality than the constitutional floor. Race-based alignment language may be inconsistent with that higher standard when it is unnecessary to accomplish the police objective and reasonably causes another participant to question the officer's impartiality.

The available record therefore supports a nuanced conclusion. Officer Massengill appears to have pursued a legitimate objective by attempting to calm the participants and end a recurring dispute. The evidence does not establish that he intentionally discriminated against Pickens. At the same time, his use of shared racial identity as a persuasion technique was avoidable and created a foreseeable appearance of alignment with Butler. That concern warrants policy and training attention even if it does not support a formal finding of unconstitutional discrimination.

The incident also demonstrates the importance of separating legal compliance from best practice. An officer's conduct may be lawful yet tactically or professionally suboptimal. The constitutional-policing objective is not merely to avoid liability; it is to exercise police authority in a manner that is fair, understandable, neutral, and worthy of public confidence.

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III. Legal Analysis

The legal analysis of this incident is necessarily different from the analysis ordinarily applied to a traditional use-of-force event. The available evidence does not show that either Betty Pickens or Brianna Butler was arrested, physically restrained, subjected to a reportable force technique, transported for emergency psychiatric evaluation, or compelled to enter or remain in a particular location. The principal legal questions therefore concern whether the officers effected a Fourth Amendment seizure, whether any force was used within the meaning of *Graham v. Connor*, whether emergency-aid or community-caretaking authority was implicated, and whether the officers' actions implicated Ohio's emergency-hospitalization statute. The available record does not establish a constitutional violation under any of those doctrines.

Fourth Amendment

The Fourth Amendment protects persons against unreasonable searches and seizures. Police contact does not automatically constitute a seizure merely because uniformed officers speak with an individual, ask questions, mediate a dispute, or provide instructions. A seizure ordinarily occurs when an officer, through physical force or a show of authority, restrains a person's freedom of movement and the person submits to that authority.

Here, officers responded to a call for service arising from a reported confrontation between neighbors. The records indicate that the officers spoke with Pickens and Butler separately, attempted to facilitate a discussion, and ultimately advised the parties to remain apart and reduce the noise affecting the adjoining households. No arrest was made, and the written records do not indicate that either person was handcuffed, searched, placed in a cruiser, ordered to remain at the scene for investigative purposes, or threatened with arrest for attempting to leave.

The officers' initial separation of the parties appears to have been a reasonable scene-management and safety measure rather than a formal investigative detention. Temporary separation of persons involved in a heated dispute does not necessarily constitute a seizure when it is brief, noncoercive, and undertaken to prevent an immediate confrontation. Even assuming that either party was momentarily detained while officers investigated the reported attempted fight, the dispatch information supplied an objective basis for doing so. The caller reported that a neighbor was attempting to fight her, had blocked her vehicle, and was yelling. Those facts permitted officers to investigate whether an assault, menacing offense, disorderly conduct, or other breach of the peace had occurred.

The more significant constitutional issue is whether police discretion was exercised impartially. The Equal Protection Clause prohibits intentional discrimination based on race. To establish a constitutional equal-protection violation, the evidence ordinarily must show purposeful differential treatment, not merely an insensitive statement, a mistaken judgment, or a communication that one participant reasonably perceived as unfair. The present record does not establish that Officer Massengill denied Pickens police protection, arrested her while declining to arrest a similarly

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situated person, refused to accept her allegations because of race, or otherwise imposed materially different governmental treatment upon her.

Pickens initially told the investigating supervisor that Massengill remained professional with both women and did not overtly treat her differently. She later clarified that she perceived favoritism in his overall approach because he appeared to focus on Butler's potential housing and personal consequences. Those concerns are relevant to procedural justice and professionalism, but the available evidence does not establish that Massengill acted with a discriminatory purpose sufficient to prove a Fourteenth Amendment violation.

This conclusion should not be interpreted as approving the use of race-based alignment language. Constitutional law establishes the minimum legal standard. APD may, and should, adopt more protective standards designed to preserve neutrality and public confidence even when conduct does not rise to the level of an actionable constitutional violation.

Graham v. Connor and Objective Reasonableness

In *Graham v. Connor*, the United States Supreme Court held that claims alleging excessive force during an arrest, investigatory stop, or other seizure must be analyzed under the Fourth Amendment's objective-reasonableness standard. The analysis considers the facts and circumstances confronting the officer, including the severity of the suspected offense, whether the person posed an immediate threat, and whether the person was actively resisting or attempting to flee. The inquiry is made from the perspective of a reasonable officer at the scene rather than through hindsight[1].

The *Graham* framework does not materially control this incident because no physical force is documented. Neither participant was struck, taken to the ground, sprayed, subjected to a CEW, handcuffed, or otherwise physically controlled. The officers used presence, conversation, advice, and separation to manage the dispute. Although APD's procedure broadly recognizes that verbal commands can constitute nonphysical force, such communication is not a reportable physical use of force under the departmental procedure.

If the officers' temporary separation of the parties is treated as a limited seizure, it was objectively reasonable under the circumstances. The officers were responding to an active interpersonal dispute involving allegations of an attempted fight and a blocked vehicle. Separating the participants, gathering their accounts, and preventing further confrontation were proportionate to the reported circumstances. The suspected misconduct was relatively minor. The officers appropriately relied on verbal intervention rather than physical force.

Report-Taking and Documentation

[1] Dethorne GRAHAM, Petitioner v. M.S. CONNOR et al. | Supreme Court | US Law | LII / Legal Information Institute

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There is no general constitutional right requiring police to complete a particular type of report whenever a citizen requests one. Nevertheless, departmental rules may impose reporting obligations, and procedural justice requires officers to clearly explain what will and will not be documented.

Pickens initially believed that Massengill declined to complete a report because Butler had "a lot to lose." Sergeant Myers's body-worn-camera review indicated that Massengill was discussing whether the incident would be reported to AMHA, not refusing to create APD documentation. Pickens accepted that explanation and withdrew the report-refusal component of her complaint.

The CAD call was documented and included a closing disposition. The record does not establish that a separate criminal incident report was legally required. Even so, clearer communication would have reduced the likelihood of misunderstanding. Officers should distinguish among a CAD entry, an APD offense or incident report, a landlord notification, and an arrest report when explaining their decisions to members of the public.

Legal Conclusion

The available evidence does not establish an unreasonable search, unlawful seizure, excessive use of force, improper emergency hospitalization, or unconstitutional warrantless entry. The evidence also does not establish intentional race-based denial of police services. The principal issues are therefore located above the constitutional floor: professional judgment, appearance of neutrality, procedural justice, accurate complaint classification, and the quality of the explanation given for enforcement and documentation decisions.

IV. APD Policy Analysis

The officers' conduct must be evaluated against the APD Rules and Regulations and all use-of-force-related procedures identified for this review. Because no physical force occurred, most weapon-specific and force-reporting requirements were not activated. The most relevant policy provisions concern courteous treatment, competent performance, fair and impartial administration of justice, de-escalation, reporting, and professionalism.

APD Rules and Regulations

APD Rule 200.01 requires officers and employees to remain courteous and orderly in their dealings with the public, perform their duties quietly, refrain from harsh, violent, profane, or insolent language, and remain calm despite provocation. Rule 200.03 requires officers to attend to requests from the public quickly and accurately. Rule 700.05 requires officers to maintain sufficient competency to perform their duties and to carry out departmental functions efficiently. Rule 700.07 requires officers to contribute to the fair and impartial administration of justice.

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The available evidence does not indicate that Officer Massengill shouted profanities, insulted Pickens, threatened either party, or became visibly uncontrolled. Pickens acknowledged that his general wording and demeanor remained professional. On that basis, the evidence does not clearly establish a violation of Rule 200.01's prohibition on harsh, profane, violent, or insolent language.

The analysis is less straightforward under the requirements of impartiality and competent performance. Massengill's reference to shared racial identity was apparently intended to persuade Butler to moderate her behavior and recognize the consequences of the dispute. The investigative supervisor characterized the statement as an attempt to relate to Butler and as part of the officer's de-escalation effort.

An officer may use empathy, rapport, and personal connection to reduce conflict. However, the method should not reasonably suggest that the officer identifies with one party against another. In this setting, referring to a racial identity shared with Butler created an avoidable appearance of alignment. That appearance is relevant to Rule 700.07's requirement of fair and impartial justice, even if the evidence does not establish intentional discrimination.

The statement should therefore be evaluated as a potential professionalism or judgment concern rather than automatically equated with unlawful racial bias. The more precise question is whether a reasonable officer should have anticipated that a race-based appeal, made within hearing distance of an opposing party of another race, could undermine the appearance of neutrality.

Rule 700.05 also requires competent performance. Competent dispute mediation includes accurately identifying allegations, assessing potential offenses, allowing each person to be heard, clearly explaining the disposition, and using language that does not unnecessarily inflame the conflict. Massengill performed several of these functions appropriately: he separated the parties, gathered information, attempted a noncustodial resolution, and terminated the joint discussion when it failed. Communication concerning race, however, was not necessary to accomplish those objectives and created a foreseeable public trust risk.

Rule 700.08(k), addressing conduct unbecoming, may also be relevant, although the available evidence does not clearly establish a violation. A single ill-advised communication does not necessarily bring the department into disrepute within the meaning of that rule. Still, the statement had the potential to make a participant believe that police decision-making was influenced by racial affinity. That concern merits corrective guidance or training even if formal discipline is not warranted.

APD Resisting Arrest/Use-of-Force Procedure

APD's Resisting Arrest/Use-of-Force Procedure states that officers should use de-escalation techniques when dealing with angry, agitated, or noncompliant individuals. The procedure defines de-escalation as the use of nonconfrontational verbal skills, empathy, active listening, time, distance, resources, persuasion, command presence, repositioning, and warnings to reduce the intensity of a potentially violent situation.

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The officers' initial decision to separate Pickens and Butler was consistent with this policy. Speaking to each person individually reduced immediate conflict and allowed officers to obtain separate accounts. Attempting to resolve the recurring dispute through voluntary dialogue was also consistent with the policy's preference for gaining cooperation without force.

The attempted joint conversation appears to have become unproductive. The officers then separated the parties and advised them to stay apart. That decision reflected appropriate reassessment and avoided prolonging a confrontation that was not moving toward resolution.

Massengill's attempt to relate to Butler may fall within the broad concept of empathy and persuasion. Nevertheless, de-escalation techniques should be evaluated not only by intent but also by foreseeable effect. A technique that calms one person while causing another to perceive racial alignment may not be the most effective or legitimate method. APD policy would benefit from clarifying that rapport-building should remain identity-neutral unless reference to identity is operationally necessary and can be used without compromising impartiality.

Reporting and Documentation Requirements

APD Rule 500.06 requires officers to submit reports required by their duties. The available record shows that the call was documented through CAD notes. The final CAD entry described the parties' ongoing noise dispute and stated that officers advised both households to reduce the noise and remain apart.

The documentation is sufficient to establish that officers responded and provided a disposition. It is less complete concerning the specific allegations of attempted assault and vehicle obstruction. A later reviewer cannot determine from the CAD entry alone whether those allegations were uncorroborated, contradicted, deemed noncriminal, or simply resolved through officer discretion.

That deficiency does not necessarily constitute a policy violation because the record does not establish that a separate incident report was mandatory. It does, however, identify a documentation-quality issue. When a caller reports potentially criminal conduct but officers decline enforcement, the record should explain the essential basis for that decision. Such documentation protects the parties, the officers, and the department and allows meaningful supervisory and oversight review.

Complaint Investigation and Disposition

The complaint investigation included review of body-worn-camera footage, a telephone interview with Pickens, consideration of her follow-up email, and an opportunity for Massengill to submit a response. Those steps were generally appropriate and allowed the supervisor to compare the complaint with objective evidence.

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The investigator also appropriately clarified the misunderstanding concerning the police report and AMHA. Pickens accepted the clarification and narrowed her complaint. That resolution demonstrated the value of direct communication and evidence review.

The principal concern is that the investigation treated the remaining allegation primarily as a claim of intentional racial bias. The record supports consideration of additional allegations or issues, including favoritism, appearance of partiality, inappropriate race-based communication, insufficient explanation of the enforcement decision, and possible failure to give equal weight to Pickens's allegations.

The disposition of "unfounded" is also problematic. APD's closure letter defined unfounded as meaning that the incident did not occur. Yet the investigation acknowledged that Massengill spoke about race while addressing Butler.

The act underlying the complaint therefore occurred. What was not established was that the act demonstrated intentional racial bias. A disposition indicating that the allegation was not sustained or that the conduct occurred but did not violate the specific bias prohibition would more accurately reflect the evidence. Alternatively, APD could separate the allegations and reach different conclusions, for example, finding intentional racial bias not sustained while identifying a training concern regarding appearance of impartiality.

Accurate classifications are essential to complaint-system legitimacy. A disposition that does not correspond to the factual findings can cause a complainant to believe the agency denied an event that the agency's own evidence confirmed.

APD Policy Conclusion

No use-of-force, resisting-arrest, CEW, chemical-spray, or head-strike policy violation occurred because none of those techniques were used. The officers' reliance on separation and verbal intervention was generally consistent with APD's de-escalation objectives.

The remaining policy concern centers on professional neutrality. The available evidence does not conclusively establish intentional racial bias, discourtesy, or unequal enforcement. It does establish that Officer Massengill invoked race while attempting to relate to one participant in a dispute involving a participant of another race. That method created an avoidable appearance of partiality and should be addressed through policy clarification, supervisory guidance, and scenario-based training.

The complaint investigation was supported by body-worn-camera review and complainant follow-up, but it was too narrowly framed and used a disposition that did not precisely correspond to the established facts.

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V. Tactical Assessment and De-escalation Review

The tactical assessment of this incident focuses on verbal strategy, scene management, conflict mediation, officer neutrality, and the use of discretionary time. Because no reportable force occurred, the central question is not whether the officers used too much physical force, but whether their tactical and communication decisions reasonably reduced conflict while maintaining legitimacy.

The initial separation of Pickens and Butler was tactically sound. Separation reduced the immediate risk of confrontation, limited interruptions, and allowed officers to compare the parties' accounts. It was also consistent with APD's definition of de-escalation, which includes nonconfrontational verbal skills, active listening, additional time, distance, resources, persuasion, and repositioning.

Police mediation can be effective in recurring neighbor conflicts when the parties are capable of participating and the officers remain neutral. It may resolve immediate safety concerns without escalating the dispute through unnecessary enforcement.

The attempt to bring Pickens and Butler together was more tactically complex. Joint conversation can be useful when both participants are calm, willing to listen, and capable of discussing practical solutions. It can be counterproductive when emotions remain elevated or one party believes the other attempted to assault her. Officers should assess whether face-to-face mediation is likely to reduce or intensify conflict before bringing participants into proximity.

The record indicates that the joint discussion did not produce a resolution. The officers appropriately ended the effort and advised the parties to remain apart. This demonstrated tactical flexibility. They did not insist on an agreement or prolong a failed intervention merely because mediation had been attempted.

The strongest tactical concern was Massengill's use of race as a persuasion device. Rapport-building is a recognized de-escalation technique, and officers may draw on common experiences to establish credibility. However, rapport is effective only when it reduces the overall level of conflict. A technique that connects the officer with one participant while alienating the other may calm one person at the cost of undermining the legitimacy of the entire encounter.

The officer's statement may have been intended to communicate that Butler should understand the social and personal consequences of her conduct. The tactical problem was that the message could reasonably be heard as "we share an identity, and I am trying to protect you from these people." Even if that interpretation was not intended, it was foreseeable.

A more effective strategy would have been to address both parties using parallel, neutral language. The officer could have told each person that continued confrontations could result in arrest, housing consequences, disruption to their families, and further police involvement. He could have

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acknowledged the concerns of each party, described the limits of police authority, and established clear behavioral expectations for both households.

The tactical review must also consider whether Pickens's allegations were fully explored. She reported conduct beyond a noise dispute, including an attempted assault and a blocked vehicle. When a caller believes she was the target of criminal behavior, immediately reframing the event as a mutual neighborhood problem may cause her to believe that her victimization has been minimized.

A procedurally sound approach would require officers to first complete the factual investigation of each specific allegation. Only after determining whether probable cause exists should officers transition to mediation or mutual advice. This sequencing helps distinguish law enforcement from conflict resolution and reassures the reporting party that mediation is not being used to avoid accountability.

The CAD disposition states that officers addressed the ongoing noise problem and advised both parties to remain apart. It does not explain the resolution of the alleged assault or vehicle obstruction. More detailed documentation would have allowed supervisors and later reviewers to determine whether the officers objectively evaluated those allegations before treating the event as a mutual dispute.

The officers' use of time was generally appropriate. The officers used conversation and separation rather than force. This was consistent with constitutional policing and APD's preference for de-escalation.

The encounter also illustrates the difference between tactical success and legitimacy. In a narrow sense, the officers succeeded: the parties were separated, no one was injured, no force was used, and the immediate disturbance ended. In a broader sense, the encounter did not fully succeed because Pickens left believing that the officer had favored Butler and introduced race into the dispute. A resolution that ends the immediate conflict but leaves a participant reasonably questioning police neutrality reveals a procedural-justice shortcoming.

The tactical assessment therefore finds that the officers' use of separation, verbal communication, and disengagement from unsuccessful mediation was generally appropriate. The use of race-based rapport and the lack of clear explanation concerning the alleged offenses, reporting decision, and enforcement disposition were avoidable weaknesses.

VI. Findings and Conclusions

Based on the available complaint, BWC footage review, CAD documentation, Blue Team record, investigative report, complainant correspondence, clearance letter, and applicable APD policies, the following findings and conclusions are reached.

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Finding 1: The evidence does not establish a Fourth Amendment excessive-force violation.

Because no reportable force was used, there is no factual basis for an excessive-force finding under *Graham v. Connor*. The temporary separation of the parties was reasonably related to scene safety and investigation of reported confrontation.

Finding 2: The available evidence does not prove that Officer Massengill intentionally discriminated against Pickens because of race.

The record does not establish that Massengill denied Pickens police services, subjected her to adverse enforcement, refused to hear her allegations, or imposed materially different treatment because of race. Pickens initially acknowledged that Massengill was professional with both parties and did not overtly treat her differently.

Finding 3: Officer Massengill did refer to race while attempting to relate to Butler.

The investigating supervisor's review confirmed that Massengill discussed race with Butler, although Pickens may not have recalled the exact wording. The occurrence of race-related communication is therefore supported by the investigation.

Finding 4: The use of shared racial identity created an avoidable appearance of partiality.

Regardless of Massengill's subjective intent, invoking a racial identity shared with one participant in an adversarial dispute created a foreseeable risk that the other participant would perceive officer alignment or favoritism. This concern is supported by Pickens's complaint and follow-up email describing the officer's focus on Butler's potential consequences.

Finding 5: The race-related statement was not necessary to accomplish the officer's legitimate de-escalation objective.

The officer could have conveyed concerns about personal accountability, housing stability, family consequences, and future enforcement through identity-neutral language. The communication reflects a judgment and training concern even though it does not establish unconstitutional discrimination.

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Finding 6: The officers' initial separation and verbal intervention were consistent with de-escalation principles.

Separating the parties, interviewing them independently, using time, attempting voluntary resolution, and ending an unsuccessful joint discussion were generally reasonable tactics consistent with APD's de-escalation framework.

Finding 7: The attempted joint mediation carried some escalation risk but was not shown to be unreasonable.

Face-to-face mediation can be useful in recurring neighbor disputes, but it should occur only when both parties are sufficiently calm and willing to participate. The officers appropriately discontinued the effort when it failed.

Finding 8: The documentation does not adequately explain the resolution of the alleged attempted assault and blocked vehicle.

The CAD record documents the continuing noise dispute and advice given to both households but does not clearly state how officers evaluated the alleged assaultive conduct or vehicle obstruction. This limits later review of the enforcement decision.

Finding 9: The evidence does not establish that Massengill unlawfully refused to complete an APD report.

The body-worn-camera review indicated that Massengill was discussing possible reporting to AMHA, not refusing police documentation. Pickens accepted the clarification and withdrew this component of her complaint.

Finding 10: The original explanation concerning reporting and AMHA was insufficiently clear.

The fact that Pickens reasonably understood Massengill's statement as a refusal to complete a police report indicates that the distinction among CAD documentation, an APD incident report, and AMHA notification was not clearly explained at the scene.

Finding 11: The complaint investigation used relevant evidence and appropriately contacted the complainant.

Sergeant Myers reviewed body-worn-camera footage, interviewed Pickens, considered supplemental correspondence, and offered Massengill an opportunity to respond. Those steps were appropriate and supported an evidence-based review.

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Finding 12: The complaint investigation was framed too narrowly.

The investigation primarily addressed whether Massengill was intentionally racially biased. It did not separately and fully analyze favoritism, appearance of partiality, race-based communication, procedural justice, professionalism, or whether Pickens's allegations received adequate consideration.

Finding 13: The unfounded disposition did not accurately correspond to the established facts.

The closure letter stated that unfounded meant the incident did not occur. However, the investigation confirmed that a race-related discussion occurred. The issue was whether the statement demonstrated bias, not whether it was made. A not-sustained, exonerated, or policy/training-related disposition would have more accurately reflected the evidence.

Finding 14: The incident presents a potential professionalism and procedural-justice concern under APD Rules and Regulations.

APD rules require courtesy, competent performance, and fair and impartial administration of justice. Although the evidence does not clearly establish formal misconduct, the use of racial alignment language was inconsistent with the strongest practices for maintaining the appearance of neutrality.

Finding 15: The incident was tactically resolved without injury or force, but the resolution did not fully preserve public confidence.

The immediate public-safety objective was achieved. The parties were separated, no further violence occurred, and no force was used. However, Pickens's continuing belief that the officer favored Butler demonstrates that the encounter was less successful from a legitimacy and procedural-justice perspective.

Overall Conclusion

Officer Massengill and Officer Giaimo resolved a potentially volatile neighbor dispute without arrest, injury, or reportable force. Their use of separation, verbal communication, and disengagement from an unsuccessful mediation effort was generally reasonable. The available evidence does not prove intentional racial discrimination or a constitutional violation.

The encounter nevertheless exposed a significant public-trust concern. Massengill's use of shared racial identity as a rapport-building technique created an avoidable appearance that he aligned himself with Butler. The concern is compounded by insufficiently clear communication about

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reporting and enforcement decisions and by documentation that does not fully explain how the alleged attempted assault and vehicle obstruction were evaluated.

The complaint investigation contained meaningful evidence review but did not fully distinguish intentional bias from favoritism, professionalism, appearance of partiality, and procedural-justice concerns. Its unfounded classification was inconsistent with the acknowledged fact that the race-related discussion occurred.

The most supportable conclusion is therefore that the complaint does not establish unconstitutional racial discrimination, but the incident presents valid policy, training, complaint-classification, documentation, and supervisory-review concerns that should be addressed through corrective institutional measures rather than dismissed solely because intentional bias was not proven.

VII. Policy and Training Recommendations

Recommendation 1 — Adopt an express policy requiring identity-neutral conflict mediation and rapport-building.

Proposed policy language: "Department members shall use communication and rapport-building techniques that preserve actual and apparent impartiality. During disputes involving opposing parties, officers should not invoke a shared race, ethnicity, religion, gender, political affiliation, or other protected or personal identity with one party in a manner that could reasonably communicate alignment against another party, unless the reference is operationally necessary and objectively reasonable under the circumstances."

Rationale: Officer Massengill's apparent objective was to persuade Butler to consider the consequences of continued conflict. That legitimate objective could have been accomplished through neutral references to personal responsibility, housing stability, family interests, possible criminal liability, and neighborhood safety. An express policy would not prohibit officers from acknowledging cultural or personal experiences; it would direct them to avoid identity-based alignment that could cause another participant to reasonably question the officer's neutrality. The recommendation reflects the four procedural-justice principles identified by the U.S. Department of Justice COPS Office: fair processes, transparent actions, opportunities for voice, and impartial decision-making[2].

Comparable-agency example: The Seattle Police Department's bias-free policing framework applies broadly to protected and discernible personal characteristics and prohibits biased policing while requiring department training and accountability. Seattle later codified bias-free policing requirements, including training and data review, in municipal law[3].

[2] PROCEDURAL JUSTICE | COPS OFFICE
[3] Bias-Free_Policing_Policy_Recommendation111513.pdf

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Implementation: APD should incorporate the provision into its Rules and Regulations, bias-free policing directive, procedural-justice training, and de-escalation curriculum. Supervisors should reinforce the standard through roll-call examples involving neighbor disputes, domestic conflicts, and incidents in which officers share an identity characteristic with one participant.

Recommendation 2 — Revise APD complaint dispositions so the classification corresponds precisely to the evidence.

Proposed disposition structure:

- **Unfounded:** The alleged act did not occur, or the employee involved was not responsible.
- **Exonerated:** The act occurred, but it was lawful and consistent with policy.
- **Sustained:** The evidence establishes that the act occurred and violated policy.
- **Not sustained:** The evidence is insufficient to prove or disprove the allegation.
- **Policy failure:** The conduct complied with existing policy, but the policy was inadequate, unclear, or inconsistent with best practice.
- **Training or supervisory referral:** The evidence does not establish misconduct but identifies a correctable performance, communication, or supervisory issue.

Rationale: APD's closure letter defined "unfounded" as meaning that the incident did not occur, even though the investigation confirmed that Officer Massengill discussed race. The disputed question was whether the statement demonstrated bias, not whether the statement occurred. A disposition system should distinguish between conduct that did not occur and conduct that occurred but was lawful, unproven, or inadequately addressed by policy. Precise classifications improve credibility and permit meaningful analysis of complaint trends.

Comparable-agency example: Seattle's published accountability materials distinguish among different complaint-processing and investigative outcomes, and its oversight structure independently examines whether complaints and allegations were correctly designated[4].
Implementation: APD should issue definitions in policy, investigator training, closure-letter templates, and public complaint materials. Every closure letter should briefly connect the factual finding to the selected disposition rather than provide only a generic definition.

Recommendation 3 — Create a formal "policy or training concern" referral independent of misconduct findings.

Proposed policy language: "When an investigation does not establish misconduct but identifies conduct that created avoidable risk, public misunderstanding, appearance of partiality, or inconsistency with national best practice, the investigator shall document a non-disciplinary policy, training, supervision, or performance-improvement referral."

[4] City of Seattle, Ordinance 125315, "Police Accountability," as amended

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Rationale: A binary choice between sustained misconduct and complete exoneration can prevent agencies from learning from legally permissible but professionally suboptimal conduct. Officer Massengill's race-related rapport strategy may not establish intentional discrimination, yet it presents a legitimate training concern. A non-disciplinary referral permits institutional correction without improperly converting every judgment error into discipline. DOJ and COPS Office resources emphasize organizational learning, procedural justice, public trust, and training that prepares officers for difficult field interactions[5].

Comparable-agency example: Seattle uses supervisor actions and other nontraditional complaint-processing categories for matters that may be addressed outside a full sustained misconduct finding, with external review of the classification process[6].

Implementation: Referrals should be tracked separately from discipline and should identify the issue, recommended corrective action, responsible unit, completion deadline, and method of verification. Aggregate referral data should be reviewed quarterly to identify recurring policy gaps.

Recommendation 4 — Require identity, bias, and impartiality training to address appearance of favoritism, not only intentional discrimination.

Proposed training content: APD's bias training should distinguish among explicit bias, implicit bias, discriminatory enforcement, disparate treatment, identity-based rapport, favoritism, appearance of partiality, and public perception. Officers should practice recognizing how a statement intended as empathy may communicate alliance or exclusion to another person.

Rationale: Training focused solely on proving discriminatory intent will not adequately address subtle communication and legitimacy problems. The COPS Office's Managing Bias curriculum includes identity, culture, stereotyping, bias, prejudice, and the ways individual and collective identity affect law-enforcement interactions. COPS Office curriculum-development materials also emphasize applying bias-management strategies to realistic law-enforcement examples rather than limiting instruction to abstract concepts[7].

Comparable-agency example: Seattle's bias-free policing program applies beyond explicit racial animus and is coordinated with formal minimizing-bias training. Its framework includes protected characteristics and assessment of possible disparate impacts[8].

Implementation: APD should incorporate BWC-based scenarios, including this incident in anonymized form, into academy, in-service, field-training-officer, and supervisor curricula.

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[5] Police-Community Relations Toolkit: Guide to Critical Issues in Policing
[6] Seattle Office of Inspector General for Public Safety, *Complaint Processing Audit Reports* (Seattle: City of Seattle)
[7] Shaping the Managing Bias Training Curriculum with Law Enforcement Input
[8] Bias-Free_Policing_Policy_Recommendation111513.pdf

Evaluation should require officers to identify how different participants may interpret the same communication.

Recommendation 5 — Audit complaints involving bias, favoritism, discourtesy, and refusal-to-report allegations for patterns and systemic issues.

Proposed audit requirement: APD and the appropriate independent oversight body should conduct at least an annual review of complaints involving bias, perceived favoritism, discourtesy, failure to take a report, failure to investigate, and unclear enforcement explanations. The review should examine allegation classification, disposition accuracy, demographic and geographic patterns, involved units, repeat issues, corrective referrals, and closure-letter quality.

Rationale: Individual complaints can reveal broader policy, supervision, and training deficiencies even when misconduct is not sustained. Systematic review allows the department to identify recurring misunderstandings, inconsistent reporting practices, and communication patterns that affect legitimacy. DOJ resources emphasize that public trust depends on whether police actions reflect procedural justice and community values[9].

Comparable-agency example: Seattle's Office of Inspector General audits complaint-processing decisions and reviews the effectiveness, accessibility, timeliness, transparency, and responsiveness of the police-accountability system[10].

Implementation: Audit results should distinguish individual misconduct from systemic concerns and should include corrective-action plans, responsible officials, deadlines, and follow-up verification. Public reporting may use aggregate or anonymized information to protect confidentiality while demonstrating accountability.

VIII. Conclusion

The officers' response to the Doty Drive neighbor dispute was lawful in its general purpose and restrained in its execution. Officers Massengill and Giaimo resolved the immediate confrontation without arrest, injury, or reportable physical force. The available evidence does not establish an unreasonable seizure, excessive force, unlawful emergency intervention, or intentional race-based denial of police services.

The incident should therefore not be characterized as a use-of-force violation or as proven unconstitutional racial discrimination. It should also not, however, be dismissed as presenting no legitimate concern.

[9] U.S. Department of Justice, Community Relations Service, *Importance of Police-Community Relationships and Resources for Further Reading* (Washington, DC: U.S. Department of Justice).
[10] Ord_126628.pdf

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Officer Massengill's reference to a racial identity shared with Butler was unnecessary to accomplish the legitimate objective of de-escalation. Regardless of his subjective intent, the statement created a foreseeable appearance that the officer was personally aligning himself with one participant. That perception was reinforced by Pickens's belief that Massengill focused more heavily on the consequences Butler might face than on the conduct Pickens reported. The available evidence does not establish by a preponderance of the evidence that Massengill intentionally favored Butler because of race, but neither does it establish that Pickens's allegation of racial favoritism or bias was demonstrably false.

This distinction is particularly important when evaluating APD's final disposition of the complaint. Based upon the evidentiary record and the disposition definitions applied to administrative misconduct investigations, the determination of **UNFOUNDED** was erroneous. An unfounded disposition is appropriate when the evidence establishes that the complained-of act did not occur, the officer did not commit the alleged act, or the allegation was false or without factual basis. By contrast, **NOT SUSTAINED** applies when an allegation is not supported by a preponderance of the evidence, that is, when the available evidence is insufficient to establish whether the allegation is true. Comparable police-oversight disposition frameworks expressly make this distinction: "Not Sustained" applies when an allegation is not supported by a preponderance of the evidence, while "Unfounded" requires evidence showing that the member did not commit the alleged act or that the allegation was false or baseless.

That distinction is controlling in assessing the appropriate disposition here. The investigation did not establish that the underlying incident alleged by Pickens failed to occur. To the contrary, APD's own investigation confirmed that Officer Massengill discussed race with Butler. Thus, an important factual predicate underlying Pickens's complaint was corroborated rather than disproved. The unresolved question was what that statement demonstrated about Massengill's intent and whether his conduct amounted to racial bias or favoritism.

The available evidence does not establish by a preponderance of the evidence that Massengill intentionally discriminated against Pickens or deliberately favored Butler because of race. At the same time, the evidence does not establish by a preponderance of the evidence that Pickens's allegation was false. The record instead contains evidence capable of supporting competing interpretations. Massengill's statement can reasonably be understood as an attempt at de-escalation and rapport-building, while Pickens could reasonably perceive the same communication as an indication that the officer was identifying with Butler on the basis of their shared race. Under those circumstances, the evidence is insufficient to conclusively establish or disprove the allegation of racial bias or favoritism.

Accordingly, the appropriate administrative disposition is **NOT SUSTAINED**, rather than **UNFOUNDED**. A not-sustained disposition does not constitute a finding that Officer Massengill engaged in racial discrimination. Nor does it constitute a finding that Pickens's allegation was correct. Instead, it accurately reflects the evidentiary conclusion reached by this review: **the evidence is insufficient, under a preponderance-of-the-evidence standard, to establish**

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whether the allegation of racial bias or favoritism is true. This is precisely the circumstance for which a not-sustained disposition is designed.

Maintaining an unfounded disposition under these circumstances creates an additional procedural-justice concern. It communicates that Pickens made an allegation that was disproved or had no factual basis when, in fact, a material component of her allegation[11] was confirmed. Such a classification risks unnecessarily discrediting the complainant and undermining confidence in APD's complaint process. Administrative findings should describe what the evidence actually establishes, particularly when the department has objective body-worn-camera evidence capable of confirming portions of a complainant's account.

For these reasons, OIPA does not concur with the APD disposition of **"UNFOUNDED"** for this complaint. OIPA requests the following:

1. **APD amends the final disposition of Betty Pickens's complaint against Officer Ronnell Massengill from UNFOUNDED to NOT SUSTAINED.** APD should make the corresponding correction in the complaint file, Blue Team or other applicable administrative records, and any records used for complaint tracking, statistical reporting, or supervisory review.

2. **APD should also issue a revised disposition letter to Betty Pickens advising her that, following further review, the original UNFOUNDED classification has been amended to NOT SUSTAINED.** The revised letter should clearly explain that the change does not constitute a finding that Officer Massengill engaged in racial discrimination. Rather, it reflects that the evidence did not establish by a preponderance of the evidence either that the allegation was true or that it was false. The revised notification should also supersede the prior closure letter so that the Department's official communication to the complainant is consistent with the corrected administrative record.

The appropriate institutional response is corrective and preventive. APD should clarify that officer rapport-building in contested encounters must preserve actual and apparent neutrality; require officers to clearly explain non-enforcement and documentation decisions; improve complaint allegation framing and disposition definitions; strengthen individualized officer review; and use supervisory, scenario-based, and recurring training to reinforce procedural justice.

These measures would not merely address this individual complaint. They would strengthen APD's complaint system, improve the quality of officer decision-making, reduce misunderstandings, and reinforce the principle that constitutional policing requires officers to be not only lawful, but also fair, transparent, impartial, and worthy of public trust.

[11] The officer's race-related communication.

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Independent Police Auditor
Citizen Complaint Review

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME: [redacted]
CASE NUMBER: 2026-00072954
DATE OF INCIDENT: 06/19/2026
DATE OF OIPA REPORT: 07/28/2026
LOCATION OF INCIDENT: [redacted] Akron, Ohio 44314
APD DISTRICT: 7

I. Incident Overview

This review examines the actions of Akron Police Department (APD) officers during a use-of-force incident that occurred on June 19, 2026, involving [redacted] during an emergency mental health intervention. The incident originated after Mr. [redacted] mother contacted 911 requesting assistance because her son, who had been diagnosed with schizophrenia and had reportedly discontinued taking his prescribed medication, was exhibiting increasingly erratic and dangerous behavior inside their residence. Dispatch information advised responding officers that Mr. [redacted] was acting violently, punching objects and the air, attempting to ignite items inside the home with a lighter, threatening his mother, and suffering from an apparent psychiatric crisis. EMS was directed to stage until the scene was secured because of the reported violence.

Upon arrival, officers separately interviewed both Mr. [redacted] and his mother. Officers also reviewed cellular phone videos recorded immediately before police arrival depicting Mr. [redacted] exhibiting erratic behavior and apparently attempting to ignite a McDonald's paper bag with a lighter. Officers additionally observed physical evidence consistent with the videos, including a burned paper bag inside the residence. After interviewing the parties involved and observing Mr. [redacted] conduct, officers concluded that he was unable to adequately care for himself and required emergency psychiatric evaluation under Ohio's emergency hospitalization procedures.

Initially, officers attempted to obtain Mr. [redacted] voluntary compliance by explaining the need for evaluation and offering him the opportunity to voluntarily accompany officers to the hospital. Mr. [redacted] repeatedly refused transport. When officers attempted to place him into protective custody, he actively resisted by pulling his arms away, stiffening his body, attempting to return inside the residence, and refusing repeated commands to place his hands behind his back. As resistance escalated, officers employed a front-leg takedown, body-weight stabilization techniques, verbal commands, physical restraint, and ultimately a Conducted Electrical Weapon (CEW) warning arc that was displayed but never deployed against Mr. [redacted] Following continued verbal commands, officers successfully secured him in handcuffs without activating the CEW or applying additional force. EMS evaluated Mr. [redacted] on scene before transporting him to Barberton Hospital for emergency psychiatric evaluation.

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II. Use-of-Force Description

The use of force in this incident occurred during an attempted emergency mental health detention after officers determined that [redacted] required involuntary transport for psychiatric evaluation. Prior to using force, Officer McGowan explained the need for hospitalization and offered Mr. [redacted] the opportunity to voluntarily accompany officers to the hospital. Mr. [redacted] repeatedly refused and attempted to turn away from officers and return toward the residence.

Officer McGowan initially grasped Mr. [redacted] arm while Officer Sulek attempted to position Mr. [redacted] other arm behind his back for handcuffing. Mr. [redacted] actively resisted by pulling both arms away, stiffening his body, and preventing officers from placing his hands behind his back. As he attempted to move back toward the residence, Officer McGowan employed a controlled front-leg takedown (front trip), bringing Mr. [redacted] to the ground while maintaining control of his upper body. Officer McGowan then used body-weight stabilization to prevent Mr. [redacted] from standing while continuing to issue repeated verbal commands directing him to place his hands behind his back. Upon learning that Mr. [redacted] had a prior back injury, Officer McGowan adjusted his position to reduce pressure while maintaining control.

Simultaneously, Officer Sulek controlled Mr. [redacted] legs using manual restraint and body-weight stabilization to prevent kicking or further movement. Officer Sulek repeatedly modified Mr. [redacted] leg position after Mr. [redacted] complained of discomfort, while continuing to provide verbal commands encouraging compliance. Officer Sulek eventually crossed Mr. [redacted] ankles to limit his ability to kick while maintaining control of his lower extremities.

Officer Jackson arrived after officers requested additional assistance. Observing that Mr. [redacted] continued actively resisting efforts to secure his arms, Officer Jackson attempted manual control of Mr. [redacted] free arm while providing additional verbal commands. Officer Jackson then displayed his Conducted Electrical Weapon and employed a warning arc in an attempt to obtain behavioral compliance without deploying the weapon. When Mr. [redacted] continued resisting, Officer Jackson holstered the CEW and resumed physical control techniques, assisting officers in repositioning Mr. [redacted] controlling his head and left arm, and ultimately securing both hands behind his back for handcuffing. The Conducted Electrical Weapon was never discharged, and no electrical cycle was delivered.

Following handcuffing, officers immediately summoned medical personnel. Mr. [redacted] was evaluated by Akron Fire Department EMS personnel at the scene and subsequently transported by ambulance to Barberton Hospital under an emergency psychiatric detention ("pink slip") for further evaluation and treatment. Documented injuries included a laceration to the forearm, abrasions to the wrist and forehead, and complaints of back soreness. No officer injuries were reported.

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III. Constitutional Policing Analysis

Constitutional policing requires officers to accomplish legitimate governmental objectives while respecting the constitutional rights, dignity, and safety of every individual. The central inquiry is not simply whether force was authorized by departmental policy, but whether officers acted reasonably under the Fourth Amendment and whether their actions reflected the principles of necessity, proportionality, de-escalation, procedural justice, and respect for persons.

This incident implicates several overlapping constitutional interests. Officers were not investigating a criminal offense or attempting to arrest Mr. [redacted] for a crime. Rather, they were responding to a behavioral health emergency involving a citizen believed to be incapable of caring for himself and potentially dangerous to others because of an apparent psychiatric crisis. Such encounters require officers to balance individual liberty interests against the government's compelling interest in preserving life and protecting vulnerable persons.

From a constitutional policing perspective, officers appropriately devoted significant time to information gathering before deciding to detain Mr. [redacted] Rather than immediately relying upon the caller's statements, they independently interviewed both parties, reviewed contemporaneous video evidence, assessed Mr. [redacted] mental status firsthand, and corroborated the reported fire-setting behavior through physical observations inside the residence. This investigative process strengthened the objective basis supporting emergency detention and demonstrated adherence to the constitutional principle that significant intrusions upon personal liberty should be supported by articulable facts rather than assumptions or generalized concerns.

Equally significant is the officers' initial attempt to obtain voluntary compliance before employing force. Officer McGowan explained the need for hospital evaluation and afforded Mr. [redacted] the opportunity to voluntarily accompany officers before advising him that involuntary transport would become necessary. These efforts reflect an important constitutional policing principle: whenever circumstances reasonably permit, officers should attempt to resolve encounters through communication and voluntary cooperation before resorting to force. Although Mr. [redacted] ultimately refused and actively resisted detention, the documented sequence demonstrates that physical force was not officers' initial response.

Once physical resistance began, officers faced competing public safety concerns. Allowing Mr. [redacted] to retreat back into the residence potentially exposed his mother to renewed danger, particularly given the earlier reports of threats and attempted fire-setting. Conversely, officers were required to minimize the amount of force used against an individual whose resistance appeared closely associated with mental illness rather than criminal intent. Constitutional policing recognizes that mental illness does not eliminate the government's authority to use objectively reasonable force when necessary, but it does require officers to continually evaluate whether alternative tactics may safely reduce the need for force.

The available evidence suggests officers attempted to limit escalation by using lower-level physical control techniques, repeated verbal commands, and a CEW warning arc rather than

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immediately applying an electrical discharge. The fact that the CEW was displayed but not fired reflects an attempt to obtain compliance through the threat of force rather than its actual application. Likewise, Officer McGowan's reported adjustment of his body position after learning of Mr. [redacted] prior back injury demonstrates ongoing reassessment of force application during the encounter, an important element of constitutional policing that requires officers to continually modify tactics as circumstances evolve.

From a broader constitutional policing perspective, this incident illustrates many positive practices, including information gathering, crisis assessment, attempts at voluntary compliance, measured escalation, and prompt medical care, while also highlighting opportunities to further strengthen crisis intervention practices and documentation. Those opportunities, discussed later in this report, focus not on whether the force was constitutionally permissible, but on how APD can continue advancing toward nationally recognized best practices in behavioral health response, de-escalation, and procedural justice.

IV. Legal Analysis

The actions of the responding officers must be evaluated under the Fourth Amendment to the United States Constitution, applicable Ohio law governing emergency hospitalization of persons experiencing mental illness and established United States Supreme Court precedent governing police use of force. Unlike a traditional criminal arrest, this encounter involved an emergency seizure for the purpose of obtaining medical evaluation and treatment. Nevertheless, the Fourth Amendment's requirement that all seizures be objectively reasonable applies equally to emergency mental health detentions.

The responding officers possessed substantial objective evidence supporting the initial seizure. Dispatch information indicated that Mr. [redacted] was suffering from an apparent psychotic episode, threatening his mother, attempting to ignite objects inside the residence, acting violently, and exhibiting behavior suggesting that he posed a danger to himself or others. Upon arrival, officers independently corroborated these reports through witness interviews, personal observations, physical evidence, and contemporaneous video recordings depicting behavior consistent with the dispatch information. Officers further observed Mr. [redacted] talking to himself, exhibiting erratic body movements, fluctuating between calmness and agitation, and admitting that he had discontinued taking his psychiatric medications. These observations collectively provided a reasonable basis to conclude that Mr. [redacted] met the statutory criteria for emergency hospitalization.

Ohio Revised Code § 5122.10 authorizes certain designated professionals, including peace officers, to take into custody and transport an individual believed to represent a substantial risk of physical harm to self or others because of mental illness. The information available to officers, including reported threats toward the complainant, apparent attempts to start a fire, untreated schizophrenia, and behavior demonstrating an inability to care for himself, provided a legally

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sufficient basis to exercise that authority. The seizure therefore appears supported by probable cause under both Ohio statutory law and Fourth Amendment standards.

Once officers attempted to effectuate the emergency detention, the constitutional analysis shifts to whether the force used was objectively reasonable under *Graham v. Connor, 490 U.S. 386 (1989)*. Graham instructs courts to evaluate force based upon the totality of the circumstances from the perspective of a reasonable officer on the scene rather than with hindsight. Although Graham identifies three principal factors, severity of the offense, immediacy of the threat, and active resistance, those factors are not exclusive, particularly where officers are responding to a medical or behavioral health emergency rather than investigating criminal conduct.

The first Graham factor carries comparatively little weight because officers were not investigating a violent criminal offense. Their primary governmental interest centered on protecting life and securing emergency medical treatment. Nevertheless, the seriousness of the reported conduct, including attempted fire-setting inside an occupied residence and threats directed toward Mr. [redacted] mother, substantially increased the urgency of police intervention.

The second factor weighs significantly in favor of the officers. At the time force was employed, officers reasonably believed that allowing Mr. [redacted] to reenter the residence could expose his mother to renewed danger. Officers had personally viewed video evidence corroborating reports that Mr. [redacted] had attempted to ignite a paper bag using a lighter and observed physical evidence consistent with that conduct. The potential risk associated with fire-setting behavior inside a residence materially increased the governmental interest in maintaining custody.

The third Graham factor also favors the officers. The evidence consistently demonstrates that Mr. [redacted] actively resisted officers' attempts to place him into protective custody by pulling his arms away, stiffening his body, attempting to return into the residence, refusing repeated commands, and continuing to resist while officers attempted to secure his hands behind his back. Active resistance generally authorizes officers to employ reasonable physical control techniques necessary to complete an otherwise lawful detention.

Several additional Supreme Court decisions are relevant. In *City and County of San Francisco v. Sheehan, 575 U.S. 600 (2015),* the Court recognized that officers responding to individuals suffering from mental illness must often make rapid decisions in dangerous circumstances and that the existence of a mental illness does not prohibit objectively reasonable uses of force when legitimate safety concerns exist. Likewise, *Kingsley v. Hendrickson, 576 U.S. 389 (2015)*, reinforces the principle that objective reasonableness, not an officer's subjective intent, governs constitutional analysis.

Beyond use-of-force jurisprudence, this incident implicates the Supreme Court's evolving emergency aid doctrine. In *Brigham City v. Stuart, 547 U.S. 398 (2006)*, and *Michigan v. Fisher, 558 U.S. 45 (2009),* the Court recognized that officers may enter and remain within a residence without a warrant when objectively reasonable facts indicate that someone requires immediate assistance or faces imminent injury. More recently, *Caniglia v. Strom, 593 U.S. ___ (2021),*

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clarified that while there is no standalone "community caretaking" exception permitting warrantless home entries, officers retain authority to act under the traditional emergency aid doctrine when immediate action is necessary to protect life or prevent serious injury. Here, officers' presence inside the residence was supported by the complainant's request for assistance, her consent to enter, and objectively reasonable evidence of an ongoing behavioral health emergency.

The force actually employed remained comparatively limited. Officers initially relied upon verbal persuasion, then attempted manual escort techniques before transitioning to a controlled front-leg takedown when Mr. [redacted] attempted to pull away and return inside the residence. Officers used body-weight stabilization while repeatedly issuing verbal commands and ultimately secured compliance after Officer Jackson employed only a warning arc from his Conducted Electrical Weapon without deploying the probes or administering an electrical cycle. EMS immediately evaluated Mr. [redacted] following the incident. The graduated progression of force is generally consistent with constitutional principles requiring officers to employ force reasonably related to the governmental interests at stake.

From a constitutional perspective, one aspect of the encounter merits continued institutional attention: prolonged body-weight restraint during encounters involving individuals in behavioral crisis. National guidance issued by the U.S. Department of Justice, the Police Executive Research Forum (PERF), and the International Association of Chiefs of Police recommends minimizing prone restraint and body-weight compression whenever reasonably possible because of the increased risk of positional asphyxia, particularly among individuals experiencing excited delirium-like symptoms, acute psychosis, or respiratory compromise. In this case, officers documented that Officer McGowan intentionally shifted his weight after learning of Mr. [redacted] prior back injury and continued giving verbal commands throughout the restraint. These facts mitigate constitutional concerns but also underscore the importance of continued training emphasizing rapid transition from prone restraint to a recovery position once control has been achieved.

Considering the totality of the circumstances, the officers' actions appear legally supported under the Fourth Amendment, Ohio emergency hospitalization law, and applicable Supreme Court precedent. The seizure was supported by probable cause that Mr. [redacted] required emergency psychiatric intervention, and the level of force employed remained objectively reasonable in response to his active resistance and the immediate safety concerns confronting the officers.

V. APD Policy Analysis

The officers' actions were evaluated against applicable Akron Police Department policies, including the Use of Force Procedure (P-13-2021 Resisting Arrest/Use of Force Procedure), Conducted Electrical Weapon Procedure, Rules and Regulations, Crisis Intervention practices, and other governing directives applicable to emergency behavioral health responses.

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The available documentation indicates that officers acted consistently with APD policy requiring officers to employ only the force reasonably necessary to accomplish a lawful objective while continually reassessing the need for force. The incident reflects a progressive escalation beginning with verbal communication, followed by escort techniques, manual control, a controlled takedown, body-weight stabilization, and ultimately the presentation of a Conducted Electrical Weapon without deployment. This progression demonstrates an attempt to employ the least intrusive force reasonably available under the circumstances before considering higher levels of force.

The decision to initiate an emergency psychiatric detention also appears consistent with departmental policy governing persons experiencing mental illness. Officers independently investigated the complainant's allegations, personally assessed Mr. [redacted] reviewed corroborating video evidence, and articulated specific observations supporting the conclusion that Mr. [redacted] was unable to safely care for himself and required emergency medical evaluation. Rather than relying solely upon the caller's statements, officers documented independent observations supporting their determination, an important safeguard against arbitrary deprivation of liberty.

The incident further reflects several policy objectives associated with Crisis Intervention Team (CIT) principles. BlueTeam documentation indicates that at least one responding officer possessed CIT certification. Officers initially separated involved parties, reduced competing stimuli by speaking individually with Mr. [redacted] gathered information from family members, reviewed available evidence, and attempted to secure voluntary compliance before transitioning to physical control. These actions are generally consistent with recognized crisis intervention practices emphasizing assessment, communication, and voluntary resolution whenever feasible.

Officer Jackson's use of the CEW likewise appears consistent with APD's CEW policy. Rather than immediately discharging the device, Officer Jackson first displayed the CEW and employed only a warning arc in an effort to achieve behavioral compliance. The device was never fired, no probes were deployed, and no electrical cycle was administered. The warning arc represented an intermediate attempt to gain voluntary compliance before escalating to a higher level of force.

The officers also complied with post-force responsibilities required under APD policy. Medical personnel evaluated Mr. [redacted] immediately following the incident, photographs of injuries were obtained, supervisor notification occurred, body-worn camera recordings captured the encounter, witness statements were collected, and supervisory investigations were completed. The documentation includes officer reports, supervisory review, BlueTeam reporting, photographs, and interviews with both the complainant and Mr. [redacted]

The supervisory investigation concluded that the force employed was objectively reasonable and within APD policy. The investigating supervisor specifically found that officers appropriately attempted voluntary compliance before initiating physical control, that the takedown was justified after active resistance developed, and that the officers' force remained proportional throughout the encounter.

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Although the incident appears to fall within current APD policy, constitutional policing encourages agencies to evaluate not only whether officers complied with existing policy, but also whether policy itself reflects evolving national best practices. Several opportunities for continued improvement emerge from this review. First, APD could further strengthen policy language governing prolonged ground restraint by expressly requiring officers to transition restrained subjects into a recovery position as soon as practical after handcuffing unless an articulable safety concern exists. Second, documentation requirements could more specifically require officers to record the duration of prone restraint, body-weight application, and the precise timing of positional changes. Third, policies addressing behavioral health incidents could more explicitly require officers to document the specific de-escalation techniques attempted before force became necessary. Finally, continued integration of CIT training with scenario-based defensive tactics would further reinforce the constitutional policing principle that tactical communication and physical control techniques should complement one another rather than function as separate disciplines.

Overall, the available evidence supports the conclusion that the responding officers acted within existing APD policy. At the same time, the incident illustrates several opportunities for policy refinement that would further align departmental practices with nationally recognized standards emphasizing de-escalation, crisis response, accountability, and continuous improvement.

VI. Officer-by-Officer Analysis

A. Officer Cameron McGowan (Primary Officer)

Officer Cameron McGowan served as the primary officer throughout the incident and was responsible for the decision to initiate emergency psychiatric detention, the application of the primary physical control techniques, and the overall management of the encounter until additional officers arrived. His conduct should be evaluated through the dual lenses of constitutional reasonableness and constitutional policing principles.

From the outset, Officer McGowan demonstrated several behaviors consistent with constitutional policing. Rather than immediately attempting to physically restrain Mr. [redacted] upon observing his erratic behavior, he conducted an independent assessment of the situation. Officer McGowan interviewed Mr. [redacted] observed his demeanor firsthand, confirmed that Mr. [redacted] had discontinued taking his psychiatric medication, and reviewed the complainant's cellular telephone videos documenting Mr. [redacted] earlier behavior. Those observations corroborated the information received through dispatch and established an objective factual basis for determining that Mr. [redacted] required emergency psychiatric evaluation rather than criminal arrest.

Before employing force, Officer McGowan attempted voluntary compliance by explaining that Mr. [redacted] needed to be transported to the hospital and offering him the opportunity to voluntarily accompany officers. This effort reflects an important constitutional policing principle requiring officers, whenever circumstances reasonably permit, to seek voluntary cooperation before

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resorting to physical force. Only after Mr. [redacted] repeatedly refused transport, attempted to turn away, and actively pulled away from officers did Officer McGowan initiate physical control.

When resistance escalated, Officer McGowan employed a front-leg takedown to prevent Mr. [redacted] from retreating into the residence. The takedown appears proportionate to the level of resistance being encountered. Rather than utilizing strikes, impact weapons, or higher levels of force, Officer McGowan used a controlled balance-displacement technique designed to quickly bring the encounter under control while maintaining continuous control of Mr. [redacted] upper body.

After the takedown, Officer McGowan used body-weight stabilization while repeatedly issuing verbal commands directing Mr. [redacted] to place his hands behind his back. Importantly, the available reports indicate that Officer McGowan modified his positioning after learning of Mr. [redacted] prior back injury, intentionally reducing the amount of body weight being applied while maintaining officer safety. That decision demonstrates ongoing reassessment of force, a central expectation of both APD policy and constitutional policing. Officers are expected not only to justify the initial use of force but also to continually evaluate whether adjustments can safely reduce the amount of force being applied as circumstances evolve.

From a constitutional policing perspective, Officer McGowan appropriately balanced officer safety with the duty to preserve life. The evidence reflects repeated verbal communication throughout the encounter, efforts to minimize injury, prompt notification to EMS, and immediate medical evaluation following restraint. While some injury occurred, there is no evidence suggesting unnecessary escalation, retaliatory force, or continued force after compliance was achieved.

Overall, Officer McGowan's actions appear consistent with the constitutional standards established by *Graham v. Connor* and with APD's Use of Force Procedure.

B. Officer Andrew Sulek

Officer Andrew Sulek served as the assisting officer throughout the incident and played an important role in both the investigative and physical control phases of the encounter. His actions demonstrate a measured progression from assessment and communication to physical restraint only after voluntary compliance proved unsuccessful.

Initially, Officer Sulek focused on interviewing the complainant while Officer McGowan interviewed Mr. [redacted] During this process, Officer Sulek obtained detailed information regarding Mr. [redacted] psychiatric history, reviewed the complainant's video recordings, and observed physical evidence corroborating the reported fire-setting behavior. This information substantially strengthened the legal basis for emergency detention and reflects sound investigative practices before restricting an individual's liberty.

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Officer Sulek subsequently joined Officer McGowan on the front porch, where he observed Officer McGowan attempting to persuade Mr. [redacted] to voluntarily accompany officers to the hospital. Only after repeated refusals did Officer Sulek assist in attempting to place Mr. [redacted] into handcuffs. His initial actions consisted of attempting to guide Mr. [redacted] left arm behind his back while issuing verbal commands.

Once Mr. [redacted] actively resisted, Officer Sulek transitioned to controlling the lower portion of Mr. [redacted] body after the takedown. His reports indicate that he restrained Mr. [redacted] legs using both manual control and body-weight stabilization to prevent kicking and to reduce the likelihood that Mr. [redacted] could stand while officers attempted to secure his arms. Throughout the encounter, Officer Sulek repeatedly issued verbal commands directing Mr. [redacted] to comply.

Notably, Officer Sulek documented modifying Mr. [redacted] leg position after Mr. [redacted] complained of knee discomfort. Rather than maintaining a rigid control position, Officer Sulek adjusted his restraint in an apparent effort to both maintain officer safety and reduce unnecessary discomfort. This conduct reflects one of the foundational principles of constitutional policing, continuous reassessment of force rather than static application of restraint.

Officer Sulek also recognized that additional officers were needed and appropriately requested another unit. Calling for assistance rather than attempting to increase the level of force individually is consistent with nationally recognized officer safety principles because additional personnel often reduce the amount of force necessary to safely control resistant subjects.

Overall, Officer Sulek's actions appear consistent with APD policy, constitutional policing principles, and accepted crisis intervention practices. His use of lower-body control techniques, repeated verbal commands, tactical communication, and continual reassessment supports a finding that his force remained proportional to the level of resistance being encountered.

C. Officer DeVon Jackson

Officer DeVon Jackson became involved only after hearing another officer request assistance. His role was limited to assisting officers already engaged in a prolonged physical struggle with Mr. [redacted]

Upon arrival, Officer Jackson immediately observed two officers attempting unsuccessfully to secure Mr. [redacted] arms while Mr. [redacted] continued actively resisting. Officer Jackson initially attempted manual control of Mr. [redacted] free arm before introducing his Conducted Electrical Weapon as a compliance tool.

Significantly, Officer Jackson did not immediately deploy the CEW. Instead, he displayed the device, pointed it toward Mr. [redacted] and activated only the warning arc in an effort to produce voluntary behavioral compliance. This distinction is important from both constitutional and policy perspectives. A warning arc constitutes a lower level of intervention than an actual CEW

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deployment because no electrical cycle is delivered, no probes are fired, and the subject experiences no neuromuscular incapacitation.

When the warning arc failed to gain compliance, Officer Jackson chose not to escalate immediately to probe deployment. Instead, he holstered the CEW and returned to manual control techniques, assisting officers in controlling Mr. [redacted] arm and repositioning him so that handcuffing could be completed. That decision reflects an important constitutional policing principle: officers should continually evaluate whether a less intrusive option remains available before escalating force.

Officer Jackson also documented using manual displacement of Mr. [redacted] head to prevent continued resistance and facilitate handcuffing. Although head control techniques warrant careful scrutiny because of their potential risks, the available evidence indicates the maneuver was used briefly to facilitate restraint rather than to inflict pain or punishment. Once Mr. [redacted] was handcuffed, Officer Jackson's participation concluded without further application of force.

Overall, Officer Jackson exercised restraint in choosing not to deploy the CEW despite prolonged active resistance. His decision to revert to physical control rather than escalating to an electrical discharge likely reduced the overall level of force experienced by Mr. [redacted] and is consistent with constitutional policing's emphasis on proportionality and continual reassessment.

VII. Tactical Assessment and De-escalation Review

Constitutional policing extends beyond legal compliance and requires agencies to continually evaluate whether officers employed tactics most likely to safely resolve encounters while minimizing the need for force. Behavioral health incidents present unique tactical challenges because the subject's actions are frequently driven by impaired cognition rather than criminal intent. Consequently, success should be measured not only by whether officers ultimately achieved lawful custody, but also by the extent to which communication, time, distance, and tactical planning were effectively integrated into the response.

The responding officers demonstrated numerous positive tactical decisions before force became necessary. They independently interviewed both the complainant and Mr. [redacted] corroborated dispatch information through video evidence, observed physical evidence consistent with reported fire-setting, and personally assessed Mr. [redacted] mental condition before determining that emergency hospitalization was appropriate. This investigative process reflects sound constitutional policing by ensuring that the decision to deprive an individual of liberty rested upon independently verified facts rather than uncorroborated allegations.

The officers also appropriately attempted voluntary compliance before initiating physical control. Officer McGowan explained why hospitalization was necessary and presented Mr. [redacted] with the opportunity to voluntarily accompany officers. This communication reflects adherence to nationally recognized crisis intervention principles emphasizing persuasion before coercion whenever circumstances safely permit.

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Once resistance developed, officers employed relatively low-level control techniques rather than immediately escalating to higher levels of force. The front-leg takedown, body-weight stabilization, repeated verbal commands, and eventual CEW warning arc demonstrate a measured progression of force corresponding to Mr. [redacted] increasing resistance. Importantly, Officer Jackson elected not to deploy the CEW after the warning arc failed, instead returning to manual restraint techniques. This decision likely reduced the overall severity of force experienced by Mr. [redacted]

The tactical response also benefited from the officers' willingness to request additional personnel. Rather than relying upon increasingly forceful tactics by two officers, Officer Sulek requested another unit, allowing Officer Jackson to assist in safely controlling Mr. [redacted] National research consistently demonstrates that additional personnel often reduce overall force because officers can distribute physical control responsibilities more effectively.

Nevertheless, the incident presents several opportunities for tactical improvement consistent with evolving national best practices.

First, although officers documented repeated verbal commands, the reports contain comparatively limited documentation describing specific crisis communication strategies employed before the decision to physically detain Mr. [redacted] Modern constitutional policing increasingly encourages officers to document not simply that de-escalation occurred, but specifically which techniques were attempted, how the subject responded, and why additional de-escalation was no longer feasible.

Second, the encounter illustrates the continuing importance of minimizing prolonged prone restraint. Although officers documented modifying body positioning and promptly summoning EMS, national guidance recommends transitioning restrained individuals into a recovery position as soon as practical once control has been established to reduce risks associated with positional asphyxia and respiratory compromise.

Third, the incident demonstrates the value of integrating CIT tactics with defensive tactics training. Behavioral health encounters often require officers to simultaneously maintain officer safety while recognizing that resistance may stem from cognitive impairment rather than criminal intent. Continued scenario-based training emphasizing communication during physical restraint, coordinated team control, and rapid medical transition would further strengthen APD's response to similar incidents.

Overall, the officers' tactical decisions demonstrate a generally measured and disciplined response consistent with constitutional policing principles. While opportunities for refinement exist, the evidence reflects an encounter in which officers attempted communication, progressively escalated force only as resistance increased, continually reassessed their tactics, and promptly transitioned Mr. [redacted] to medical care once the encounter concluded.

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VIII. Findings

After reviewing the available reports, supervisory investigation, BlueTeam documentation, body-worn camera footage, witness statements, dispatch records, and applicable legal authorities, this review concludes that the responding officers acted within the constitutional boundaries established by the Fourth Amendment and generally complied with Akron Police Department policy governing use of force and emergency behavioral health interventions.

The officers possessed an objectively reasonable legal basis to seize Mr. [redacted] for emergency psychiatric evaluation. Dispatch information describing threats, fire-setting behavior, untreated schizophrenia, and acute psychosis was independently corroborated through witness interviews, physical observations, video evidence, and Mr. [redacted] own admissions that he had discontinued taking his prescribed medication. Collectively, these facts established probable cause to initiate an emergency detention under Ohio law.

The force employed throughout the encounter remained proportionate to the evolving circumstances. Officers initially attempted voluntary compliance through explanation and persuasion. Only after Mr. [redacted] actively resisted lawful detention by pulling away, stiffening his body, and attempting to return inside the residence did officers employ progressively greater physical control techniques. The use of a controlled takedown, body-weight stabilization, repeated verbal commands, manual restraint, and a CEW warning arc, without actual CEW deployment, reflects a measured progression of force consistent with constitutional standards.

The officers also demonstrated several characteristics associated with constitutional policing, including independent investigation before restricting liberty, repeated efforts at communication, continual reassessment of force, accommodation of known medical concerns by adjusting restraint techniques, prompt summoning of EMS, comprehensive supervisory review, and thorough documentation of the encounter. These actions support public confidence that the force used was intended to accomplish a legitimate governmental objective rather than punish or unnecessarily injure the individual involved.

Although the encounter appears constitutionally reasonable and within current APD policy, it also highlights opportunities for organizational learning. Enhanced documentation of specific de-escalation efforts, continued emphasis on minimizing prolonged prone restraint, expanded crisis intervention scenario training, and additional guidance regarding recovery positioning following restraint would further align APD practices with evolving national best practices in constitutional policing.

IX. Policy and Training Recommendations

Constitutional Policing and National Best Practices

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Although the officers' actions in this incident were objectively reasonable and consistent with applicable constitutional standards and Akron Police Department policy, constitutional policing embraces continuous organizational learning. The following recommendations are intended to strengthen APD's response to behavioral health crises by incorporating nationally recognized best practices. These recommendations should not be interpreted as criticisms of the officers involved, but rather as opportunities to further improve policy, training, officer safety, and community trust.

Recommendation 1: Expand Documentation Requirements for De-escalation Efforts[1]

Recommendation

Revise APD's Use of Force Procedure to require officers responding to behavioral health incidents to specifically document the de-escalation techniques attempted before force was used. Documentation should include:

- Crisis communication techniques employed
- Time spent attempting voluntary compliance
- Specific verbal persuasion techniques utilized
- Behavioral responses from the subject
- Why additional de-escalation was not feasible
- Factors requiring transition to force

Rationale

The officers appropriately attempted voluntary compliance before initiating physical force. However, the reports generally state that officers "gave commands" or "attempted voluntary compliance" without fully describing the communication strategies that were employed.

Detailed documentation enhances transparency, strengthens later supervisory review, assists prosecutors and courts evaluating reasonableness, and demonstrates constitutional policing principles emphasizing communication before force.

Real-World Example

The Seattle Police Department revised its use-of-force reporting following the DOJ Consent Decree to require officers to document specific de-escalation efforts and explain why those efforts succeeded or failed before force became necessary.[2]

[1] U.S. Department of Justice. *Guiding Principles on Use of Force.* Washington, DC: DOJ, 2017.
[2] Seattle Police Department. *Policy 8.100—De-escalation.* Seattle, WA.

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Recommendation 2: Require Documentation of Prone Restraint Duration[3]

Recommendation

Amend APD policy to require officers to document:

- When prone restraint begins
- Approximate duration
- When the subject is moved to a recovery position
- Medical observations while restrained
- Reason prone restraint continued if longer than reasonably necessary

Rationale

Mr. [redacted] remained on the ground while officers worked to gain control. Although officers documented repositioning themselves and summoning EMS, documenting the duration of prone restraint improves accountability and assists supervisors in evaluating compliance with positional-restraint guidance.

Real-World Example

The Las Vegas Metropolitan Police Department requires officers to specifically document the duration of prone restraint and requires supervisors to evaluate whether the restraint remained necessary throughout the encounter[4].

Recommendation 3: Require Immediate Transition to Recovery Position

Recommendation

Revise APD policy to require officers to transition restrained subjects from the prone position into a seated or recovery position as soon as it is reasonably safe following handcuffing unless an articulable safety concern exists[5].

Rationale

Although officers appropriately summoned EMS and reduced body weight after learning of Mr. [redacted] back injury, national research demonstrates that prolonged prone restraint increases the

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[3] Police Executive Research Forum. *Guiding Principles on Use of Force.* Washington, DC: PERF, 2016.
[4] Las Vegas Metropolitan Police Department. *Use of Force Policy.*
[5] International Association of Chiefs of Police. *National Consensus Policy on Use of Force.* Alexandria, VA: IACP, 2020.

risk of respiratory compromise, particularly among persons experiencing acute psychosis or excited delirium-like symptoms.

Real-World Example

The Denver Police Department requires officers to move restrained persons from the prone position immediately after control has been achieved whenever feasible[6].

Recommendation 4: Expand Crisis Intervention Scenario Training

Recommendation

Increase scenario-based Crisis Intervention Team (CIT) training emphasizing:

- Communication during physical resistance
- Transition from verbal persuasion to lawful detention
- Coordinated team tactics
- Family interactions
- Crisis stabilization following restraint[7]

Rationale

This incident illustrates the complexity of balancing officer safety with compassionate treatment of individuals experiencing acute psychiatric crises.

Scenario-based training allows officers to repeatedly practice these difficult situations under realistic conditions.

Real-World Example

The Memphis Police Department, creator of the nationally recognized Crisis Intervention Team model, requires recurring scenario-based mental health training emphasizing communication, de-escalation, and tactical coordination.

Recommendation 5: Reinforce Tactical Communication During Physical Control

Recommendation

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[6] Denver Police Department. *Operations Manual—Use of Force.*
[7] Dupont, Randolph, Sam Cochran, and Sarah Pillsbury. *Crisis Intervention Team Core Elements.* Memphis: CIT International.

Train officers to continue crisis communication throughout physical restraint by:

- Explaining each action
- Reassuring subjects
- Informing subjects what officers need them to do
- Acknowledging medical concerns
- Advising when force will cease upon compliance[8]

Rationale

Communication should not end once force begins. Continued dialogue often reduces resistance and lowers the likelihood that additional force becomes necessary.

Real-World Example

The Camden County Police Department (New Jersey) integrates procedural justice and tactical communication into defensive tactics training, so officers continue communicating throughout physical control encounters.

Recommendation 6: Incorporate Decision-Making Models into Use-of-Force Training

Recommendation

Incorporate a structured critical decision-making model[9] into annual use-of-force training requiring officers to continually reassess:

- Threat level
- Subject behavior
- Available tactical options
- Medical considerations
- Opportunities to disengage or slow the encounter

Rationale

Although officers appropriately reassessed force during this incident, formal decision-making models improve consistency across the department and encourage continual evaluation rather than linear escalation.

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[8] Office of Community Oriented Policing Services. *Implementing a Comprehensive Agency Response to Persons with Mental Illnesses.* Washington, DC: U.S. Department of Justice.
[9] Police Executive Research Forum. *Critical Decision-Making Model.* Washington, DC: PERF.

Real-World Example

The Police Executive Research Forum's Critical Decision-Making Model (CDM) has been adopted or adapted by agencies including the Chicago Police Department, Cincinnati Police Department, and numerous other major law enforcement agencies.

Recommendation 7: Enhance Supervisor Review of Behavioral Health Incidents

Recommendation

Require supervisory reviews of behavioral health use-of-force incidents[10] to specifically evaluate:

- Whether de-escalation opportunities existed
- Crisis intervention techniques employed
- Medical intervention timing
- Tactical positioning
- Recovery positioning
- Opportunities for organizational learning

Rationale

Traditional force investigations focus primarily on policy compliance. Constitutional policing encourages supervisors to also identify lessons learned even when force is justified.

Real-World Example

The Louisville Metro Police Department, following significant policy revisions, implemented enhanced supervisory review protocols emphasizing tactical analysis and organizational learning for all reportable force incidents[11].

Recommendation 8: Expand Behavioral Health Partnerships

Recommendation

Develop additional co-response partnerships with mental health professionals and mobile crisis teams to supplement officer response whenever safely feasible[12].

Rationale

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[10] U.S. Department of Justice. *Collaborative Reform Initiative Technical Assistance Center Reports.*
[11] Louisville Metro Police Department. *Standard Operating Procedure: Use of Force.*
[12] National League of Cities. *Responding to Behavioral Health Crises: Alternative Response Models.* Washington, DC.

Although officers acted appropriately in this incident, behavioral health professionals can often assist with prolonged negotiations, family engagement, treatment planning, and post-crisis stabilization.

Real-World Example

The Denver STAR Program (Support Team Assisted Response)[13] deploys clinicians and paramedics to appropriate behavioral health calls, reducing unnecessary police involvement where safety permits. Similarly, the Eugene, Oregon CAHOOTS program[14] has demonstrated long-term success in diverting appropriate mental health calls from traditional law enforcement responses.

Recommendation 9: Annual Training on Ohio Emergency Hospitalization Law

Recommendation

Provide annual legal update training addressing:

- Ohio Revised Code § 5122.10
- Constitutional standards governing emergency mental health seizures
- Recent federal and Ohio appellate decisions
- Documentation requirements supporting emergency detentions

Rationale

Mental health detentions involve significant Fourth Amendment considerations despite not being criminal arrests. Regular legal updates reinforce officers' understanding of both statutory authority and constitutional limitations.

Real-World Example

The Ohio Attorney General's Ohio Peace Officer Training Academy (OPOTA)[15] includes annual legal update curricula covering mental health detentions and emergency intervention authority. Many Ohio agencies incorporate these updates into yearly in-service training.

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[13] City of Denver. *Support Team Assisted Response (STAR) Program Annual Report.*
[14] Eugene Police Department, *CAHOOTS Program Analysis* (Eugene, OR: Eugene Police Department, 2020), https://www.eugene-or.gov/DocumentCenter/View/56717/CAHOOTS-Program-Analysis
[15] Ohio Attorney General. *Ohio Peace Officer Training Commission Annual Legal Update.* London, OH.

Recommendation 10: Establish an Annual Behavioral Health Use-of-Force Review Process[16]

Recommendation

Create an annual multidisciplinary review of behavioral health use-of-force incidents involving representatives from:

- Patrol Operations
- Training Academy
- Crisis Intervention Team
- Behavioral health providers
- Office of Professional Standards
- Office of the Independent Police Auditor

The review should identify trends, training needs, equipment issues, and policy improvements rather than focus solely on individual incidents.

Rationale

Constitutional policing emphasizes organizational accountability and continuous improvement. Periodic reviews of behavioral health encounters can reveal systemic issues that are not apparent when incidents are evaluated individually.

Real-World Example

The San Francisco Police Department and Seattle Police Department both utilize multidisciplinary review processes to examine use-of-force incidents involving persons experiencing behavioral health crises. These reviews have informed revisions to policy, expanded crisis intervention training, and strengthened partnerships with behavioral health professionals.

Overall Assessment of Recommendations

None of these recommendations suggest that the responding officers violated constitutional standards or APD policy in this incident. Instead, they are forward-looking enhancements grounded in the principles of constitutional policing, procedural justice, and continuous organizational improvement. Collectively, they would strengthen APD's response to future behavioral health crises by improving documentation, enhancing de-escalation practices, reducing risks associated with prolonged restraint, reinforcing supervisory learning, and further aligning

[16] Police Executive Research Forum. *Guiding Principles on Use of Force.* Washington, DC: PERF, 2016.
National Association for Civilian Oversight of Law Enforcement. *Promising Practices for Civilian Oversight.* NACOLE.
U.S. Department of Justice. *Guiding Principles on Use of Force.* Washington, DC: DOJ, 2017.

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departmental policies with nationally recognized best practices endorsed by the U.S. Department of Justice, PERF, IACP, CIT International, and leading law enforcement agencies across the United States.

X. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

The force employed was directly responsive to Mr. [redacted] active resistance, was proportionate to the legitimate governmental interests involved, and ceased once lawful control had been established. The officers' conduct reflects a measured effort to balance the competing responsibilities of protecting the public, safeguarding a vulnerable individual in crisis, and preserving officer safety.

As behavioral health calls continue to represent a growing portion of police service demands nationwide, agencies must continue refining policies and training to reflect evolving constitutional standards and evidence-based practices. By implementing the recommendations contained in this report, the Akron Police Department would further strengthen its ability to respond safely, compassionately, and constitutionally to future behavioral health crises while reinforcing public trust, organizational accountability, and its commitment to the principles of constitutional policing.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME: [redacted]
CASE NUMBER: 2026-00073954
DATE OF INCIDENT: 06/22/2026
DATE OF OIPA REPORT: 08/17/2026
LOCATION OF INCIDENT: 2224 East Avenue, Akron, Ohio 44314
APD DISTRICT: 7

I. Incident Overview

During the early morning hours of June 22, 2026, Officers Shepley, ID No. 1601, and Lepley, ID No. 1607, were working uniformed patrol in Car No. 17. They were traveling to assist the Akron Fire Department at 1548 White Avenue when they encountered a blue Hyundai Elantra traveling in the wrong direction and nearly colliding head-on with their cruiser. The case report identifies the initial encounter near Russell Avenue and Manchester Road and records the event as beginning at approximately 3:34 a.m. in Akron, Ohio 44307.

The officers activated their emergency lights and siren and attempted to stop the Elantra. The driver failed to comply, and the officers initiated a vehicle pursuit. Radio traffic referenced in the reports indicates that additional APD units joined or positioned themselves along the vehicle's route. Sergeant Ryan Hall, ID No. 1530, was working as the supervisor for Sectors One and Four and was assigned to Car No. 48. Hall was initially responding to the same fire-assist call when he heard Car No. 17 announce the pursuit.

Hall reported that he was traveling south on East Avenue between East Thornton Street and Longview Avenue when Car No. 20 advised that it was pursuing the suspect vehicle westbound on Clearview Avenue. Because Hall was nearby, he positioned his cruiser near the Circle K at Clearview and East Avenue and illuminated the approaching vehicle with his headlights and spotlight in an effort to observe its occupants. Hall stated that he saw two or three people inside and observed that the driver appeared to be a Black male wearing a gray hooded sweatshirt. When the Elantra continued through the intersection and turned south onto East Avenue, Hall activated his emergency lights and siren, entered the pursuit, and announced that he was the secondary unit.

The Elantra began slowing, reportedly because of a flat tire. Officers anticipated that the occupants would flee. The vehicle ultimately stopped in the driveway of 2224 East Avenue, Akron, Ohio 44314. This address was the principal termination point of the vehicle pursuit and the location from which the occupants began fleeing.

Multiple occupants exited the vehicle from the front and rear. Hall left his cruiser and ran after individuals who fled from the passenger side and moved behind the garage at 2224 East Avenue. Because the area was dark and visibility was limited, Hall used a flashlight to illuminate his path. One suspect ran east toward East Avenue after moving around a garage. Hall changed direction

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but lost his footing and fell. The fleeing individuals continued running, increasing the distance between Hall and the nearest suspect.

Hall got up, broadcast the suspects' direction of travel, and continued the pursuit. He initially reported that two suspects were moving back toward East Avenue and then northbound on East Avenue. Hall lost sight of one individual but maintained intermittent visual contact with another. That person turned west into a driveway, causing Hall to lose sight of him again. Hall armed his Conducted Electrical Weapon (CEW) before entering a backyard, where he regained visual contact.

The suspect attempted unsuccessfully to climb or jump a fence in the northwest corner of the yard and then turned east toward East Avenue. Hall attempted to close the distance and shouted words to the effect of, "Stop before I tase you." Hall reported that he repeated the warning, but the suspect continued running. Hall then deployed his first CEW cartridge. The deployment did not incapacitate the suspect, who continued northbound on East Avenue. Hall quickly deployed a second cartridge. That deployment was also ineffective, and the suspect continued across Harpster Avenue.

The electronic CEW record shows that the weapon was armed at approximately 3:39:01 a.m. The first cartridge was fired at approximately 3:39:10 a.m., followed by a discharge lasting 4.944 seconds. The second cartridge was fired at approximately 3:39:16 a.m., followed by a discharge lasting 4.099 seconds. The CEW was disarmed at approximately 3:39:21 a.m. The electronic record is consistent with two deployments separated by approximately six seconds and no further activation after the second cartridge.

After crossing Harpster Avenue, the suspect ran between residences later identified as 2190 and 2186 East Avenue. Hall again lost sight of him. As Hall moved between the houses, he re-holstered the CEW. He heard foliage breaking ahead and continued toward the sound. Hall then found the suspect confined between two privacy fences that converged and blocked further escape. The suspect surrendered and was taken into custody without additional force.

The person was later identified as [redacted] a fifteen-year-old passenger in the Elantra. [redacted] reportedly acknowledged during a subsequent interview that he had been seated in the rear of the vehicle, fled when it stopped, heard Hall order him to stop, and continued running. [redacted] stated that at least one CEW probe struck him but did not incapacitate him. He further stated that he attempted to hide between fences before being located and handcuffed.

Following [redacted] apprehension, Hall requested EMS because of the CEW deployments. EMS examined [redacted] at the scene and determined that no probes remained embedded. Medical personnel observed one minor puncture wound consistent with probe contact and treated and released [redacted] at the scene. Hall reported no additional force, and [redacted] reported no other injury.

The BlueTeam report describes Hall's force as two CEW cartridge deployments involving four probes. It records one apparent probe hit, notes that the force did not incapacitate [redacted] and

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identifies heavy clothing as a factor affecting effectiveness. The report further reflects that [redacted] was "painted" with the CEW's laser before deployment and that no drive-stun application or additional force was used.

II. Constitutional Policing Analysis

Constitutional policing requires more than determining whether an officer's actions can survive the minimum threshold of a Fourth Amendment challenge. It requires that police power be exercised lawfully, proportionately, fairly, transparently, and with appropriate respect for human dignity and the preservation of life. It also requires that officers continuously assess whether force remains necessary, that supervisors conduct meaningful and impartial reviews, and that agencies accurately document the facts necessary for accountability.

The initial attempted traffic stop was supported by observable unlawful and dangerous driving. The Elantra was reportedly traveling the wrong direction on a one-way street and nearly collided with a marked police cruiser. These circumstances provided officers with an objectively reasonable basis to initiate a stop. When the driver failed to yield to emergency lights and siren and instead fled, officers had a lawful basis to pursue and investigate the occupants' conduct. The resulting detention and attempted apprehension of persons fleeing from the vehicle were therefore connected to legitimate law-enforcement objectives rather than arbitrary or pretextual police action.

[redacted] flight from the vehicle materially affected the constitutional analysis. Flight does not, standing alone, authorize unlimited force. It is, however, one of the factors expressly recognized in *Graham v. Connor* because courts consider whether a person is actively resisting arrest or attempting to evade arrest by flight. [redacted] did not merely fail to respond to a single command. According to both Hall and [redacted] he exited a vehicle that had just fled from police, ran through a residential area, ignored repeated commands, continued after a warning that a CEW would be used, and attempted to conceal himself between fences. These actions constituted active evasion and gave Hall a legitimate basis to use some level of force to accomplish the detention.

The seriousness of the suspected conduct also weighed in favor of prompt apprehension. The incident arose from dangerous driving and a vehicle pursuit, not a minor consensual encounter or low-level ordinance violation. The case ultimately included allegations of failure to comply with a police signal, receiving stolen property, obstructing official business, carrying a concealed weapon, and improper handling of a firearm in a motor vehicle. A handgun was recovered along a suspect's flight path.

At the same time, constitutional analysis must be based on the information known to Hall when force was used, rather than facts discovered later. The present record does not establish that Hall knew at the moment of deployment that a firearm had already been recovered, that [redacted] had personally possessed a weapon, or that [redacted] had threatened anyone with a weapon. Hall's report describes [redacted] as fleeing and noncompliant but does not describe [redacted] turning toward Hall,

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reaching into his clothing, displaying an object, threatening violence, or attempting to assault an officer. Accordingly, the immediate-threat factor was less significant than the flight and resistance factors.

This distinction is important. The constitutional justification for Hall's CEW deployment rests principally on [redacted] continued evasion of lawful arrest under difficult conditions, not on proof that [redacted] posed an immediate deadly threat. The use of a less-lethal weapon must therefore be evaluated as a means of stopping active flight, rather than as a response to an assaultive or life-threatening act.

The use of force was also affected by the physical and environmental conditions. The incident occurred during darkness, in rain, and in a residential area containing fences, driveways, foliage, buildings, and uneven terrain. Hall had already fallen during the chase. These facts increased the risks associated with continued foot pursuit and with attempting a hands-on apprehension. They also increased the foreseeable risk that CEW-induced neuromuscular incapacitation could cause [redacted] to fall onto pavement, landscaping, fencing, or other hard surfaces.

Constitutional policing requires officers to consider both sets of risks. Hall was not required to continue an exhausting or tactically disadvantageous foot pursuit indefinitely, especially after losing distance and repeatedly losing sight of the suspect. A CEW could reasonably be viewed as an alternative to a physical tackle or close-contact struggle. Conversely, using a CEW on a running person creates an inherent fall risk. The reasonableness determination therefore depends on whether the need to promptly apprehend [redacted] outweighed the risk created by deployment in that environment.

Hall's verbal warning supports the reasonableness of the first deployment. He reported that he told [redacted] to stop before he tased him and repeated the warning. [redacted] acknowledged hearing commands to stop and refusing to comply. A warning gives a fleeing person a final opportunity to surrender voluntarily and is consistent with de-escalation, procedural fairness, and respect for individual autonomy. It also demonstrates that force was not used without notice when notice was feasible.

The first cartridge was deployed only after continued flight and noncompliance. It was ineffective, apparently because the probes failed to establish sufficient contact through [redacted] clothing. The record does not indicate that the first deployment caused [redacted] to fall or substantially restricted his movement. [redacted] continued running, demonstrating that the initial force had not achieved its intended control objective.

The second deployment occurred approximately six seconds later. Constitutional policing requires a fresh assessment before each additional application of force. That reassessment need not be lengthy when events are rapidly unfolding, but it must account for whether the first use was effective, whether the person remains resistant, whether the threat or flight continues, and whether additional force remains necessary. Here, [redacted] was still fleeing, had not surrendered, and had not

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been incapacitated. The second deployment was therefore directed at an ongoing law-enforcement objective rather than a completed or controlled event.

The brief interval between deployments presents both supporting and cautionary considerations. It supports Hall's claim that the two deployments occurred during one continuous, rapidly evolving pursuit. Hall had only seconds to respond as [redacted] continued moving away. It also raises the question whether sufficient time existed to determine why the first deployment failed and whether the second cartridge was likely to be more effective. The TASER 7 system carried two different cartridges, and the device record confirms that Hall deployed both.

The record does not indicate that Hall prolonged either electrical cycle through repeated trigger activations or used the CEW after [redacted] had stopped. This is constitutionally significant. Repeated or extended electrical applications against a person who is incapacitated, stationary, or no longer resisting present a substantially different legal concern. Hall used two standard cartridge deployments, observed that they were ineffective, and did not apply additional electrical force.

Hall's cessation of force strongly supports constitutional compliance. After losing sight of [redacted] between the houses, Hall re-holstered the CEW. When [redacted] was found trapped between privacy fences, he surrendered and was taken into custody without a strike, tackle, drive-stun application, or additional cartridge deployment. This conduct was consistent with the requirement that force cease when resistance ends or the subject is under control.

[redacted] juvenile status is also relevant to constitutional policing, even though age does not categorically prohibit CEW use. A fifteen-year-old may have reduced judgment, impulse control, and understanding of consequences compared with an adult. Juvenile status should therefore heighten consideration of proportionality, communication, deployment risk, and post-force care. The record reflects that Hall warned [redacted] and requested EMS after the deployment. It does not reflect whether Hall knew [redacted] age during the chase. In darkness, during a rapidly developing pursuit, Hall may have perceived [redacted] only as a fleeing occupant of the vehicle. The significance of age to Hall's immediate decision is therefore limited by what he could reasonably observe at the time.

The medical response was consistent with constitutional-policing principles. Hall requested EMS, [redacted] was examined, no embedded probes were identified, and a minor puncture wound was treated at the scene. Providing prompt medical assessment after force demonstrates concern for the subject's welfare and reduces the risk that injuries will go undetected. The supervisor also documented the injury and verified compliance with post-deployment equipment procedures.

The incident further implicates procedural justice. [redacted] conduct justified detention, but constitutional policing still required officers to treat him humanely, avoid retaliatory force, explain commands when feasible, and stop using force once compliance was obtained. The available record contains no indication that officers insulted [redacted] threatened him for punitive purposes, continued force after surrender, or denied medical care. Hall's conduct after apprehension was restrained and task oriented.

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The supervisory investigation documented several important accountability measures. Lieutenant Okoh responded, interviewed [redacted] reviewed video and reports, confirmed medical treatment, photographed the injury, and examined equipment-related compliance. These steps are consistent with meaningful use-of-force review. However, the investigation's objectivity should not be measured solely by whether procedural boxes were checked. A constitutionally focused review should specifically examine the deployment risk to a running juvenile, the distance and terrain at each cartridge deployment, the tactical implications of Hall's fall, the time available to reassess before the second cartridge, and whether alternative containment tactics were reasonably available.

The record-quality discrepancies are also relevant to constitutional policing. Different documents contain inconsistent entries concerning [redacted] name, birth date, age, race, and the location of the occurrence. The underlying report lists more than one person with a similar surname and includes conflicting demographic information, while the BlueTeam report identifies [redacted] as the force subject. Accurate records are essential because force data influence prosecutorial disclosure, court proceedings, public reporting, supervisory review, pattern analysis, policy development, and assessments of whether force is disproportionately applied to particular groups.

The incident location should likewise be accurately separated into its component stages. Russell Avenue appears to have been associated with the initial dangerous-driving encounter. The vehicle pursuit ended at 2224 East Avenue. The CEW deployments occurred during the northbound foot pursuit along or near East Avenue. [redacted] was ultimately apprehended between residences identified as 2190 and 2186 East Avenue. Treating all of these as one undifferentiated location could distort geographic analysis and make later review unnecessarily difficult.

Taken as a whole, the available evidence supports a preliminary conclusion that Sergeant Hall's use of force is comported with constitutional-policing principles. He pursued a lawful objective, issued warnings, used a less-lethal option against continuing active flight, stopped after the force proved ineffective, re-holstered before the final apprehension, used no force after surrender, and obtained medical care. The strongest constitutional justification was [redacted] continued active evasion following a dangerous vehicle pursuit. The weakest justification factor was immediate threat, because the record does not establish that [redacted] threatened Hall or others during the foot pursuit.

The incident nevertheless demonstrates that the use of force may be constitutionally permissible while still presenting opportunities for stronger policy, training, documentation, and supervision. In particular, APD should ensure that reviews of CEW deployments against running persons and juveniles expressly address fall hazards, target selection, deployment distance, reassessment between cartridges, available containment options, and the facts known to the officer concerning weapons or dangerousness. Those considerations will be developed more fully in the later policy, tactical, findings, and recommendations sections of this report.

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III. Legal Analysis

The principal constitutional issue is whether Sergeant Ryan Hall's two CEW deployments constituted objectively reasonable force under the Fourth Amendment. Because the force occurred during an attempted apprehension for suspected criminal conduct, the analysis is governed primarily by *Graham v. Connor* and its totality-of-the-circumstances framework.

Fourth Amendment and *Graham v. Connor*

A CEW deployment intended to stop and apprehend a person constitutes a seizure under the Fourth Amendment. The constitutional question is whether the force was reasonable from the perspective of an officer on the scene, based on the facts that were reasonably knowable at the time, without evaluating the decision solely through hindsight. The relevant considerations include the severity of the suspected offenses, whether the person posed an immediate threat to officers or others, and whether the person was actively resisting or attempting to evade arrest by flight.

The analysis must consider the entire encounter rather than only the instant at which the CEW trigger was pulled. In *Barnes v. Felix*, the Supreme Court rejected an artificially limited "moment-of-threat" approach and reaffirmed that force must be evaluated under the totality of the circumstances. Earlier tactical decisions may therefore be relevant when they help explain how the encounter developed and why force became necessary. The Court did not establish that any prior tactical mistake automatically renders later force unconstitutional; rather, it required courts to avoid placing arbitrary chronological limits on the reasonableness inquiry[1].

Applied here, the constitutional review begins with the dangerous driving event, the attempted traffic stop, the vehicle pursuit, the occupants' flight, Hall's entry into the foot pursuit, his fall, the repeated losses and reacquisitions of visual contact, the warnings he issued, [redacted] continued flight, the two ineffective CEW deployments, Hall's re-holstering of the weapon, [redacted] surrender, and the absence of force after surrender.

Severity of the suspected offenses

The first *Graham* consideration weighs in favor of some force, though not necessarily the maximum force available. [redacted] fled from a vehicle that had reportedly traveled the wrong way on a one-way street, nearly struck a police cruiser, failed to yield to emergency lights and siren, and led officers on a vehicle pursuit. The underlying case included suspected failure to comply with a police signal, receiving stolen property, obstructing official business, carrying a concealed weapon, and improper handling of a firearm in a vehicle. A Canik METE MC9 9-millimeter pistol was later recovered along a suspect's flight path.

[1] *Barnes v. Felix*, 605 U.S. 73 (2025).

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The vehicle pursuit and suspected firearm-related offenses were more serious than a routine traffic infraction or minor nonviolent misdemeanor. They provided a substantial governmental interest in identifying and apprehending the occupants. However, the later recovery of a firearm may not be retroactively attributed to Hall's decision unless the evidence establishes that Hall knew or reasonably suspected at the time of the deployments that [redacted] was armed.

Hall's report does not state that he saw [redacted] carrying a firearm, reaching toward his waistband, turning toward officers, or making a threatening movement. It also does not state that Hall had been informed before the deployments that a gun had been recovered or that a particular fleeing occupant was armed. The seriousness of the overall incident therefore supported apprehension, but it did not independently establish that [redacted] personally presented a deadly threat.

Immediate threat

The immediate-threat factor is the least substantial justification for CEW use. [redacted] was fleeing and refusing commands, but the available reports do not describe assaultive behavior during the foot pursuit. Hall did not report that [redacted] threatened him, attacked anyone, displayed a weapon, attempted to enter an occupied home, moved toward a bystander, or placed another person in immediate danger.

Flight through a residential neighborhood at approximately 3:39 a.m. created uncertainty and operational risk. Officers could not know whether [redacted] intended to obtain a weapon, enter a residence, confront an occupant, or continue escaping. Nevertheless, constitutional analysis requires a distinction between uncertainty and an articulable immediate threat. The present record supports the former more strongly than the latter.

This distinction does not render less-lethal force unreasonable. An officer is not limited to using a CEW only against a person who presents a deadly threat. The absence of an immediate assaultive threat does, however, affect proportionality and makes [redacted] active flight the primary constitutional justification for the deployments.

Active resistance and evasion by flight

The third *Graham* factor strongly supports Hall's first deployment. [redacted] fled from the vehicle when it stopped, continued through yards and along East Avenue, ignored commands to stop, disregarded a warning that a CEW would be used, and continued attempting to avoid apprehension. [redacted] later acknowledged that he heard Hall's commands and refused to stop.

Sixth Circuit decisions generally treat actual flight from officers as active resistance. In *Perez v. Simpson*, the court explained that fleeing from officers constitutes active resistance and that using a CEW against an actively resisting person is not ordinarily excessive. The court also emphasized

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that force becomes constitutionally problematic when the person has stopped, surrendered, and is no longer reasonably perceived as resisting[2].

The distinction between active resistance and mere noncompliance is central. In *Shumate v. City of Adrian*, the Sixth Circuit explained that noncompliance alone does not necessarily establish active resistance and held that a CEW may not be justified where a person is not fleeing, threatening, or consciously engaging in physical defiance[3]. [redacted] conduct was materially different. He was not stationary, slowly backing away, or merely refusing to present his hands. He was actively running from a lawful apprehension after a vehicle pursuit.

The law therefore supports the conclusion that Hall was constitutionally permitted to use a reasonable degree of less-lethal force to stop [redacted] ongoing flight. That conclusion does not establish that every possible CEW application would have been reasonable. Deployment location, fall risk, the number of applications, the time between applications, the person's age, and whether resistance continued all remained relevant.

First CEW deployment

The first deployment appears objectively reasonable under the totality of the circumstances. Hall was pursuing a person who had fled from a vehicle involved in a dangerous police pursuit. [redacted] continued running after repeated commands and a specific warning that a CEW would be used. Hall had fallen during the chase, lost distance, and repeatedly lost visual contact. The setting was dark, wet, and residential, making continued pursuit and a hands-on confrontation potentially hazardous.

The CEW offered a means of attempting to stop [redacted] from a distance without striking him, tackling him, releasing a police canine, or using a higher level of force. The first deployment was connected to a lawful objective and occurred while [redacted] was actively evading arrest.

The deployment nevertheless carried a foreseeable risk of injury because [redacted] was running. If neuromuscular incapacitation had occurred, he could have fallen onto the roadway, fencing, landscaping, or another hard surface. Sixth Circuit precedent recognizes that CEW use during a chase involves rapid decision-making and may make precise probe placement difficult. The same precedent also recognizes that continued electrical force after a person has become incapacitated can constitute excessive force[4].

In this case, the first deployment did not incapacitate [redacted] The cartridge was ineffective, [redacted] was wearing heavy clothing, and only one apparent probe contact occurred. The constitutional

[2] Perez v. Simpson, 83 F.4th 1020, 1022–23 (6th Cir. 2023).
[3] *Shumate v. City of Adrian, Michigan*, 44 F.4th 427 (6th Cir. 2022).
[4] *Brown v. Giles*, 95 F.4th 436 (6th Cir. 2024).

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reasonableness of the first deployment is therefore supported by the active flight, warning, legitimate apprehension objective, and use of a less-lethal option.

Second CEW deployment

The second deployment requires a separate assessment because each additional application of force must remain justified by the circumstances existing when it occurs. The fact that the first cartridge was reasonable does not automatically make a second cartridge reasonable.

The CEW log establishes that Hall fired the first cartridge at approximately 3:39:10 a.m. and the second at approximately 3:39:16 a.m. The deployments were separated by approximately six seconds. The first electrical discharge lasted approximately 4.944 seconds, and the second lasted approximately 4.099 seconds. [redacted] continued running throughout the interval.

Several factors support the second deployment. The first cartridge failed to stop [redacted] remained upright, mobile, and actively fleeing. He had not surrendered, fallen, or become incapacitated. Hall had only seconds to respond in a rapidly moving foot pursuit. The second deployment was therefore directed toward the same continuing objective, ending [redacted] active evasion, rather than punishing him or applying force after control had been achieved.

The Sixth Circuit has repeatedly distinguished between CEW use against a person who continues actively resisting and CEW use against a person who is compliant, immobilized, or no longer resisting. In *Hagans v. Franklin County Sheriff's Office*, the court explained that CEW use generally does not violate clearly established law when used to subdue a person who is actively resisting, while repeated use against someone who is compliant or fully controlled presents a materially different constitutional issue[5].

The principal concern is whether six seconds afforded Hall a meaningful opportunity to evaluate why the first cartridge failed and whether the second deployment was likely to succeed. The record does not contain a detailed articulation of Hall's reassessment. His report states only that the first cartridge was ineffective, [redacted] continued running, and Hall "quickly" deployed the second cartridge.

Constitutionally, the absence of a lengthy reassessment is not necessarily unreasonable in a rapidly unfolding chase. Hall did not have to pause indefinitely while [redacted] increased distance or disappeared between houses. Nevertheless, sound constitutional policing requires officers to recognize that a failed deployment may indicate poor probe spread, heavy clothing, excessive distance, missed probes, or another condition that may make immediate repetition ineffective. A fuller articulation of Hall's observations between deployments would strengthen the legal and administrative review.

[5] *Hagans v. Franklin County Sheriff's Office*, 695 F.3d 505 (6th Cir. 2012).

On balance, the second deployment also appears objectively reasonable. [redacted] remained in active flight; the first use had not incapacitated him; no surrender was apparent; the second cartridge was fired within a continuous pursuit; and Hall did not use additional electrical force after the second attempt failed.

Cessation of force

Hall's conduct after the second deployment is a significant factor supporting constitutional compliance. [redacted] continued running and disappeared between residences. Hall re-holstered the CEW before moving through the area where he heard foliage breaking. When Hall found [redacted] confined between two privacy fences, [redacted] surrendered. Hall took him into custody without another CEW deployment, a drive-stun application, physical strikes, or a forceful takedown.

This sequence demonstrates that Hall did not treat the CEW as a punitive instrument and did not continue force once the apprehension objective could be achieved without it. The absence of force after surrender is consistent with Sixth Circuit decisions drawing a constitutional line between force used against active resistance and force applied after resistance has ceased.

Juvenile status

[redacted] age is relevant to proportionality, although it does not establish a categorical constitutional prohibition against CEW use. The records identify him as fifteen years old. A juvenile may be more vulnerable to injury and may display reduced impulse control or appreciation of consequences. Those considerations support heightened caution, particularly when the juvenile is running near hard surfaces or physical obstacles.

The legal significance of [redacted] age depends partly on whether Hall knew or reasonably should have known he was pursuing a juvenile. Hall's report does not state that he knew [redacted] identity or age before the deployment. The pursuit occurred at night, from behind, under limited visibility, after occupants scattered from a vehicle. Hall may therefore have been unable to make a reliable age assessment.

[redacted] juvenile status remains important for departmental policy, training, medical evaluation, parental or guardian notification, and supervisory review. It is less determinative of the immediate Fourth Amendment question absent evidence that Hall knew he was using the CEW against a fifteen-year-old.

Barnes v. Felix and the pre-force sequence

Under *Barnes*, Hall's CEW use should not be evaluated in isolation from the actions preceding it. The preceding circumstances include Hall's decision to join the vehicle pursuit, his positioning near Clearview Avenue, his observation of the vehicle's occupants, his entry into the pursuit as the secondary unit, his decision to pursue fleeing occupants on foot, his fall, his radio broadcasts,

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the repeated loss of visual contact, his decision to arm the CEW before entering the backyard, and the warnings preceding deployment.

Nothing in the available record establishes that Hall recklessly manufactured the need for force. He did not provoke [redacted] into flight, unnecessarily place himself in front of the fleeing vehicle, or initiate a confrontation without lawful grounds. His earlier decisions are nevertheless relevant to whether the pursuit was properly coordinated, whether containment was reasonably available, and whether the risks of chasing multiple occupants through a dark residential area were adequately managed.

Barnes does not convert tactical imperfection into a Fourth Amendment violation. It requires the entire encounter to remain visible in the analysis. Here, that broader review supports the lawfulness of the initial police objective while leaving room for policy and training scrutiny regarding pursuit coordination and CEW deployment against a running person.

Legal conclusion

The available evidence supports the conclusion that Hall's two CEW deployments were objectively reasonable under the Fourth Amendment. Hall had lawful grounds to pursue and detain [redacted] was actively evading arrest; Hall issued warnings; both deployments occurred while flight continued; neither deployment incapacitated [redacted] and Hall ceased using force once [redacted] surrendered.

The legal justification rests primarily on active flight and the seriousness of the circumstances surrounding the vehicle pursuit. It rests less heavily on immediate threat because the record does not establish that [redacted] displayed a weapon, assaulted anyone, or made a threatening movement during the foot pursuit.

The second deployment was constitutionally closer than the first because it required Hall to reassess the initial failure within approximately six seconds. Even so, [redacted] remained actively fleeing, and Hall did not continue electrical force after the second cartridge failed. The force therefore appears consistent with controlling Fourth Amendment principles, subject to the separate policy, tactical, and documentation concerns discussed below.

IV. APD Policy Analysis

The departmental review requires consideration of APD's Resisting Arrest/Use of Force Procedure, Conducted Electrical Weapon Procedure, Rules and Regulations, supervisory-investigation requirements, medical-care provisions, and reporting obligations. The available record supports general compliance with the substantive force standards and post-deployment medical requirements, while identifying areas in which the documentation and supervisory analysis should have been more complete.

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Resisting Arrest/Use of Force Procedure

APD's Resisting Arrest/Use of Force Procedure establishes that force may be used only when reasonably necessary to accomplish a lawful objective, including effecting a lawful arrest, overcoming resistance, preventing escape, or protecting an officer or another person from harm. It further requires that force be based on the subject's behavior, remain objectively reasonable, and stop when resistance ceases or the subject is under control.

Hall's pursuit and attempted apprehension served as a lawful objective. [redacted] had fled from a vehicle involved in a dangerous police pursuit, ignored commands, and continued running. His actions met APD's definition of active resistance or evasion because they involved conscious physical movement intended to defeat the officers' effort to detain him.

The first CEW deployment was consistent with the policy provision authorizing objectively reasonable less-lethal force to restrain or subdue a person who is actively resisting or evading lawful arrest or detention. Hall attempted verbal compliance first, issued a specific CEW warning, and deployed only after [redacted] continued running.

The second deployment also remained within the policy's general authorization because [redacted] continued actively fleeing after the first cartridge failed. The record does not show that [redacted] had stopped, fallen, surrendered, or become controlled before the second cartridge was fired. Hall therefore continued responding to the same active evasion.

The policy requires force to be discontinued when resistance ceases, or the subject is under control. Hall complied with this provision. After the second deployment failed, he did not continue firing, apply a drive stun, strike [redacted] or tackle him. He re-holstered the CEW before locating [redacted] and no force was used after [redacted] surrendered.

De-escalation requirements

APD policy defines de-escalation to include verbal communication, warnings, time, distance, resources, repositioning, command presence, and persuasion intended to reduce the intensity of an incident and decrease the need for force.

This event provided limited opportunities for extended dialogue because [redacted] was actively fleeing. Hall nevertheless used a form of de-escalation by giving repeated commands and a specific warning before deploying the CEW. That warning afforded [redacted] an opportunity to stop voluntarily.

Time and distance did not operate in the same manner as they would during a barricade, welfare check, or stationary crisis encounter. Allowing [redacted] additional time and distance would likely have increased his opportunity to escape or enter an unknown residence. Accordingly, Hall was not required to disengage merely because [redacted] had not yet threatened violence.

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The tactical review should still consider whether perimeter coordination or containment could have reduced the need for continued close pursuit. The record indicates that multiple officers were responding and that Hall broadcast [redacted] direction of travel. It does not fully explain whether officers had established containment positions, whether a canine unit was available, or whether continued immediate pursuit was the only practical means of apprehension. The absence of that discussion is more appropriately characterized as an investigative and training gap than clear evidence of a policy violation.

Proportionality

APD policy requires the officer's response to correspond to the subject's actions and the level of threat or resistance presented. [redacted] conduct involved flight and repeated noncompliance rather than an assault on Hall. Hall responded with a less-lethal weapon, not deadly force, physical strikes, or a weapon of opportunity.

The CEW deployments were significant uses of force because they carried a risk of incapacitation and uncontrolled falling. Nevertheless, the level of force was proportionate to active flight under the policy as written. Hall did not escalate to a more injurious technique when the CEW failed. Instead, he continued the pursuit and ultimately completed the arrest without additional force.

The policy conclusion is strengthened by the limited duration and number of applications. Hall fired two cartridges. The device data does not show repeated trigger pulls beyond those two deployments. Each produced one standard electrical discharge, and the weapon was disarmed after the second.

Conducted Electrical Weapon Procedure

APD's CEW Procedure states that each application of a conducted electrical weapon constitutes a use of force and must conform to the department's general use-of-force policy. It permits deployment when consistent with the Resisting Arrest/Use of Force Procedure and requires special consideration where deployment may create a risk of serious injury or death from situational hazards, including falling, drowning, fire, or explosive materials.

Hall's deployments were consistent with the general authorization because [redacted] was actively evading lawful detention. The principal special-consideration issue was the fall hazard associated with using a CEW against a person running on or near pavement, fences, residential landscaping, and other obstacles.

The record does not indicate that [redacted] was on an elevated surface, near water, near flammable material, or in a position where an incapacitating fall was likely to be fatal. It does show that he was running, that Hall had already fallen, and that the terrain included yards, fences, driveways, foliage, and roadways. Those circumstances required consideration but did not categorically prohibit deployment under the procedure.

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The BlueTeam report records that Hall used projectile or probe deployment, fired two cartridges, discharged four probes, achieved one apparent probe hit, and did not achieve effective incapacitation. It also records that [redacted] was wearing heavy clothing, that no probes penetrated the skin, and that no drive-stun technique was used.

The TASER 7 log corroborates two cartridge deployments and provides exact timing. The first cartridge produced a 4.944-second discharge, and the second produced a 4.099-second discharge. The data show that the device was armed, both cartridges were deployed, and the safety was returned to the on or disarmed position at approximately 3:39:21 a.m.

Warning before deployment

The CEW procedure permits officers to display the weapon's laser or warning arc in an effort to gain compliance where resistance, assault, or violence is reasonably anticipated. Hall's report indicates that he armed the CEW, attempted to close the distance, and verbally warned [redacted] to stop before he was tased. The BlueTeam record also reflects that [redacted] was painted with the laser or red dot.

Hall's warning was consistent with the department's de-escalation and force principles. The warning was feasible, understandable, directly connected to the consequence of continued flight, and acknowledged by [redacted] during his later interview.

Reassessment between deployments

The CEW policy does not appear, in the materials reviewed, to establish an express waiting period between cartridges. The general use-of-force procedure nevertheless requires each use of force to remain objectively reasonable and to cease when resistance stops.

Hall had approximately six seconds between trigger pulls. [redacted] continued running, demonstrating that the first deployment had not achieved control. The second cartridge therefore remained connected to ongoing active resistance.

The principal policy concern is the limited articulation of reassessment. A complete force report should describe what Hall observed after the first deployment, whether any probes appeared to make contact, whether [redacted] stumbled or otherwise reacted, Hall's estimated distance, the apparent reason the first cartridge failed, and why a second cartridge was reasonably expected to be effective. The reports state that the first cartridge was ineffective and [redacted] continued running but provide little additional detail.

This omission does not necessarily establish that the second deployment violated policy. It limits the ability of a supervisor or outside reviewer to determine whether Hall meaningfully reassessed the need, risk, and likely effectiveness of a second cartridge.

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Medical care and clearance

The CEW procedure requires the officer to request an EMS response after cartridge deployment, ensure that the person is medically evaluated, advise medical personnel of the CEW exposure and approximate time of use, and obtain medical clearance. It also restricts probe removal to appropriate medical personnel when probes remain embedded.

Hall requested EMS after [redacted] was taken into custody. EMS examined [redacted] and found no embedded probes. One minor puncture wound consistent with probe contact was observed. [redacted] was treated and released at the scene.

Lieutenant Okoh confirmed the medical assessment and documented that no additional injuries were reported. The medical response was consistent with the CEW procedure and with APD's general requirement to provide medical attention following a CEW deployment.

The records contain a minor inconsistency that should be clarified. The BlueTeam entry states that no probe penetrated [redacted] skin, while the medical narrative refers to a small puncture wound consistent with a CEW impact. These statements may be reconcilable if a probe briefly contacted or punctured the skin but was no longer embedded when EMS arrived. The final investigative record should state the precise medical finding rather than using inconsistent categorical entries.

Equipment handling and evidence

The CEW procedure requires officers to dock the CEW 7 battery and replace it with a green-lit battery following deployment. It also requires appropriate handling and disposal of discharged probes and completion of the required BlueTeam and case reports.

Lieutenant Okoh documented that Hall docked and replaced the CEW battery in accordance with policy. The device log was copied into evidence and associated with Hall.

The available materials therefore support compliance with the equipment and electronic-evidence requirements. The final package should also clearly document recovery or disposal of all probes, cartridges, and associated evidence, even when probes do not remain embedded.

Reporting obligations

APD's general use-of-force procedure requires involved officers to complete a BlueTeam report and articulate the facts that gave rise to force and why the officer believed the force was reasonable. It also requires an incident report and supporting documentation.

Hall completed a narrative use-of-force report describing his assignment, entry into the pursuit, observations, foot pursuit, fall, warnings, two cartridge deployments, arrest, and EMS response. A

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BlueTeam record was also completed, and the device log, case report, medical information, photographs, and video were included or referenced in the investigative package.

Hall's narrative adequately explains the core reason for force: [redacted] continued fleeing after repeated commands and a warning. The report would have been stronger had it also documented Hall's estimated distance at each deployment, the surface on which [redacted] was running, the target area, the direction of travel relative to traffic or other hazards, his observations after the first cartridge, and why the second cartridge remained a reasonable option.

The BlueTeam record lists the distance to [redacted] as approximately seven to ten feet, but it is unclear whether that estimate applies to the first deployment, the second deployment, or the encounter generally. Because deployment distance materially affects probe spread, effectiveness, and fall risk, each cartridge should be documented separately.

Supervisory response and investigation

APD policy requires the investigating supervisor to respond, ensure medical attention, interview the subject and witnesses, photograph the subject and scene, review relevant video and records, collect available evidence, and complete an investigative package.

Lieutenant Okoh responded, confirmed EMS evaluation, interviewed [redacted] reviewed Hall's report, examined the original case report and relevant body-worn and in-car video, photographed the injury, verified equipment docking, and collected required materials. He concluded that the use of force was objectively reasonable, necessary, proportional, and within policy.

These actions demonstrate substantial procedural compliance. The conclusion, however, is more definitive than the documented analysis supporting it. The supervisory report states that [redacted] active evasion authorized the CEW use and that Hall stopped using force when [redacted] surrendered. It does not meaningfully analyze the deployment of a CEW against a running juvenile, the fall hazards, the six-second interval between deployments, the reason the first cartridge failed, the availability of containment, or whether Hall knew of any firearm-related threat.

A meaningful supervisory investigation should do more than corroborate that the officer's narrative matches video and device data. It should independently test necessity, proportionality, tactical decision-making, equipment use, and whether less risky options were realistically available. The investigation was sufficient to support the basic within-policy determination, but it could have provided a more complete risk and tactical assessment.

Rules and Regulations

APD Rule 200.05 restricts physical force to circumstances authorized by law and only when necessary to accomplish a police task. Rule 700.07 prohibits unnecessary or unwarranted violence. Rules governing competency and performance require officers to comply with departmental

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procedures and perform their duties efficiently. Rules concerning prisoners require humane treatment, necessary restraint, medical attention, and responsibility for the person's safety after arrest.

The available record does not establish unnecessary or unwarranted violence. Hall used force to accomplish the lawful apprehension of an actively fleeing suspect, stopped when the person surrendered, and obtained medical evaluation. No force was used against [redacted] after he was in custody.

Hall's conduct therefore appears consistent with Rules 200.05 and 700.07. His request for EMS and the absence of additional force after apprehension were also consistent with the rules governing prisoner safety and humane treatment.

Record accuracy and investigative consistency

Although the substantive force appears within policy, the package contains material inconsistencies that warrant administrative correction. The records vary in their spelling of [redacted] first name, demographic description, date of birth, race, and the listed incident location. Some records refer to "[redacted] [redacted] while the force subject is identified elsewhere as [redacted] The underlying case report contains entries for more than one [redacted] subject and differing identifying information.

The location information also requires clarification. The initial dangerous-driving event occurred near Russell Avenue. The vehicle pursuit ended at 2224 East Avenue. The CEW deployments occurred during the foot pursuit along East Avenue, and the final apprehension occurred between residences identified as 2190 and 2186 East Avenue. A report that simply lists "East Avenue" or Russell Avenue as the force location does not adequately distinguish these stages.

These discrepancies do not appear to change whether the CEW deployments were reasonable. They affect investigative reliability, data accuracy, prosecutorial discovery, trend analysis, public transparency, and the ability of oversight reviewers to reconstruct the event. Accurate records are a policy-compliance and accountability responsibility, not merely a clerical preference.

Policy conclusion

Hall's actions were generally consistent with APD's Resisting Arrest/Use of Force Procedure, CEW Procedure, and Rules and Regulations. [redacted] was actively evading lawful arrest, Hall issued warnings, the CEW was used as a less-lethal apprehension tool, force ceased when [redacted] surrendered, EMS responded, medical clearance was obtained, equipment procedures were completed, and the force was reported and investigated.

The principal concerns do not presently support a finding that Hall used prohibited or clearly disproportionate force. They concern the depth and precision of the documentation and review.

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The reports should have more fully addressed the risks of deploying a CEW against a running juvenile, the environmental fall hazards, the separate justification for each cartridge, the observations made between deployments, the deployment distance and target area for each cartridge, and the record inconsistencies concerning the subject and locations.

V. Findings

Based on the available reports, BlueTeam records, CEW device data, BWC footage, supervisory investigation, and applicable APD procedures, the following findings and conclusions are supported.

The attempted traffic stop was lawful. Officers observed dangerous wrong-way driving and a near collision with a marked police cruiser. When the vehicle failed to yield to emergency lights and siren, officers had a legitimate basis to investigate and pursue, subject to applicable vehicle-pursuit restrictions.

The attempt to detain [redacted] was also lawful. [redacted] exited a vehicle that had just fled from police and continued running through a residential area. He ignored repeated commands and a specific CEW warning. His conduct constituted active evasion rather than passive noncompliance.

Sergeant Hall's first CEW deployment was objectively reasonable under the Fourth Amendment. [redacted] was actively fleeing, Hall had issued warnings, the pursuit involved serious and potentially firearm-related offenses, and the CEW was used as a less-lethal means of attempting to stop continued escape.

The constitutional justification for the force rested primarily on active flight and the circumstances of the vehicle pursuit. The evidence supporting an immediate threat from [redacted] was comparatively limited. Hall did not report that [redacted] displayed a weapon, assaulted anyone, turned toward Hall, or made a threatening movement during the foot pursuit.

The second CEW deployment was also objectively reasonable, although it presents a closer question than the first. The first cartridge had not incapacitated [redacted] continued running, and the second cartridge was deployed during the same continuous pursuit approximately six seconds later. The second deployment was not directed at a compliant, stationary, or controlled person.

Hall's force was proportionate to the resistance described. He used a less-lethal weapon rather than deadly force or physical strikes. He did not apply a drive stun, repeatedly cycle the CEW after incapacitation, or continue firing cartridges after the second attempt failed.

Hall complied with the obligation to terminate force when resistance ceased. He re-holstered the CEW before locating [redacted] and used no additional reportable force after [redacted] surrendered.

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Hall's request for EMS and the subsequent medical evaluation was consistent with APD policy and constitutional-policing principles. [redacted] was examined, no probes remained embedded, and a minor puncture wound was treated at the scene.

The available evidence supports APD's substantive within-policy determination. Hall's conduct was generally consistent with the Resisting Arrest/Use of Force Procedure, CEW Procedure, and Rules and Regulations. APD policy permits objectively reasonable less-lethal force to apprehend a person actively evading lawful arrest and requires force to cease when resistance ends.

No evidence supports the finding that Hall used force as punishment, retaliation, intimidation, or an investigative tool. There is also no evidence that he used force after [redacted] was handcuffed or otherwise under control.

The incident nevertheless presents a tactical concern regarding CEW deployment against a running person. [redacted] movement through a dark residential environment created a foreseeable risk of injury from an uncontrolled fall. The record does not adequately document the precise terrain, surface, traffic conditions, or obstacles at each deployment.

The reports also insufficiently articulate Hall's reassessment between the first and second cartridges. Although [redacted] continued running, the record should have documented Hall's observation of probe contact, [redacted] reaction, estimated distance, target area, clothing, and why a second cartridge was reasonably expected to succeed.

[redacted] juvenile status did not make the force automatically unconstitutional or prohibited by APD policy. Hall's knowledge of [redacted] age at the time is not established. Nevertheless, the use of a CEW against a fifteen-year-old should have triggered heightened supervisory analysis concerning proportionality, fall risk, medical care, and the availability of alternatives.

The supervisory investigation substantially complied with required procedural steps. Lieutenant Okoh responded, interviewed [redacted] reviewed video and reports, confirmed medical care, photographed the injury, verified equipment handling, and completed an administrative finding.

The supervisory analysis was not as comprehensive as it should have been. It did not meaningfully evaluate the running-person fall hazard, juvenile status, cartridge selection, deployment distance, six-second reassessment period, containment alternatives, or the distinction between active flight and an immediate safety threat.

The force package contains significant data-quality inconsistencies. The documents vary concerning [redacted] first name, date of birth, age, race, and incident location. These discrepancies should have been identified and reconciled before the investigation was closed.

The incident location should be separated into distinct stages. The initial traffic encounter occurred in the Russell Avenue area, the vehicle pursuit ended at 2224 East Avenue, the CEW deployments

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occurred during the northbound foot pursuit along or near East Avenue, and the final apprehension occurred between residences identified as 2190 and 2186 East Avenue.

The package does not provide a complete consolidated roster of all primary, assisting, witness, and supervisory officers. The officers assigned to Car No. 20 were materially involved in the pursuit but are not identified in the available documents. A complete force investigation should list every officer's name, ID number, car number, role, video source, and reporting classification.

No individual policy violation is established against Officers Shepley or Lepley based on the available use-of-force evidence. Their principal roles involved the initial attempted stop, vehicle pursuit, and case reporting. The accuracy of the case record, however, required stronger verification and supervisory review.

The strongest overall conclusion is that Hall's force was lawful, objectively reasonable, and generally within APD policy, but the administrative investigation should not be viewed as exemplary. The force decision itself was supportable; the documentation, tactical analysis, officer roster, and record reconciliation require improvement.

VI. Policy and Training Recommendations

Revise the CEW Procedure to establish a heightened threshold for deploying a conducted electrical weapon against a person who is merely fleeing.

Recommended policy language: APD should provide that a CEW should not ordinarily be deployed solely because a person is fleeing. Deployment against a fleeing person should require additional articulable circumstances demonstrating that immediate apprehension is reasonably necessary, such as a substantial safety threat, a serious violent offense, access to a weapon, an immediate risk to the public, entry into an occupied structure, or active resistance beyond flight. The officer should also reasonably conclude that the deployment does not create a disproportionate risk of injury from falling.

Rationale: APD's present use-of-force procedure authorizes objectively reasonable less-lethal force to restrain or subdue a person actively evading arrest. Its CEW procedure permits deployment when consistent with the general use-of-force policy but does not provide detailed guidance for distinguishing ordinary flight from flight accompanied by circumstances warranting CEW use.

Flight is legally relevant, but treating every fleeing person as an appropriate CEW target creates an overly broad authorization. Running subjects face an uncontrolled-fall risk, and the justification for taking that risk should be expressly tied to the seriousness and urgency of immediate apprehension. This clarification would not prohibit the force used in this incident; rather, it would require an officer to articulate why [redacted] connection to a dangerous vehicle pursuit, suspected firearm-related conduct, continued evasion, residential surroundings, or other circumstances made immediate apprehension necessary.

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Real-world agency example: Seattle Police Department policy states that CEWs should not be used on a person who is fleeing absent additional factors. Following an oversight case, Seattle's Office of Police Accountability recommended that the department more clearly identify what "other factors" justify deployment against a fleeing subject. Seattle subsequently addressed the need for clearer policy and training guidance concerning when flight is accompanied by sufficient additional circumstances[6].

National best-practice basis: The International Association of Chiefs of Police recommends that ECWs be governed by objective-reasonableness principles and used to bring incidents under control while protecting the officer, subject, and public[7]. PERF's national ECW guidance similarly emphasizes carefully defined policy restrictions, risk assessment, training, and accountability rather than treating the weapon as a routine response to noncompliance[8].

Require officers to expressly assess and document fall hazards before deploying a CEW against a moving or running person.

Recommended policy language: APD should require officers, when reasonably feasible, to assess whether a CEW deployment is likely to cause a person to fall onto pavement, into traffic, from an elevated surface, against fencing or fixed objects, near water, into flammable materials, or into another location presenting a heightened risk of serious injury. Deployment should be prohibited when the foreseeable secondary injury is disproportionate to the governmental need for immediate apprehension, unless deadly force would otherwise be justified.

Rationale: APD's CEW procedure already directs officers to use special consideration when deployment could cause serious injury or death because of falling, drowning, fire, explosive material, or similar situational hazards. The policy would be more effective if it identified moving and running subjects as a distinct fall-risk category and required the officer and reviewing supervisor to document the assessment.

In this incident, [redacted] was running through dark residential yards, driveways, roadways, foliage, and fencing. Sergeant Hall had already fallen during the pursuit. The force report did not clearly state the precise surface beneath [redacted] nearby traffic, obstacles, elevation, or other conditions at each deployment. Requiring this information would permit supervisors to distinguish a reasonable deployment on relatively unobstructed ground from an unreasonable deployment near stairs, moving traffic, a roof edge, or another serious hazard.

Real-world agency example: New Orleans Police Department's current CEW policy separately addresses weapon deployment, electrical cycles, probe use, and situational risk. Its policy

[6] Seattle Office of Police Accountability, "Management Action Recommendation: Use of CEW on Fleeing Subjects," May 29, 2025.
[7] International Association of Chiefs of Police, "Electronic Control Weapons," September 2023.
[8] Police Executive Research Forum, *Electronic Control Weapon Guidelines* (Washington, DC: Police Executive Research Forum and U.S. Department of Justice, Office of Community Oriented Policing Services, 2011).

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framework requires officers to evaluate the objective reasonableness of the device under the particular circumstances rather than relying solely on the resistance classification[9]. Seattle's fleeing-subject restriction similarly recognizes that flight alone does not answer whether a CEW deployment is appropriate[10].

National best-practice basis: PERF's ECW guidelines recommend restrictions for persons whose location or condition creates an increased risk of secondary injury, particularly injury caused by an uncontrolled fall. The IACP's ECW materials likewise frame the device as a force option that must be assessed in relation to subject safety and environmental conditions.

Strengthen supervisory investigations by requiring separate findings on legality, policy compliance, tactics, training, equipment, medical care, reporting, and data accuracy.

Recommended policy language: APD should replace a single undifferentiated "within policy" conclusion with a structured review containing distinct findings for:

- Constitutional reasonableness;
- Compliance with the general use-of-force procedure;
- Compliance with the CEW procedure;
- Tactical decision-making;
- De-escalation;
- Each separate force application;
- Medical response;
- Equipment and evidence handling;
- Report completeness;
- Officer and subject identification;
- Video and device-data consistency;
- Training implications; and
- Policy deficiencies.

Rationale: Lieutenant Okoh completed many required investigative tasks, including responding to the scene, interviewing [redacted] reviewing video and reports, confirming medical care, photographing the injury, and verifying equipment docking. The written conclusion, however, did not meaningfully analyze the risks of deploying against a running juvenile, the six-second interval between cartridges, environmental hazards, containment options, or the inconsistencies in the subject's identifying information.

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[9] New Orleans Police Department, *Operations Manual, Chapter 1.7: CEW Energy Weapon*, effective July 15, 2026.

[10] Seattle Office of Police Accountability, "Management Action Recommendation: 2024OPA-0403, Use of Taser on Fleeing Subjects," May 30, 2025.

The use of force may be legally and substantively within policy while still revealing tactical, supervisory, reporting, or training deficiencies. A multidimensional review prevents a binary disposition from concealing legitimate improvement opportunities.

Real-world agency example: The Las Vegas Metropolitan Police Department describes its internal oversight model as examining policy, training, tactics, leadership, investigations, accountability, and community inclusion. Its critical-incident review process expressly evaluates policy, tactics, and training rather than limiting review to whether the officer violated a rule[11].

New Orleans' consent-decree-approved policy system similarly uses detailed operational requirements, structured reporting, and supervisory accountability to evaluate force beyond a conclusory reasonableness determination.

National best-practice basis: PERF's guidance on managing officer-involved critical incidents emphasizes consistency, transparency, fairness, and reviews capable of identifying organizational lessons. DOJ's policy framework also requires agencies to maintain internal policies that address de-escalation, intervention, medical aid, and accountability.

VII. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding. The central question in this review is whether Sergeant Hall exercised police authority in a manner consistent with the Fourth Amendment, APD policy, and the principles of constitutional policing. Based on the available evidence, the answer is generally yes.

[redacted] was lawfully subject to detention after fleeing from a vehicle involved in dangerous driving and a police pursuit. He continued running through a residential neighborhood, ignored repeated commands, and disregarded a warning that a CEW would be used. Hall's decision to deploy a less-lethal weapon was connected to a legitimate governmental interest in ending that active flight.

The first deployment was objectively reasonable. The second deployment was more closely balanced because it followed only seconds later and required a rapid reassessment after the first cartridge failed. Even so, [redacted] remained actively fleeing, had not surrendered, and had not been incapacitated. Hall did not continue using the CEW after the second deployment failed.

The most persuasive evidence of restraint is what Hall did after the deployments. He re-holstered the CEW, continued searching, recognized [redacted] surrender, and completed the arrest without further force. He then requested EMS and ensured that [redacted] was medically evaluated. This sequence reflects force used for control rather than punishment.

[11] Las Vegas Metropolitan Police Department, "Internal Oversight and Constitutional Policing."

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The review does not identify a constitutional violation or a substantiated violation of APD's use-of-force or CEW procedures. It does identify shortcomings in the quality of the administrative investigation and documentation. The package should have more clearly explained the risks of deploying against a running juvenile, the reassessment preceding the second cartridge, the environmental conditions, the deployment distances and target areas, and the identities and roles of all participating officers.

The inconsistencies in [redacted] identifying information and the event locations should also have been corrected before closure. Accurate records are fundamental to fair criminal proceedings, reliable force data, public transparency, early-intervention analysis, and civilian oversight.

The appropriate institutional response is not discipline based on the evidence presently available. It is policy clarification, scenario-based training, enhanced supervisory analysis, independent review when a supervisor uses force, and stronger quality-control requirements for force packages.

Ultimately, this incident demonstrates the distinction between a legally justified use of force and an exemplary use-of-force review. Sergeant Hall's force was supportable under the totality of the circumstances. APD's review reached a defensible result, but the process should be strengthened so that future investigations more fully explain not only whether force was authorized, but why each application was necessary, proportionate, tactically sound, accurately documented, and consistent with the department's broader commitment to constitutional policing.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**John Alexander Krall**
CASE NUMBER:	**2026-00074334**
DATE OF INCIDENT:	**06/22/2026**
DATE OF OIPA REPORT:	**07/10/2026**
LOCATION OF INCIDENT:	**1459 Timber Trail, Apartment A, Akron, Ohio 44313**
APD DISTRICT:	**9**

I. Incident Overview

The incident giving rise to this review originated as a rapidly evolving response to reports of gunfire occurring within a residential apartment complex shortly before midnight on June 22, 2026. According to the Computer Aided Dispatch chronology, emergency callers independently reported hearing gunshots, observing two males arguing, and hearing one individual scream "Don't do it" immediately before at least one gunshot was fired. Dispatchers classified the event as a Priority 3 "Shots Fired" response and assigned multiple patrol units to investigate the possibility of an armed confrontation that remained ongoing when officers arrived.

Officer Christopher Reddish arrived first and immediately encountered one involved male, later identified as Timothy Carr, standing near the apartment complex parking area adjacent to a vehicle. Because the call involved recent gunfire, Officer Reddish conducted a protective pat-down of Carr before observing a revolver lying in plain view inside the vehicle. Carr was detained while Officer Reddish continued securing the scene. Simultaneously, Officer Reddish observed another male, later identified as John Krall, retreat into Apartment A immediately upon observing police arrive. Believing Krall to be involved in the reported disturbance and recognizing that officers had not yet determined who had discharged the firearm, Officer Reddish advised arriving officers that Krall needed to be detained pending investigation.

Officers Brandon Bowman and John Pearsall, assigned together in Car 12, proceeded directly to Apartment A. Upon arriving at the residence, they announced their presence and contacted Krall at the apartment doorway. The officers observed that Krall appeared visibly agitated and perspiring heavily. Although Krall initially responded to the door, he refused repeated requests to step outside while officers investigated the shooting. Instead, he insisted officers speak with him through the doorway and repeatedly declined commands directing him to exit the residence. Officer Pearsall later explained that officers considered it necessary to move Krall outside because they did not know whether he possessed a firearm or whether one remained immediately accessible inside the apartment beyond officers' view.

As the encounter continued, officers observed behavior they interpreted as increasing the potential threat. Officer Pearsall reported that Krall reached toward his waistband during the conversation, prompting commands instructing him not to do so again. Krall responded by lifting his shirt and turning around to demonstrate that no firearm was presently visible in his waistband. Although this temporarily alleviated one immediate concern, officers remained uncertain whether a firearm was otherwise accessible inside the residence, particularly given the recent reports of gunfire and Officer Reddish's information that Krall was involved in the incident under investigation.

Recognizing the heightened risks associated with a potentially armed subject standing inside a residence immediately adjacent to an unsecured interior, Officer Bowman transitioned from his firearm to his

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department-issued Conducted Electrical Weapon (CEW) to provide less-lethal coverage while Officer Pearsall opened the exterior screen door. Officers continued issuing verbal commands directing Krall to exit the residence voluntarily. Rather than comply, Krall attempted to retreat farther into the apartment while simultaneously attempting to close the main entry door on the officers. Officer Bowman prevented the door from closing by placing his foot within the doorway while Officer Pearsall continued attempting verbal persuasion. After multiple unsuccessful efforts to obtain voluntary compliance, Officer Pearsall informed Krall that he was under arrest for obstructing official business.

The encounter immediately escalated into a physical struggle. As Officer Pearsall attempted to gain physical control of Krall near the doorway, Krall resisted by pulling away and pushing Officer Pearsall backward into the entry wall. Officer Bowman, unable to see one of Krall's hands and uncertain whether a firearm remained within Krall's reach, deployed his CEW. The first deployment missed completely, striking an interior wall. A second deployment achieved probe contact to Krall's torso but failed to incapacitate him after the probes were quickly removed. Despite the unsuccessful CEW deployments, officers continued using coordinated empty-hand control techniques while attempting to move Krall away from the doorway and into a position where additional officers could safely assist.

Officer Brandon Ingram arrived moments later after hearing officers yelling commands and hearing the CEW discharge while approaching the apartment. Entering the apartment, he secured control of Krall's left arm while Officers Bowman and Pearsall simultaneously controlled Krall's upper body. Working together, the three officers moved Krall from the doorway to the exterior landing where they successfully placed him in handcuffs while all parties remained standing. No strikes, kicks, neck restraints, impact weapons, or additional force options were reported during the apprehension.

Following the arrest, officers escorted Krall toward a patrol vehicle. During the escort, Krall stopped walking and subsequently fell to the ground after Officer Bowman attempted to encourage him forward. Officers immediately assisted him back to his feet and completed the escort without additional force. EMS personnel responded to evaluate Krall's injuries associated with the CEW deployment; however, Krall declined examination or treatment. Officers subsequently transported him to the Summit County Jail on charges of domestic violence and obstructing official business.

The administrative investigation later incorporated body-worn camera recordings, witness interviews, officer reports, photographs, CAD records, and CEW deployment data. The investigating supervisor concluded that the officers' use of force was objectively reasonable and consistent with departmental policy while recommending discussion of certain CEW deployment tactics as an opportunity to improve officer safety and operational effectiveness during future incidents.

II. Use-of-Force Description

The incident unfolded as officers were responding to a report of gunfire involving two individuals, one already detained and the other, John Alexander Krall, who retreated into his apartment as police arrived. Because officers did not yet know who fired the weapon, whether additional suspects or victims existed, or whether Krall had access to a firearm inside the residence, these unresolved safety concerns shaped their tactical decisions. Officers attempted to begin the encounter using only their presence and verbal

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commands, repeatedly instructing Krall to step outside for investigative detention. Krall refused to exit, insisting that officers speak to him through the doorway.

During the verbal exchange, officers briefly became concerned that Krall might be armed when he reached toward his waistband. Although he lifted his shirt to show he was not carrying a firearm, officers remained uncertain about potential weapons inside the apartment, especially given the initial gunfire report. With voluntary compliance still unsuccessful, Officer Bowman transitioned from his firearm to a less-lethal CEW as Officer Pearsall removed the screen door to reduce obstacles. Officers continued issuing commands, attempting to resolve the situation without physical confrontation.

Physical resistance began when Krall attempted to close the door on officers, prompting them to prevent the door from shutting and advise him that he was under arrest for obstructing official business. Krall pulled away, pushed Officer Pearsall backward, and resisted efforts to move outside. Officer Bowman deployed his CEW, but the first attempt failed when the probes struck a wall. As the struggle continued inside the doorway, Officer Pearsall attempted multiple empty-hand control techniques, all of which Krall resisted. A second CEW deployment made contact but again did not incapacitate Krall, who removed the probes.

Officer Ingram arrived as the struggle persisted and assisted in gaining arm control while the other officers maintained upper-body control. Together, they moved Krall toward the apartment's exterior and successfully handcuffed him without using strikes, impact weapons, chokeholds, or other higher-level force options. After being handcuffed, Krall fell during the escort but was immediately helped to his feet, and no evidence supported his later claim that he had been tackled. EMS evaluated him for minor CEW probe punctures, though he declined treatment.

Overall, officers used verbal commands, unsuccessful CEW deployments, and coordinated empty-hand control techniques in response to Krall's active resistance and the unresolved safety risks related to the gunfire investigation. Available evidence did not indicate that officers used more force than reasonably necessary to detain Krall after repeated attempts to obtain voluntary compliance.

III. Constitutional Analysis

The constitutional analysis of this incident requires examination of several distinct Fourth Amendment issues rather than limiting the inquiry solely to whether the force itself was reasonable. The encounter involved successive constitutional questions regarding the legality of the investigative detention, the authority to compel a subject from the threshold of a residence during an active violent-crime investigation, the officers' subsequent entry into the residence, the proportionality of the force used to overcome resistance, and the continuing obligation to provide medical care following the use of force. Each issue must be analyzed independently because constitutionally reasonable force cannot validate unlawful detention, nor does a lawful detention automatically justify every subsequent tactical decision. Accordingly, this review examines each stage of the encounter through the framework established by the United States Supreme Court and contemporary constitutional policing principles.

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The officers' initial decision to detain John Krall was supported by articulable facts establishing at least reasonable suspicion that he possessed information material to an active violent crime investigation and may himself have been involved in reported criminal conduct. Dispatch information advised officers that multiple callers had reported recent gunfire accompanied by an argument between two males. Upon arrival, Officer Reddish encountered one participant near a vehicle containing a firearm in plain view while observing Krall immediately retreat into Apartment A upon noticing police presence. Officer Reddish further informed responding officers that Krall had been involved in the incident and required detention pending investigation. Under *Terry v. Ohio*[1], officers may temporarily detain individuals when specific and articulable facts, together with rational inferences drawn from those facts, create reasonable suspicion that criminal activity is occurring or has recently occurred. Here, the combination of multiple reports of gunfire, the discovery of a firearm, Krall's apparent involvement in the confrontation, and the uncertainty surrounding who had discharged the weapon provided sufficient constitutional justification for an investigative detention. The officers were not responding to a generalized suspicion but rather to a specific, rapidly evolving violent-crime investigation involving an unidentified shooter.

The constitutional question becomes more nuanced once officers encountered Krall at the doorway of his residence. The Fourth Amendment affords heightened protection to individuals within their homes, and the threshold of a residence has long been recognized as a constitutionally significant boundary. While officers possessed lawful authority to investigate the reported shooting and detain Krall, constitutional jurisprudence requires careful examination of the authority permitting officers to compel an individual to exit a residence or to cross the threshold absent a warrant. Supreme Court decisions such as *Payton v. New York*[2], *Caniglia v. Strom*[3], and *Lange v. California*[4] reinforce that warrantless entries into a home are presumptively unreasonable unless justified by consent, exigent circumstances, or another recognized exception to the warrant requirement.

The circumstances confronting officers in this incident presented a substantial argument supporting the existence of exigent circumstances. Officers were actively investigating a recently reported shooting, had not yet determined the identity of the shooter, did not know whether additional victims remained inside the residence, had not recovered all potentially involved firearms, and were confronted with a subject who repeatedly refused lawful detention while remaining in immediate proximity to areas outside officers' observation. Courts have repeatedly recognized that preventing immediate access to firearms during ongoing violent-crime investigations constitutes a legitimate officer safety concern. Unlike situations involving completed misdemeanor offenses or delayed investigations, officers here were responding within minutes of reported gunfire while the scene remained unsecured, and the location of at least one firearm remained uncertain. These circumstances substantially distinguish this incident from routine investigative encounters.

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[1] Terry v. Ohio, 392 U.S. 1 (1968). U.S. Supreme Court – Justia: https://supreme.justia.com/cases/federal/us/392/1/

[2] *Payton v. New York*, 445 U.S. 573 (1980). https://supreme.justia.com/cases/federal/us/445/573/

[3] *Caniglia v. Strom*, 593 U.S. ___ (2021). https://supreme.justia.com/cases/federal/us/593/20-157/

[4] *Lange v. California*, 594 U.S. ___ (2021). https://supreme.justia.com/cases/federal/us/594/20-18/

From the perspective of constitutional policing, however, the legal sufficiency of exigent circumstances does not end the inquiry. Modern policing emphasizes careful articulation of the specific facts establishing the exigency rather than relying upon generalized references to officer safety. Throughout the available reports, officers consistently explained that they feared Krall might have immediate access to a firearm inside the apartment because the weapon involved in the reported shooting had not yet been fully accounted for. Officer Bowman additionally reported that during the struggle he lost sight of one of Krall's hands, significantly increasing his perception of danger. These articulable facts strengthen the constitutional basis supporting both the investigative detention and the subsequent use of force.

Once the encounter became physical, the constitutional evaluation shifts to the objective reasonableness standard articulated in *Graham v. Connor*. Under *Graham*, courts evaluate force according to the totality of circumstances from the perspective of a reasonable officer on the scene, considering the severity of the crime, the immediacy of the threat presented, and whether the subject actively resisted or attempted to evade lawful detention.

Each of the *Graham* factors favors a finding that the force employed remained objectively reasonable. First, the officers were investigating an offense involving reported gunfire, a category of crime universally recognized as presenting substantial risks to officers and the public. Second, officers reasonably believed Krall might have immediate access to a firearm whose location remained unknown. Third, Krall actively resisted investigative detention through repeated refusal to comply with commands, physical efforts to close the door on officers, pushing Officer Pearsall, pulling away from officers' control attempts, and continuing to resist after the initial CEW deployment failed. These circumstances justified progression from verbal commands to intermediate force options reasonably calculated to overcome active resistance.

The CEW deployments likewise appear constitutionally reasonable when analyzed under prevailing Fourth Amendment standards. Courts generally recognize that CEWs constitute an intermediate level of force appropriate when confronting active resistance or assaultive behavior but inappropriate against passive resistance alone. The record demonstrates that Officer Bowman did not deploy the CEW merely because Krall refused verbal commands. Instead, deployment occurred only after repeated refusals, physical obstruction of officers attempting to effect lawful detention, inability to continuously observe Krall's hands, uncertainty regarding firearm access, and physical resistance directed toward Officer Pearsall. Importantly, Officer Bowman first transitioned away from his firearm to a less-lethal alternative, thereby reducing rather than increasing the overall level of force available during the encounter. Although both CEW deployments proved largely ineffective, their use remained proportionate to the evolving threat presented.

Finally, constitutional policing requires examination of officers' conduct following the use of force. The available evidence demonstrates that EMS was requested to the scene, officers documented the CEW probe injuries, photographs were obtained, body-worn camera footage was preserved, witness statements were collected, supervisory review occurred promptly, and Krall was offered, but declined, medical evaluation. These actions reflect compliance with generally accepted constitutional policing practices emphasizing accountability, documentation, transparency, and preservation of evidence following reportable uses of force.

Accordingly, based upon the currently available evidence, the officers' conduct appears consistent with the Fourth Amendment's objective reasonableness standard. While the incident raises important training considerations regarding threshold encounters and articulation of legal authority, the available evidence supports the conclusion that officers possessed lawful authority to conduct the investigative detention, that exigent public safety concerns substantially informed their tactical decisions, and that the force ultimately

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employed remained proportionate to Krall's active resistance and the objectively perceived threat confronting officers at the time.

IV. Akron Police Department Policy Analysis

The officers' actions were evaluated under several Akron Police Department (APD) policies, including use of force, CEW procedures, resisting arrest, reporting requirements, and supervisory responsibilities. While the administrative investigation concluded that the officers acted within departmental policy, the review emphasizes that constitutional policing requires a broader assessment, one that examines whether the policies themselves reflect modern standards and adequately guide officers in complex encounters. Compliance alone does not determine whether police actions fully align with evolving constitutional expectations.

The internal investigation found that Officers Bowman, Pearsall, and Ingram acted within APD's Use of Force and CEW policies. The investigation deemed the CEW deployments objectively reasonable, while noting an opportunity for Officer Bowman to improve certain CEW tactics. This distinction highlights how policy compliance can coexist with areas in need of tactical refinement. It also suggests the department's willingness to assess officer performance not merely for rule adherence but for potential improvement.

APD's Use of Force policy requires officers to apply only objectively reasonable force based on the totality of circumstances. In this incident, officers attempted verbal commands and presence before escalating to physical control. Officer Bowman's transition from lethal coverage to a CEW further reflected an effort to minimize harm while addressing active resistance. The CEW policy was also largely followed: deployment occurred only after resistance escalated, officers articulated clear safety concerns, and once the CEW proved ineffective, they shifted to empty-hand techniques rather than repeatedly cycling the device. Proper documentation and supervisory review occurred afterward, consistent with required procedures.

The officers' actions also aligned with APD policies governing resisting arrest. Krall's refusal to comply, physical pushing of an officer, and continued resistance constituted active resistance, justifying the force used to gain control. Officers applied coordinated, team-based tactics rather than escalating to higher-risk force options. Officer Ingram's arrival strengthened control efforts, and the arrest was completed without strikes or impact weapons. Reporting requirements were also met: investigators reviewed body-worn camera footage, gathered statements, documented injuries, and completed CEW downloads, demonstrating thorough adherence to administrative oversight processes.

Medical-care policies were similarly followed. EMS was requested after CEW use, Krall was offered treatment, and his refusal was documented. Officer Bowman documented his own minor injury and declined care. These steps match both APD policy and best practices in constitutional policing.

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V. Constitutional Policing Assessment

Constitutional policing extends beyond mere technical compliance with the Fourth Amendment or departmental policies. It embodies a broader commitment to legitimacy, procedural justice, proportionality, necessity, transparency, accountability, and safeguarding life. Even when an officer's actions meet constitutional minimums, opportunities may still exist to enhance communication, tactical decision-making, and public trust. This review therefore evaluates the incident through a wider constitutional-policing lens rather than relying solely on traditional legal analysis.

The officers' initial response reflected several principles aligned with constitutional policing. They acted swiftly to stabilize a potentially dangerous situation involving reported gunfire, securing one individual and attempting to identify the other. Their decision to detain both parties involved during an evolving violent-crime investigation was objectively reasonable and consistent with accepted investigative practices. Constitutional policing allows officers to take protective actions based on articulable safety concerns while determining what occurred, rather than requiring definitive proof of criminal responsibility before acting.

Throughout the encounter, the officers demonstrated careful assessment of threats and appropriate consideration of officer safety. They clearly articulated their uncertainty regarding the firearm's location, Krall's access to additional weapons, and their inability to maintain visual contact with both of his hands. These specific, individualized observations, rather than generalized claims of danger, reflect key constitutional-policing principles. Officer Bowman's transition from a firearm to a CEW, followed by empty-hand techniques when the CEW was ineffective, demonstrated proportionality: force escalated only in response to Krall's resistance and decreased once he was handcuffed.

The incident also underscores the importance of procedural justice. Officers repeatedly communicated with Krall, explaining why they wanted him to step outside and providing opportunities for voluntary compliance. However, written documentation offered limited detail on the legal basis for detaining him at the residential threshold. Stronger articulation in reports would reinforce transparency, bolster constitutional justification, and enhance public confidence. Additionally, supervisory review identified that although CEW use complied with policy, tactical improvements were advisable, illustrating how constitutional policing encourages learning, not merely determining whether conduct was permissible.

Finally, the officers' post-force actions aligned well with constitutional-policing expectations. They summoned EMS, documented injuries, preserved body-worn camera footage, downloaded CEW data, and underwent multiple supervisory reviews. From an organizational standpoint, the incident presents opportunities for policy refinement rather than disciplinary critique. Enhancing guidance on residential-threshold detentions, improving tactical training for confined-space encounters, and strengthening report writing would further align APD practices with national standards. Overall, the evidence supports that officers acted consistently with constitutional policing principles while still revealing meaningful opportunities for continuous improvement.

VI. Investigative Review

A high-quality use-of-force investigation must be thorough, objective, and transparent. Modern constitutional policing expects investigations not only to determine whether officers complied with law and

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policy, but also to identify learning opportunities, strengthen public trust, and protect officers from unfounded allegations. This review therefore evaluates the investigative process itself, not just the officers' actions, to determine whether it met accepted professional standards.

The Akron Police Department conducted its investigation in multiple phases, beginning with a preliminary review by Sergeant Yakubik and followed by a more detailed administrative investigation by Sergeant Myers. This layered structure aligns with best practices because it separates immediate scene management from later, more deliberate analysis. The preliminary investigation successfully documented essential facts, identified involved parties and witnesses, reviewed body-worn camera footage, captured photographs, and corrected deficiencies in officer reports. These steps ensured key evidence was preserved and properly organized.

The administrative investigation expanded on those findings by incorporating officer narratives, witness statements, CEW data, photographs, and arrest documentation. Importantly, it did more than verify policy compliance: it explained the factual basis for each force decision and analyzed the progression from verbal commands to CEW deployment and then to empty-hand control. The inclusion of witness interviews added credibility, with civilian accounts corroborating major aspects of the officers' reports. The investigation also incorporated technological evidence such as body-worn camera recordings and CEW download data, reflecting national best practices emphasizing objective digital evidence.

Medical documentation was handled appropriately, noting injuries, EMS response, and refusals of treatment. At the same time, several areas for improvement emerged. The investigation focused primarily on the physical struggle rather than evaluating the full encounter from initial contact onward, which is a broader approach encouraged by recent constitutional standards[5]. It also offered limited analysis of the legal authority for directing Krall to exit his residence, an important consideration in residential threshold encounters. Finally, while the investigation identified tactical issues related to CEW deployment, it could have further examined how doorway positioning contributed to the initial ineffective CEW activation.

Despite these opportunities for refinement, the investigation demonstrated notable objectivity. The supervising sergeant independently analyzed all available evidence, documented both supportive and contradictory claims, and distinguished between policy compliance and tactical improvement. This learning-oriented approach aligns with modern policing standards that view force investigations as opportunities to strengthen officer performance rather than as purely disciplinary exercises.

Overall, the investigation was thorough, well-documented, and consistent with nationally recognized standards for administrative force review. It incorporated multiple sources of evidence, preserved transparency, and produced clear written findings. While future investigations could expand constitutional

[5] *Barnes v. Felix*, 605 U.S. ___ (2025), decided by the U.S. Supreme Court on May 15, 2025. https://supreme.justia.com/cases/federal/us/605/23-1239/

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analysis and more deeply examine pre-force decisions, this case reflects a professionally competent review that supports confidence in its conclusions.

VII. Findings

After reviewing the available evidence, including the Computer Aided Dispatch chronology, case reports, arrest documentation, individual officer use-of-force reports, preliminary supervisory investigation, completed administrative investigation, witness statements, photographs, CEW documentation, and referenced body-worn camera evidence, the following findings are made.

Finding 1 – Officers possessed reasonable suspicion to conduct an investigative detention.

The responding officers possessed specific and articulable facts supporting the temporary detention of John Krall. Officers responded within minutes of multiple reports of shots fired involving two individuals. Upon arrival, one participant was detained near a vehicle containing a firearm, while Krall immediately retreated into Apartment A after observing police. Officer Reddish advised responding officers that Krall had been involved in the incident and required detention pending investigation. Under *Terry v. Ohio*, these facts established reasonable suspicion sufficient to justify an investigative detention while officers determined the circumstances surrounding the reported shooting.

Finding 2 – Officers acted within constitutional authority in attempting to secure Krall during an active violent-crime investigation.

Although residential threshold encounters implicate heightened Fourth Amendment protections, the circumstances confronting officers were materially different from a routine investigative encounter. Officers were responding to an active shots-fired investigation in which the location of at least one firearm remained uncertain, the identity of the shooter had not been established, and officers reasonably believed Krall might possess immediate access to additional weapons inside the residence. These facts substantially support the existence of exigent public safety concerns justifying officers' efforts to prevent Krall from retreating beyond their ability to safely investigate the incident.

Finding 3 – The force used was objectively reasonable under the totality of the circumstances.

Applying the framework established in *Graham v. Connor*, the force employed appears objectively reasonable. Officers investigated an offense involving reported gunfire, reasonably perceived a potentially armed subject, encountered active physical resistance, and selected force options proportionate to the evolving threat. Officers attempted repeated verbal commands before employing physical control techniques, selected a less-lethal CEW rather than maintaining firearm coverage, and discontinued reportable force immediately after securing Krall in handcuffs.

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Finding 4 – The Conducted Electrical Weapon deployments were consistent with APD policy and constitutional standards.

Officer Bowman's two CEW deployments occurred after repeated verbal commands, active resistance, physical interference with officers attempting to effect detention, uncertainty regarding weapon access, and Officer Pearsall being pushed during the struggle. Although the first deployment missed and the second failed to achieve neuromuscular incapacitation, both deployments were directed toward overcoming active resistance rather than punishing noncompliance. The available evidence supports the administrative conclusion that the CEW deployments were within policy and constitutionally reasonable.

Finding 5 – The officers appropriately transitioned to coordinated empty-hand control techniques after the CEW proved ineffective.

Rather than repeatedly cycling the CEW or escalating immediately to higher levels of force, Officers Bowman, Pearsall, and Ingram coordinated physical control techniques to safely secure Krall's arms and complete the arrest. The officers remained standing throughout the struggle, avoided strikes or higher-risk force options, and ceased reportable force once Krall was handcuffed. This measured progression reflects appropriate force reassessment during a rapidly evolving encounter.

Finding 6 – Officers complied with post-force responsibilities.

The available evidence demonstrates that EMS was requested, injuries were documented, photographs were obtained, CEW data were preserved, witness statements were collected, and supervisory investigations were completed. Krall declined medical treatment after EMS arrived. These actions satisfy both departmental policy and contemporary constitutional policing expectations regarding post-force accountability and medical care.

Finding 7 – The administrative investigation was thorough and substantially objective.

The investigation incorporated officer reports, witness interviews, body-worn camera review, CEW download data, photographs, CAD documentation, and supervisory analysis before reaching written findings. The investigation appropriately documented allegations made by Krall while independently evaluating available evidence. The investigation also recognized opportunities for tactical discussion without equating those opportunities with policy violations.

Finding 8 – The officers' conduct was generally consistent with APD policy.

Based upon the available evidence, the officers' actions substantially complied with APD's Use of Force Procedure, Conducted Electrical Weapons Procedure, supervisory reporting requirements, reporting obligations, and Rules and Regulations governing the use of physical force. This review concurs with the administrative determination that no policy violations are supported by the available evidence.

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Finding 9 – The incident presents significant organizational learning opportunities despite the absence of identified policy violations.

The encounter demonstrates the value of strengthening policy language and training regarding residential threshold detentions, articulation of constitutional authority, tactical management of doorway encounters, CEW deployment in confined environments, and comprehensive documentation of pre-force decision-making. These opportunities are forward-looking recommendations intended to enhance officer safety, improve transparency, and further align APD practices with evolving national constitutional policing standards.

Finding 10 – Overall constitutional assessment.

Based upon the totality of the available evidence, the responding officers' actions appear constitutionally defensible under the Fourth Amendment and generally consistent with the principles of objective reasonableness articulated in *Graham v. Connor*. The force employed was proportionate to the evolving threat, reasonably related to the officers' lawful objectives, and ceased once those objectives had been accomplished. While the incident raises important issues appropriate for continued policy refinement and training, the available evidence does not support the conclusion that the officers violated John Krall's constitutional rights during the use-of-force encounter itself. Rather, the incident serves as a valuable example of how constitutionally reasonable police actions can nonetheless inform continuous organizational improvement through thoughtful policy development, supervisory review, and enhanced scenario-based training.

VIII. Policy and Training Recommendations

Although this review concludes that the officers' actions were generally consistent with constitutional requirements and Akron Police Department policy, constitutional policing embraces the principle of continuous organizational improvement. The following recommendations are intended to strengthen APD policy, training, supervision, tactical decision-making, and community confidence. None of these recommendations should be interpreted as evidence that the officers acted improperly. Rather, they reflect nationally recognized best practices adopted by progressive law enforcement agencies following after-action reviews of similar incidents.

Recommendation 1

Clarify Investigative Detention Authority at Residential Thresholds[6]
Recommendation

Revise APD's Use of Force and Resisting Arrest procedures to include explicit guidance regarding investigative detentions occurring at residential doorways, including the constitutional authority permitting officers to temporarily detain occupants during active violent-crime investigations.

[6] U.S. Department of Justice, Office of Community Oriented Policing Services, *Constitutional Policing: Addressing Law Enforcement's Most Pressing Issues* (Washington, DC: DOJ COPS Office, 2015).

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Rationale

The reports consistently state that officers believed Krall "needed to be detained" but devote comparatively little discussion to the constitutional authority supporting that detention at the threshold of a residence. Explicit policy language improves officer articulation, strengthens legal review, and reduces litigation risk.

Comparable Agency Example
Seattle Police Department

Seattle's use-of-force and tactical policies require officers to articulate the specific legal authority supporting warrantless actions involving residences, emphasizing exigent circumstances and officer safety considerations rather than generalized references to investigations.

Implementation Benefit

- Improves report writing
- Strengthens constitutional articulation
- Enhances courtroom testimony
- Reduces suppression and civil liability risk

Recommendation 2

Expand Constitutional Decision-Making Training for Threshold Encounters[7]
Recommendation

Develop annual scenario-based training specifically addressing residential doorway encounters, investigative detentions, warrant exceptions, exigent circumstances, and officer safety.

Rationale

Doorway encounters are among the most litigated Fourth Amendment issues. Officers benefit from realistic training requiring them to distinguish among consensual encounters, investigative detentions, arrests, exigent entries, and emergency aid situations.

Comparable Agency Example
Las Vegas Metropolitan Police Department

LVMPD incorporates residential threshold scenarios into its Advanced Officer Skills Training, emphasizing constitutional articulation before physical intervention.

Implementation Benefit

- Improves constitutional decision-making
- Reduces hesitation during critical incidents
- Improves courtroom articulation
- Increases officer confidence

[7] Police Executive Research Forum. *Guiding Principles on Use of Force*. Washington, DC: PERF, 2016.

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Recommendation 3

Enhance CEW Tactical Deployment Training in Confined Spaces[8]
Recommendation

Expand annual CEW recertification to include confined-space deployments involving stairwells, hallways, apartment entrances, and residential doorways.

Rationale

The first CEW deployment missed, and the second was ineffective due to the dynamics of the confined doorway. Training in realistic environments improves officer positioning, probe placement, cross-coverage, and contingency planning.

Comparable Agency Example
Charlotte-Mecklenburg Police Department

CMPD requires officers to complete scenario-based CEW training in residential environments and emphasizes transition planning when CEW deployment fails.

Implementation Benefit

- Increased deployment effectiveness
- Improved officer safety
- Reduced exposure to crossfire
- Better transition to hands-on control

Recommendation 4

Require Explicit Documentation of Threat Assessment[9]
Recommendation

Require officers to specifically document the evolving threat assessment supporting each escalation or de-escalation decision during reportable force incidents.

Rationale

The involved officers appropriately articulated many safety concerns; however, standardized documentation would improve consistency and strengthen subsequent supervisory and legal review.

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[8] International Association of Chiefs of Police. *Electronic Control Weapons Guidelines*. Alexandria, VA: IACP, 2020.
[9] Police Executive Research Forum. *Critical Issues in Policing Series: Integrating Communications, Assessment, and Tactics*. Washington, DC: PERF, 2020

Comparable Agency Example
Denver Police Department

Denver's use-of-force reporting template requires officers to document the specific facts supporting each force decision, including perceived threats, subject behavior, environmental factors, and available alternatives.

Implementation Benefit

- Improves supervisory review
- Strengthens litigation defense
- Supports constitutional analysis
- Improves officer articulation

Recommendation 5

Expand Supervisory After-Action Reviews Beyond Policy Compliance[10]
Recommendation

Require supervisors to evaluate tactical decision-making, communication, positioning, de-escalation opportunities, and organizational learning in addition to determining policy compliance.

Rationale

The investigation appropriately noted tactical improvements despite concluding the force was within policy. Formalizing this practice encourages organizational learning without implying misconduct.

Comparable Agency Example
New Orleans Police Department

NOPD's Force Investigation Team evaluates policy compliance separately from tactical performance and organizational learning recommendations.

Implementation Benefit

- Encourages continuous improvement
- Improves officer safety
- Enhances training development
- Promotes high-reliability organizational practices

Recommendation 6

Strengthen Team Tactics Training During Arrests[11]

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[10] International Association of Chiefs of Police et al. *National Consensus Policy on Use of Force.* Alexandria, VA: IACP, 2020.
[11] Ronald P. Gleason, "Team Tactics in Law Enforcement," *FBI Law Enforcement Bulletin* 87, no. 7 (2018): 1–8.

Recommendation

Increase annual training emphasizing coordinated arrest tactics, officer communication, designated contact/cover roles, and contingency planning during multi-officer arrests.

Rationale

The officers ultimately demonstrated effective teamwork; however, additional structured team-tactics training reduces confusion during rapidly evolving incidents.

Comparable Agency Example
Phoenix Police Department

Phoenix conducts annual team-arrest scenarios emphasizing coordinated officer movement, role assignment, and communication.

Implementation Benefit

- Improved officer coordination
- Reduced injuries
- Enhanced tactical efficiency
- Safer apprehensions

Recommendation 7

Incorporate Procedural Justice Communication into Force Training[12]
Recommendation

Require officers to explain investigative detention, legal authority, and intended actions whenever tactically feasible before force becomes necessary.

Rationale

Although officers issued repeated commands, additional explanation regarding why the detention was legally required may improve voluntary compliance and public understanding without compromising officer safety.

Comparable Agency Example
Chicago Police Department

Chicago's procedural justice curriculum emphasizes explaining police actions before using force whenever feasible and safe.

Implementation Benefit

- Increased voluntary compliance

[12] National Initiative for Building Community Trust and Justice. *Procedural Justice Training Curriculum*. Washington, DC: U.S. Department of Justice, 2017.

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- Reduced resistance
- Improved community trust
- Better procedural justice outcomes

Recommendation 8

Develop a Residential Response Tactical Checklist[13]
Recommendation

Create a field guide addressing common tactical considerations during residential responses involving potentially armed occupants, including containment, cover, communications, crossfire avoidance, and threshold management.

Rationale

Residential doorway encounters present unique tactical hazards that differ significantly from open-area arrests. A standardized checklist reinforces consistent tactical planning under stress.

Comparable Agency Example
Fairfax County Police Department (Virginia)

Fairfax County incorporates residential response checklists and decision-making guides into patrol tactical training for barricaded, armed, and investigative encounters.

Implementation Benefit

- Standardized tactics
- Reduced officer-created jeopardy
- Improved coordination
- Enhanced officer safety

Recommendation 9

Formalize Annual Constitutional Policing Refresher Training[14]

Recommendation

Require annual refresher training integrating constitutional law, APD policy, procedural justice, de-escalation, and recent Supreme Court decisions affecting police practices.

Rationale

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[13] U.S. Department of Justice, Office of Community Oriented Policing Services. *Officer Safety and Wellness Group Report*. Washington, DC: DOJ COPS Office, 2019.
[14] Commission on Accreditation for Law Enforcement Agencies. *CALEA Standards for Law Enforcement Agencies*. Fairfax, VA: CALEA, current edition.

Constitutional standards continue to evolve through new case law. Regular refresher training ensures officers remain current on legal developments affecting searches, seizures, use of force, and warrant exceptions.

Comparable Agency Example
Madison (WI) Police Department

Madison PD conducts annual constitutional policing updates incorporating recent federal and state court decisions into scenario-based training.

Implementation Benefit

- Current legal knowledge
- Improved constitutional compliance
- Better report writing
- Reduced civil liability

Overall Recommendation

Based upon this review, no evidence was identified supporting a finding that the involved officers violated the Fourth Amendment or materially deviated from applicable Akron Police Department use-of-force policy during the incident. Nevertheless, this incident presents an excellent opportunity for APD to strengthen its policies and training in areas involving residential threshold encounters, constitutional articulation, tactical decision-making, supervisory review, and scenario-based instruction. Implementing these recommendations would further align APD with contemporary national standards promoted by the U.S. Department of Justice, the Police Executive Research Forum, the International Association of Chiefs of Police, CALEA, and other leading policing organizations, while reinforcing the Department's commitment to constitutional policing, officer safety, accountability, and continuous organizational improvement.

IX. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

The evidence shows that officers attempted to use the least intrusive methods before using force. They repeatedly issued verbal commands, identified themselves, and attempted to gain voluntary compliance. Officer Bowman switched from his firearm to a CEW to reduce the level of force available, and physical force occurred only after Krall refused lawful commands, tried to close the door, and physically resisted detention. Even then, officers used only two CEW deployments and coordinated empty-hand controls, ceasing force once Krall was handcuffed. Under *Graham v. Connor's* objective-reasonableness standard, these actions were proportionate to the threat, particularly given the uncertainty surrounding the firearm and Krall's active resistance.

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The administrative investigation confirmed that the officers acted within departmental policy, thoroughly documenting the incident, reviewing body-worn camera footage, interviewing witnesses, and evaluating CEW data. While the investigation identified opportunities for tactical improvement and stronger articulation of legal authority, it found no constitutional or policy violations. The incident underscores a key policing principle: lawful conduct is the minimum standard, but constitutional policing seeks higher levels of transparency, proportionality, and continuous learning. Although the officers' actions were lawful and consistent with policy, the event provides meaningful opportunities to refine training, report writing, and policy guidance to further strengthen APD's commitment to constitutional policing.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**Deman D. Cook**
CASE NUMBER:	**2026-00079135**
DATE OF INCIDENT:	**07/03/2026**
DATE OF REPORT:	**07/31/2026**
LOCATION OF INCIDENT:	**1096 Old Main St.**
APD DISTRCT:	**Ward 7**

I. Incident Overview

On July 3, 2026, Officer Williams was clearing the Peter Maurin Center when Cook accused him of harassment, used profanity, and threatened to assault him. Volunteers urged Cook to calm down and leave. Seeing that continued discussion was ineffective, Williams disengaged and went to find the facility director, Mike Rauh.

Rauh reported that Cook soon exited the building, slammed his bicycle down, and aggressively approached Williams, entering his personal space in a manner suggesting an imminent strike. Williams likewise stated that Cook rushed toward him with clenched fists and a fighting posture, prompting Williams to deliver a forearm strike to Cook's ear and neck area, knocking him to the ground.

Cook admitted approaching Williams aggressively but denied attempting to strike him and alleged that Williams slammed his head against the ground. The investigating supervisor found Cook's claims unsubstantiated based on witness accounts and the absence of injuries.

On the ground, Cook allegedly stiffened his arms, pulled away, and refused commands. Williams delivered one closed-fist strike to Cook's left rib or back, after which Cook complied and was handcuffed. Williams requested assistance and several units, including Sergeants Beck and Thornton and Officer Romano, arrived shortly after.

Cook complained he could not breathe and that his shoulder was dislocated. Williams repositioned him and requested EMS. EMS evaluated and released Cook, and Officer Romano later transported him to Akron General Medical Center for emergency psychiatric evaluation and issued summonses for aggravated menacing and disorderly conduct.

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II. Constitutional Policing Analysis

Constitutional policing requires officers to use necessary, proportionate, and objectively reasonable force, provide medical care, document events accurately, and stop using force once compliance is achieved. Officer Williams's initial contact with Cook began as a routine request to leave private property. Williams attempted verbal communication and then disengaged to seek the facility director when Cook became hostile, which reflected reasonable de-escalation.

The situation changed when Cook allegedly threatened Williams, threw his bicycle down, and approached with clenched fists. If accurate, these actions gave Williams a reasonable basis to detain Cook and justified a defensive forearm strike to stop an apparent imminent assault. Although the strike appears proportionate, its impact in the ear/neck area raises training concerns due to the vulnerability of that region, and the documentation does not clearly distinguish whether the action was a strike, a takedown, or both.

Once Cook was on the ground, further force required separate justification. Williams reported active resistance, and a single targeted strike to the rib or back to gain compliance may have been reasonable. Force reportedly ceased immediately after Cook was handcuffed, which supports constitutional compliance. However, the lack of body-worn-camera footage and incomplete documentation leave unanswered questions about commands, timing, and the nature of resistance.

Procedural-justice considerations also apply. Cook stated he was not told he was under arrest, underscoring the importance of clear communication when safe to do so. After restraint, Williams appropriately responded to Cook's medical complaints by repositioning him and requesting EMS.

Overall, the available evidence suggests the force was likely reasonable and proportionate to the threat and resistance described, but the absence of video and detailed documentation prevents a fully confident conclusion. Reliable review requires clear sequencing, precise descriptions of each force application, and robust evidentiary support, all of which were limited in this case.

III. Legal Analysis

The Fourth Amendment governs police use of force, evaluated under the objective-reasonableness standard from *Graham v. Connor*. Courts assess force from the perspective of a reasonable officer facing rapidly evolving circumstances and consider the severity of the offense, whether the subject posed an immediate threat, and whether the subject resisted.

This incident began as a low-level property management matter and did not justify force. The legal analysis changed when Cook allegedly threatened Williams, advanced rapidly with clenched fists, and appeared ready to strike. If accurate, these actions increased the governmental interest in officer safety and supported the initial forearm strike as proportionate defensive force.

After Cook fell, the constitutional question shifted to whether additional force was necessary to overcome resistance. Williams reported active physical resistance, and one targeted strike to gain compliance may have been reasonable. The record indicates force ceased once Cook was handcuffed, consistent with constitutional requirements.

However, the absence of body-worn-camera footage leaves gaps regarding the immediacy of the threat, precise strike placement, the commands given, and the timing of the second strike limitations that reduce certainty even though the overall force appears likely reasonable.

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Williams's response to Cook's breathing and shoulder complaints, including repositioning him and requesting EMS, aligns with constitutional expectations for medical care. Cook's later transport under Ohio's emergency-hospitalization statute also appears legally supported.

Relevant case law including *Graham*[1], *Garner*[2], *Scott*[3], and *Kingsley*[4] reinforces that force must be proportionate, objectively reasonable, and continually reassessed. Considering the available evidence, Williams's actions were likely constitutional, though documentation gaps and missing video limit the confidence of that conclusion.

IV. APD Policy Analysis

The investigative materials indicate that Officer Williams generally acted within Akron Police Department's use-of-force principles. He attempted verbal communication and used de-escalation by disengaging and seeking the facility director before any force occurred. When Cook allegedly advanced aggressively and threatened violence, Williams's forearm strike appears consistent with APD's standards for objectively reasonable force. The later hammer-fist strike also appears policy-compliant if Cook continued actively resisting, and force reportedly stopped once Cook complied.

The primary concerns involve documentation, not the force itself. The report does not clearly explain whether the first action was a strike or takedown, the exact impact point, the sequence of commands, or the duration and nature of resistance. The absence of body-worn-camera footage further limits transparency and independent review, requiring more detailed supervisory interviews and scene documentation.

Williams's response to Cook's medical complaints and the post-force steps taken, including EMS and emergency psychiatric transport, align with APD practices. The supervisory investigation gathered statements and evidence but would benefit from clearer technique by technique constitutional analysis.

Overall, Williams's actions appear largely consistent with APD policy, with key improvement areas involving documentation quality, body worn camera use during secondary employment, clear force sequencing, and more comprehensive supervisory review.

V. Use of Force Description

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[1] *Graham v. Connor*. 490 U.S. 386 (1989).
[2] *Tennessee v. Garner*. 471 U.S. 1 (1985).
[3] *Scott v. Harris*. 550 U.S. 372 (2007).
[4] *Kingsley v. Hendrickson*. 576 U.S. 389 (2015).

Officer Williams's use of force occurred during an encounter that rapidly evolved from a verbal dispute into a physical confrontation. According to the investigative file, Williams initially directed Deman Cook to gather his belongings and leave the Peter Maurin Center after the facility closed. Cook allegedly became verbally confrontational, repeatedly threatened Williams, and continued escalating despite verbal efforts to calm the situation.

Williams disengaged from the confrontation and walked toward another building to obtain assistance from the facility director. Shortly thereafter, Cook exited the building, threw or slammed his bicycle to the ground, rapidly approached Williams, entered his immediate personal space, clenched his fists, and displayed body movements that Williams interpreted as preparation for an assault.

Believing that Cook was about to strike him, Williams delivered a single forearm strike to the area of Cook's ear and neck. The strike caused Cook to fall to the sidewalk, where Williams immediately attempted to take him into custody.

While on the ground, Cook allegedly resisted arrest by stiffening his arms, refusing repeated commands to roll over, pulling his arms away from Williams, and preventing officers from placing him into handcuffs.

Williams attempted physical control techniques while issuing verbal commands. When Cook allegedly continued actively resisting, Williams delivered one hammer-fist or closed-fist strike to Cook's left rib or back area. Williams reported that Cook immediately complied following the strike, allowing officers to place him into handcuffs without further force.

No additional strikes, kicks, electronic control weapon deployments, baton strikes, chemical agents, carotid restraint techniques, neck restraints, or firearm displays were documented after Cook was handcuffed.

After the arrest, Cook complained that he was having difficulty breathing and believed his shoulder had been dislocated. Williams repositioned Cook into a seated position and requested emergency medical personnel. EMS evaluated Cook at the scene before Officer Romano transported him to Akron General Medical Center pursuant to Ohio's emergency hospitalization procedures.

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VI. Officer by Officer Analysis

Reserve Officer Donny Williams was working secondary employment at the Peter Maurin Center when he directed Cook to leave the property. Williams first attempted verbal resolution but was disengaged to find the facility director when Cook became hostile and threatening. The situation escalated when Cook allegedly threw his bicycle down and advanced rapidly with clenched fists. Both Williams and witness Mike Rauh believed an assault was imminent, and Williams delivered a forearm strike that brought Cook to the ground.

Williams then attempted to arrest Cook, reporting that Cook stiffened his arms, pulled away, and refused commands. He delivered one hammer-fist strike to gain compliance, after which Cook was handcuffed. Williams requested EMS and a supervisor, repositioned Cook when he complained of breathing and shoulder issues, and ensured medical evaluation. Cook was later transported by Officer Romano for emergency psychiatric evaluation, and Romano issued the related summonses.

The primary concerns relate to limited documentation and the absence of body-worn-camera footage, which restricts independent review of the strike mechanics, resistance, commands, and timing. Overall, Williams's actions appear generally consistent with constitutional policing principles, though clearer documentation, camera use during secondary employment, and more detailed supervisory analysis would strengthen accountability.

Sergeant Thornton's investigation gathered interviews and addressed conflicting accounts, though it lacked detailed analysis of each force step. Minimal information was available regarding Sergeant Beck and other responding officers, preventing individualized assessment.

VII. Tactical Assessment and De-escalation Review

The tactical response employed during this incident reflects several sound policing decisions while also revealing opportunities for improvement consistent with contemporary constitutional policing practices.

Officer Williams's strongest tactical decision occurred before any force was used. After Cook became verbally hostile and allegedly threatened violence, Williams disengaged from the confrontation rather than continuing a potentially escalating verbal exchange. By attempting to involve facility director Mike Rauh, Williams selected an approach that emphasized voluntary compliance through a respected third party rather than immediate enforcement action. This represents a meaningful de-escalation effort and is consistent with nationally recognized procedural justice principles.

The encounter deteriorated rapidly once Cook allegedly exited the building and aggressively approached Williams. The reported distance between the parties closed quickly, leaving Williams limited time to evaluate alternatives. Assuming the witness accounts accurately describe Cook's actions, the available tactical options became increasingly restricted because an officer confronted with an imminent assault cannot safely continue verbal negotiation indefinitely.

The forearm strike appears to have been intended to interrupt the assault before Cook could strike the officer. From a tactical perspective, defensive action at that moment may have prevented a prolonged physical confrontation or the need for greater levels of force.

However, the strike's reported point of impact near the ear and neck region raises an important tactical concern. Modern defensive tactics increasingly emphasize directing strikes toward larger muscle groups whenever practical because vulnerable anatomical areas present a substantially

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greater risk of serious injury. Even when defensive strikes are legally justified, agencies should continually reinforce techniques that maximize officer safety while minimizing unnecessary injury.

After Cook fell to the ground, the tactical environment changed significantly. Once a subject is grounded, officers generally gain additional opportunities to use communication, leverage, coordinated control techniques, and team tactics before resorting to additional strikes. The investigative materials indicate Williams attempted verbal commands and physical control before employing the hammer fist strike. Nevertheless, the absence of body-worn camera footage limits the ability to determine whether additional tactical alternatives remained reasonably available.

The available documentation also demonstrates that force ceased promptly after Cook complied. This is an important indicator of constitutional policing because officers are expected to continually reassess the necessity of force throughout an encounter. The reported termination of force immediately after compliance suggests Williams recognized that the governmental need for force had ended.

The post-force medical response reflects sound tactical decision-making. Williams responded appropriately to Cook's complaints regarding breathing difficulty and shoulder pain by repositioning him, requesting EMS, and notifying supervisors. These actions reduced the likelihood of medical complications and demonstrated continuing concern for Cook's welfare after the enforcement phase had concluded.

The incident also highlights the importance of tactical communication. Although Williams reportedly issued commands during the arrest, the documentation provides only limited detail regarding their content, sequence, and frequency. More comprehensive documentation of commands would strengthen later evaluations concerning whether the subject had adequate opportunity to comply before additional force became necessary.

Another tactical concern involves the absence of body-worn camera documentation. Contemporary policing increasingly recognizes body-worn cameras as both investigative and tactical tools. Beyond improving accountability, cameras capture verbal commands, subject behavior, officer positioning, resistance, and de-escalation efforts that may otherwise be impossible to reconstruct accurately after the event.

Overall, the tactical response demonstrates several positive characteristics, including attempted de-escalation, proportional escalation of force, immediate cessation of force after compliance, appropriate medical care, and supervisory notification. Opportunities for improvement involve greater emphasis on vulnerable-area strike avoidance, enhanced articulation of tactical decision-making, expanded documentation of verbal commands, and universal body-worn-camera deployment during secondary employment.

VIII. Policy and Training Recommendations

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Recommendation 1 — Require body-worn-camera use by reserve officers during authorized secondary police employment[5].

Recommended action: APD should amend its Mobile Recording Device Procedure and secondary-employment rules to require reserve officers and all other uniformed officers exercising police authority during authorized secondary employment to be issued, wear, and activate an APD-approved body-worn camera. Activation should be required before initiating investigative, enforcement, detention, arrest, or potentially adversarial contacts, subject only to narrowly defined exceptions that must be documented.

Incident-specific rationale: Reserve Officer Williams was acting in uniform and exercising full police authority when he directed Cook to leave, responded to alleged threats, used a forearm strike and other reportable force, and made an arrest. The investigation concluded that Williams did not violate the existing recording policy because recording during secondary employment was recommended rather than required. Nevertheless, the absence of primary-officer video prevented direct review of Cook's approach, the precise mechanics and contact point of the forearm strike, the takedown, the ground struggle, and the exact point at which resistance and force ceased.

National best-practice basis: Body-worn-camera recordings provide evidence for criminal investigations, administrative review, officer accountability, and resolution of disputed allegations. Seattle describes its body-worn-video program as a means of increasing transparency, public trust, accountability, and investigative effectiveness.

Comparable-agency example: The Seattle Police Department applies its in-car and body-worn-video policy to sworn personnel operating those systems and identifies recording of officer-public interactions as important to accountability and effective criminal investigations. Seattle's secondary-employment reform materials also specifically identify body-worn-camera rules as an issue that must be addressed for officers exercising police authority during off-duty employment.

Implementation considerations: APD should inventory the number of reserve officers engaged in secondary employment, determine equipment and storage needs, establish activation and supervisory-audit requirements, and prohibit a reserve officer from accepting a uniformed police secondary assignment without an operational camera unless an emergency exception is authorized and documented.

Recommendation 2 — Require use-of-force supervisors to identify and evaluate each separate application of force.

Recommended action: APD should revise its supervisory-investigation template to require a separate finding for every material application of force. At a minimum, the supervisor should

[5] Seattle Police Department, "Body Worn Video," accessed July 31, 2026; Seattle Community Police Commission, *Criteria for Evaluating Secondary Employment Proposals* (Seattle: City of Seattle, 2017).

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identify the lawful objective, subject behavior, perceived threat, resistance level, technique used, intended and actual target area, effectiveness, injury risk, alternatives reasonably available, and reason force was continued or discontinued.

Incident-specific rationale: The investigation identified a forearm strike, takedown or ground-directed force, grappling, a hammer-like strike, arm control, and handcuffing. The supervisor largely evaluated these techniques as one combined sequence. Although the final conclusion may be supportable, combining the techniques can obscure whether each individual act was necessary, proportionate, and compliant with the policy applicable at the precise moment it occurred.

National best-practice basis: Objective reasonableness is time- and fact-specific. A technique that is lawful at the beginning of an encounter may become unnecessary after the threat or resistance changes. DOJ policy similarly requires force to be objectively reasonable and permits force only when no reasonably effective, safe, and feasible alternative appears to exist[6].

Comparable-agency example: Los Angeles Police Department adjudication rules expressly require each use of force during a single incident to be separately identified and evaluated, recognizing that different applications in the same encounter may receive different findings[7].

Implementation considerations: APD should add a "Force Sequence Analysis" table to BlueTeam. Supervisors should not use generalized conclusions such as "the force was reasonable as a whole" without first making a technique-by-technique assessment. Command reviewers should return investigations that fail to separately analyze distinct strikes, takedowns, weapon uses, restraints, or post-restraint force.

Recommendation 3 — Incorporate the May 2026 head-strike restriction into the permanent Use-of-Force Procedure and establish enhanced review requirements.

Recommended action: APD should incorporate Chief's Order 2026-CO-09 directly into the permanent Use-of-Force Procedure rather than leaving the restriction in a separate temporary order. The revised procedure should define face, head, and neck strikes; distinguish intentional targeting from unintended contact; identify the permissible threat threshold; and require enhanced reporting and supervisory review whenever contact occurs in one of those regions.

Incident-specific rationale: Williams reported using a forearm strike in the area of Cook's ear and neck. Chief's Order 2026-CO-09 permits such a strike only in response to a physical assault, imminent physical assault, or greater threat. The evidence, including Cook's rapid approach, clenched fists, close proximity, fighting posture, and apparent pre-strike movement, supports the finding of an imminent assault. However, the supervisory report did not expressly cite or apply the Chief's Order.

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[6] United States Department of Justice, "Department of Justice Policy on Use of Force," Justice Manual § 1-16.000, updated May 20, 2022.

[7] Los Angeles Police Department, "Adjudicating a Non-Categorical Use of Force Incident," Department Manual § 3/793.30, accessed July 31, 2026

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National best-practice basis: Force aimed at sensitive anatomical regions presents heightened injury risk and should receive clear policy treatment, realistic skills training, and technique-specific review. DOJ policy requires agencies to restrict high-risk neck restraints and to use only objectively reasonable force when no reasonably effective, safe, and feasible alternative exists[8].

Comparable-agency example: LAPD publishes a dedicated tactical directive governing strikes and kicks, separate from its general force directive, allowing officers and reviewers to receive technique-specific guidance on target selection, justification, and evaluation[9].

Implementation considerations: APD training should require officers to articulate whether the sensitive area was deliberately targeted, whether contact resulted from subject or officer movement, why the threat met the imminent-assault threshold, whether a lower-risk target was reasonably available, and why the number of strikes was reasonable. Photographs and medical documentation should be mandatory whenever contact with the face, head, or neck is reported or alleged.

Recommendation 4 — Create a secondary-employment risk-management protocol for reserve and solo officers.

Recommended action: APD should classify secondary-employment locations by risk and establish minimum operational requirements for assignments involving shelters, hospitals, behavioral-health programs, outreach centers, bars, large events, or locations with recurring disruptive-person calls. Requirements should address body-worn cameras, radio access, immediate supervisor availability, backup procedures, emergency contact information, and limitations on solo staffing.

Incident-specific rationale: Williams was working alone at an outreach facility when a routine building-closure request escalated into threats, an apparent assault, a takedown, ground resistance, injury complaints, and emergency psychiatric hospitalization. Williams requested patrol assistance and a supervisor, but the force occurred before other officers arrived. The incident demonstrates that secondary employment can generate the same constitutional, tactical, medical, and accountability demands as regular patrol.

National best-practice basis: Secondary-employment programs should remain under departmental control because officers retain police authority, carry departmental equipment, and may engage in enforcement activity. Consistent policies reduce the risk that officers working outside normal assignments operate under different equipment, supervision, or documentation

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[8] United States Department of Justice, "Department of Justice Policy on Use of Force," Justice Manual § 1-16.000.
[9] Los Angeles Police Department, "Use of Force Directive No. 2—Strikes and Kicks," March 2023

standards. DOJ's Inspector General has likewise warned that inconsistent force-policy coverage across personnel performing law-enforcement functions creates operational and legal risks[10].

Comparable-agency example: Seattle's secondary-employment reform framework calls for departmental management, centralized administration, access to assignment data, regular reporting, and clear standards addressing supervision and body-worn-camera use[11].

Implementation considerations: APD should require employers to provide an emergency point of contact and relevant site-safety information; require reserve officers to notify dispatch when beginning and ending an assignment; establish criteria for requesting a second officer; and periodically analyze calls, arrests, force, complaints, and injuries associated with secondary-employment locations.

Recommendation 5 — Establish a use-of-force data and organizational-learning process that includes secondary employment and reserve-officer activity.

Recommended action: APD should collect and analyze force data by officer status, assignment, secondary-employment location, subject behavior, behavioral-health indicators, force technique, target area, injury, medical response, camera availability, allegation, supervisory finding, and training outcome. The analysis should be reviewed periodically by command personnel and the appropriate civilian oversight authority.

Incident-specific rationale: This incident involved a reserve officer, authorized secondary employment, no primary-officer body-worn camera, a behavioral-health concern, a head-or-neck-area strike, ground resistance, medical complaints, and emergency hospitalization. Each feature has organizational significance beyond the question of whether Williams' force was reasonable.

National best-practice basis: PERF advises that rigorous force-data collection and analysis are essential to understanding force patterns and using evidence to improve policy, training, supervision, and outcomes[12].

Comparable-agency example: Seattle's secondary-employment framework calls for centralized systems and regular data reporting on assignments, personnel, hours, and locations. New Jersey pairs statewide policy reform with mandatory training and centralized implementation requirements[13].

Implementation considerations: APD should conduct quarterly reviews and an annual public report using aggregate, privacy-protected information. The purpose should be to identify recurring

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[10] United States Department of Justice, Office of the Inspector General, *Review of the Department of Justice's Use-of-Force Policies*.
[11] Seattle Community Police Commission, *Criteria for Evaluating Secondary Employment Proposals*
[12] Police Executive Research Forum, *What Police Chiefs and Sheriffs Need to Know About Collecting and Analyzing Use-of-Force Data* (Washington, DC: Police Executive Research Forum, 2024)
[13] Seattle Community Police Commission, *Criteria for Evaluating Secondary Employment Proposals*.

locations, equipment gaps, high-risk tactics, training needs, disparities, incomplete investigations, and successful de-escalation practices. Data should not be interpreted solely by counting force events; analysis should account for calls for service, arrests, subject behavior, assignment conditions, and other relevant exposure measures.

IX. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

Reserve Officer Donnie Williams attempted reasonable de-escalation before force was used, faced conduct that reasonably indicated an imminent physical assault, employed a limited sequence of force to interrupt the threat and overcome active resistance, stopped reportable force after Cook was controlled, and provided appropriate post-force medical assistance.

The evidence does not support a finding that Williams used force in retaliation for verbal abuse, continued striking Cook after he was restrained, or used more force than was reasonably necessary to complete the arrest. The available witness evidence substantially corroborates the principal facts supporting the initial defensive strike, and the ground-control force was proportionate to the resistance described. However, the evidence does warrant administrative and organizational improvement. APD should strengthen body-worn-camera requirements for reserve officers working secondary employment, permanently incorporate the head-strike restriction into the Use-of-Force Procedure, and require separate analysis of each force application. The central organizational lesson is that lawful force and opportunities for institutional improvement can coexist.

Keysha Myers

Keysha Myers

Deputy Independent Police Auditor

Reviewed and approved by

Anthony Finnell

Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**Unknown**
CASE NUMBER:	**2026-00079674**
DATE OF INCIDENT:	**07/04/2026**
DATE OF OIPA REPORT:	**08/09/2026**
LOCATION OF INCIDENT:	**South Main St. and West State St., Akron, Ohio 44308**
APD DISTRICT:	**1**

I. Incident Overview

The incident occurred during Akron's July Fourth fireworks event in the downtown area near Lock 3. APD personnel were assigned to a special detail intended to provide security, crowd management, and emergency response during an event that attracted a substantial number of attendees. At approximately 7:49 p.m., Sergeant Zachary McCormick was assigned to the bicycle unit and operating marked police bicycle No. 301. McCormick stated that he initially observed a large crowd of juveniles moving rapidly south on Main Street. Before that movement, the juveniles had generally been stationary and congregating around Main Street and Lock 3. McCormick observed the group begin to form around what appeared to be a central point of interest and move away from the area where officers were visibly present toward the grassy area near the stadium. Drawing on his prior experience as a school resource officer, McCormick interpreted the sudden movement, heightened excitement, concentration around a central point, and movement toward a less visible location as indicators that a fight was about to occur.

As McCormick began riding toward the group, another unit broadcast a location near Main and State on the southwest side. McCormick activated the bicycle's emergency red-and-blue lights and siren and continued toward the disturbance. When he arrived, he observed a large group of juveniles crowded together, yelling, moving frantically, and focusing on activity at the center of the gathering. Based on those observations and the radio traffic, McCormick believed an active physical fight was occurring within the crowd.

Near the larger group, McCormick observed a separate fight involving two females who were later identified as Brekyah Antoine and [redacted] Antoine was twenty-three years old, and [redacted] was fourteen. The underlying case report identifies both as Black females and records that they were charged with disorderly conduct for fighting or threatening under Ohio Revised Code § 2917.11(A)(1). Officer Boo Tway, No. 1648, was identified as the primary reporting and arresting officer, while Officer Melanie Bailey, No. 1669, was identified as an assisting arresting officer and supplemental report author. The case documents show that Tway and Bailey were assigned to Wagon 87.

McCormick stated that he believed the altercations required immediate action because the fighting could become larger and more intense and result in additional physical harm. He concluded that verbal de-escalation was not feasible while the fighting remained active. According to his narrative, he deployed a stream of OC spray "over the large crowd," and the crowd dispersed. He

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then turned the spray canister toward Antoine and [redacted] McCormick reported giving the two females orders to stop, but they remained interlocked and appeared unable or unwilling to disengage. He dismounted his bicycle, physically separated them, and handcuffed Antoine.

Officer Moore's account confirms that McCormick was among the first officers to arrive but differs in its description of the chemical deployment. Moore stated that McCormick stopped his bicycle and sprayed OC "into the crowd." Moore reported that, after the crowd dispersed, two females remained, with one holding the other's hair. Moore further stated that McCormick and Officer Novak separated the two individuals and placed them in handcuffs without further incident.

The preliminary use-of-force investigation, completed by Sergeant Ritzinger, described officers as encountering a large fight involving several individuals. It stated that McCormick deployed OC spray "in the vicinity of the suspects" to prevent further fighting. According to that report, all persons exposed or potentially exposed left the area and had no additional police interaction. Officers canvassed the immediate area but did not locate anyone who reported being affected. The report listed McCormick as the only primary officer and identified no assisting or witness officers, even though Officer Moore's statement and the underlying case report establish the presence and participation of additional personnel.

The final use-of-force investigation, completed by Sergeant Scott Myers, No. 1347, stated that McCormick sprayed pepper spray "into the air near the crowd." Myers found that the spray enabled officers to approach the active fight and prevented others from creating an imminent safety threat. He concluded that no one was sprayed directly in the face and that neither Antoine nor [redacted] was affected. The investigation also stated that the crowd dispersed and that no exposed person remained available for identification, interview, injury assessment, or medical evaluation.

The BlueTeam record classified the reason for force as crowd control and identified the reported technique as OC spray. It recorded the distance from McCormick to the citizen or citizens as approximately seven to ten feet and described the force as effective, although the body diagram categorized the contact as "missed." The BlueTeam record identified McCormick as the primary involved employee and Moore as an assisting officer or employee witness. It documented no visible injuries to McCormick and no identified civilian injury.

The available record therefore establishes that an active fight occurred, that McCormick deployed OC spray in connection with that fight, that the broader crowd dispersed, and that officers physically separated and detained Antoine and [redacted] It does not conclusively establish the precise direction and duration of the spray, the number of deployments, the number or identity of persons affected, whether the spray contacted the two identified fighters, whether a warning preceded the first deployment, or whether wind and cross-contamination risks were assessed. Those evidentiary limitations are central to the constitutional-policing analysis.

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II. Use-of-Force Description

The reportable force in this incident consisted primarily of Sergeant Zachary McCormick's deployment of OC chemical defense spray. Additional physical actions included the hands-on separation of two fighting individuals and the use of handcuffs to detain them. Each technique is described below as part of a continuous encounter.

As McCormick approached the southwest area of South Main Street and West State Street on police bicycle No. 301, he observed a large group gathered around what he believed to be an active fight. He activated the bicycle's emergency lights and siren and continued toward the disturbance. The group was described as yelling, moving frantically, and focusing on a central point. Near the larger gathering, McCormick observed a separate fight involving Brekyah Antoine and [redacted]

McCormick reported that he believed the fighting required immediate intervention to prevent additional injury and escalation. He determined that verbal de-escalation was not feasible while the physical altercations were ongoing. From an estimated distance of approximately seven to ten feet, he discharged a stream of OC spray in the direction of the larger gathering. McCormick described the deployment as spraying "over the large crowd." Officer Moore described McCormick as spraying "into the crowd." The preliminary investigation characterized the spray as having been deployed "in the vicinity of the suspects," while the final investigation stated that it was sprayed "into the air near the crowd."

The crowd dispersed after the chemical agent was deployed. The BlueTeam record classified the spray as effective, although it recorded the contact point as "missed." No person from the larger group remained at the scene and reported exposure, injury, or a need for treatment. Officers reportedly canvassed the immediate area but did not locate anyone who identified themselves as having been affected. Consequently, the number of people exposed, the degree of exposure, and whether any uninvolved person or juvenile was struck by the spray could not be determined.

After the first deployment, McCormick turned the OC canister toward Antoine and [redacted] He reported giving them commands to stop fighting, but the two remained physically interlocked. The report does not clearly state whether McCormick discharged an additional burst directly toward them or merely redirected the canister while issuing commands. The supervisory investigation concluded that neither individual had been affected by the spray and that neither reported symptoms nor injury.

McCormick then dismounted his bicycle and participated in physically separating the two fighters. Officer Moore reported that McCormick and Officer Novak separated the women after one remained holding the other's hair. The separation involved hands-on physical control sufficient to disengage the two but was not described as involving strikes, kicks, takedowns, neck restraints, impact weapons, or CEW use.

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After the separation, officers placed Antoine and [redacted] in handcuffs. McCormick's report states that he handcuffed Antoine. Moore's report states more generally that McCormick and Novak placed both individuals in handcuffs. The underlying case report identifies Officers Boo Tway and Melanie Bailey as the primary and assisting arresting officers. The record therefore does not clearly establish which officer applied the handcuffs to [redacted] or the precise division of physical-control responsibilities among McCormick, Novak, Tway, and Bailey.

No additional resistance or force was reported after the two individuals were separated and secured. Antoine was issued a summons and released. [redacted] was released to a guardian and referred through the juvenile process. No officer injury was reported, and neither identified fighter was documented as sustaining an injury caused by police force.

In summary, the force sequence consisted of an initial OC deployment intended to disperse a larger group and provide access to an active fight; the redirection of the OC canister toward the two remaining fighters, with an unresolved question as to whether an additional burst was discharged; hands-on separation of Antoine and [redacted] and handcuffing to secure them. The record does not document any head strike, punch, kick, tackle, forceful takedown, CEW application, firearm display, neck restraint, or force used after the individuals were under control.

III. Constitutional Policing Analysis

Constitutional policing requires more than identifying legal authority for police intervention. It requires officers and agencies to exercise that authority in a manner that is lawful, necessary, proportionate, restrained, procedurally fair, and accountable. It also requires agencies to evaluate whether officers used available time, distance, communication, coordination, and less intrusive alternatives when circumstances reasonably permitted them to do so. The inquiry therefore extends beyond whether McCormick had a valid reason to act and examines whether the manner and scope of the force reflected sound constitutional decision-making.

The government's interest in intervening was substantial. Officers were responding to active fighting during a crowded public event. Physical fighting creates an immediate risk of injury to participants and nearby persons, and a large gathering around combatants can increase the possibility of additional assaults, obstruction, panic, or retaliatory violence. McCormick's observations were reinforced by radio traffic and by the conduct he personally witnessed upon arrival. His prior experience with juvenile fights could reasonably inform his interpretation of the crowd's rapid movement and concentration around a central point, although experience cannot substitute for an individualized assessment of the actual conduct encountered.

The officers' decision to intervene was consistent with APD's obligation to respond to calls for assistance and take appropriate action at scenes involving disorder or danger. APD Rules and Regulations require officers to respond promptly to requests for police assistance, restrict physical force to circumstances authorized by law and necessary to accomplish a police task, and prohibit

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unnecessary or unwarranted violence. The rules also place responsibility on officers to summon medical assistance and prevent further injury when responding to a police incident.

The principal constitutional-policing concern arises from the difference between force directed at identified combatants and force directed toward a broader crowd. Antoine and [redacted] were reportedly engaged in visible physical fighting. Their conduct furnished an individualized basis for intervention and, if they failed to disengage, for reasonable hands-on force necessary to separate and temporarily restrain them. The reported separation and handcuffing occurred without additional force or injury and ended once the individuals were under control. On the present record, that aspect of the encounter appears closely related to the observed threat and limited to achieving the lawful purpose of stopping the fight.

The OC deployment toward the larger crowd presents a broader question. A crowd may contain combatants, individuals encouraging a fight, people attempting to intervene, curious observers, juveniles, bystanders, and persons trying to leave. Constitutional policing favors distinguishing among those categories whenever circumstances permit. The reports do not identify the conduct of any particular person within the larger crowd, apart from the generalized description that people were yelling, moving frantically, and focused on the center of the gathering. The record does not establish that every person within the potential spray pattern was fighting, actively resisting, threatening officers, or preventing officers from reaching the combatants.

Chemical spray is a significant use of force even when it causes no lasting injury. It can produce immediate pain, involuntary eye closure, breathing difficulty, disorientation, panic, and secondary injury. Those effects may be particularly consequential in a densely populated event environment where persons can collide, fall, or flee without clear direction. The constitutional-policing assessment must therefore consider not only whether spray was effective in dispersing the crowd but also whether the deployment was sufficiently controlled to minimize exposure to persons who posed no immediate threat.

The APD Chemical Defense Spray Procedure appears primarily designed for the use of spray against an identifiable combative, violent, or aggressive suspect. It directs the officer to consider wind and the proximity of other officers and instructs that the product be sprayed toward the suspect's face in a short application. The policy does not clearly define when an officer may use a personal OC canister as an area-dispersal or crowd-control device. That lack of specificity is significant because a tactic directed at an individual suspect differs operationally and constitutionally from a chemical deployment intended to move a group.

McCormick's explanation that verbal de-escalation was not feasible is persuasive to the extent it concerns the two persons actively fighting. Officers are not required to delay intervention while people are exchanging blows or physically entangled. The conclusion is less complete with respect to the larger crowd. The record does not explain whether the bicycle siren, police presence, or verbal commands provided a meaningful warning that chemical spray would be used. It does not establish whether officers attempted to create an access corridor, direct the crowd to move back,

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coordinate a hands-on approach, or distinguish the principal combatants from surrounding observers before spraying.

This does not mean officers were constitutionally required to exhaust every conceivable alternative. Reasonableness does not demand perfect decision-making or the least intrusive means. Constitutional policing does, however, require a disciplined assessment of the options reasonably available in light of the urgency, the number of officers present, the density of the crowd, and the immediacy of the threat. The record should therefore explain why a crowd-directed spray was selected over a more focused intervention and what steps were taken to limit unintended exposure.

The Supreme Court's decision in *Barnes v. Felix* confirms that use-of-force reasonableness must be evaluated under the full totality of the circumstances rather than only at the instant force was applied. Courts may consider events leading up to the force, including officer positioning, communication, tactical choices, and other circumstances that illuminate the necessity and proportionality of the response[1]. The significance for this incident is that the OC deployment should not be viewed solely as a reaction to a crowd present at the moment of spraying. The analysis should include the officers' approach, available personnel, warning opportunities, ability to identify fighters, event planning, and decisions made before McCormick discharged the spray.

The emergency-aid doctrine also supports the general proposition that officers may take objectively reasonable action to address an immediate threat of serious harm. The Supreme Court's 2026 decision in *Case v. Montana* reaffirmed that officers acting to provide emergency assistance are governed by an objective reasonableness standard based on the circumstances known to them[2]. Although *Case* concerned warrantless entry into a residence and is not directly controlling here, its emphasis on objective facts and genuine emergency conditions reinforces the need to distinguish immediate protective intervention from generalized caretaking or undifferentiated crowd control.

The APD use-of-force policy similarly requires an assessment of the totality of the circumstances, including the seriousness of the offense, the immediacy of the threat, active resistance, and attempted flight. It permits less-lethal force to protect officers or others from an immediate threat and to restrain or subdue persons actively resisting or evading lawful detention. The policy prohibits the use of OC spray or a conducted electrical weapon when the only conduct encountered is passive resistance. The apparent active fighting in this case exceeded passive resistance. Nevertheless, the policy analysis must be person specific. The fact that some people were fighting does not automatically establish that every nearby person was an appropriate object of chemical force.

The presence of a fourteen-year-old participant and a crowd described as primarily juvenile heightens the need for careful proportionality and aftercare. Youth may affect a person's ability to process commands, appreciate danger, or respond predictably when exposed to chemical agents. The record does not indicate that McCormick knew [redacted] age before intervening, and

[1] 23-1239 Barnes v. Felix (05/15/2025)
[2] 24-624 Case v. Montana (01/14/2026)

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the reasonableness analysis must be based on what officers knew or reasonably perceived at the time. Even so, the visible youthfulness of the crowd was known and should have informed the assessment of deployment risks, crowd reaction, and the need for post-exposure monitoring.

The post-force response also bears on constitutional policing and organizational accountability. Once the crowd dispersed, officers did not identify anyone affected by the spray. That may have been practically difficult in a large public event, but the result was that APD could not determine the extent of exposure, document injuries, provide decontamination instructions, or evaluate whether medical assistance was needed. The Chemical Defense Spray Procedure calls for fresh air or cool water, advice not to rub affected areas, monitoring for breathing problems, and medical attention for unusual reactions or treatment requests. A scene canvass was reportedly conducted, but the investigation does not describe its duration, scope, announcements, or efforts to direct potentially affected persons to medical or decontamination resources.

The adequacy of documentation is another constitutional-policing concern. McCormick described spraying over the crowd; Moore described spraying into the crowd; the preliminary investigation described spraying in the vicinity of suspects; and the final review described spraying into the air near the crowd. Those formulations are not interchangeable. They affect whether the force was directed at identifiable people, whether exposure was intended, and whether the deployment was consistent with the chemical-spray procedure. A constitutionally sound force review should identify and reconcile such discrepancies rather than selecting the least concerning description without explanation.

The supervisory classification of personnel also appears incomplete. The preliminary investigation listed no assisting or witness officers, despite Moore's presence, Novak's physical participation, and the involvement of Tway and Bailey in the related arrests. APD policy defines an involved officer to include an officer who applies force, directs force, or assists in controlling a person upon whom force has been used. It distinguishes involved officers from officers who merely observe. If Novak, Moore, Tway, or Bailey physically controlled a person subjected to reportable force, their classification and reporting obligations should have been evaluated accordingly.

Viewed in its entirety, the incident reflects both legitimate police objectives and unresolved constitutional-policing concerns. McCormick was confronted with active fighting in a crowded event environment and had a reasonable basis to believe immediate intervention was necessary. The physical separation and restraint of the identified combatants appear proportionate on the current record. The deployment of OC spray toward the larger crowd is less clearly supported because the record does not sufficiently identify the conduct of those exposed, describe the deployment mechanics, establish the feasibility of warnings or narrower tactics, or document meaningful aftercare.

The preliminary constitutional-policing conclusion is therefore that the intervention itself was justified, but the scope, targeting, documentation, and review of the crowd-directed chemical force require further examination. Even if the deployment ultimately satisfies the constitutional minimum, the incident exposes potential deficiencies in APD policy governing chemical-agent use

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in mixed crowds, juvenile-heavy environments, and public-event disturbances. It also demonstrates the need for force investigations to reconstruct the entire encounter, reconcile conflicting descriptions, identify all involved personnel, and evaluate tactical decision-making separately from a binary determination of whether the force was "within policy."

IV. Legal Analysis

The legal analysis begins with an important distinction between the officers' authority to intervene in an active fight and the constitutional reasonableness of the particular force used to accomplish that intervention. The record supports a lawful police objective: stopping ongoing physical violence, protecting the participants and surrounding members of the public, restoring order during a crowded public event, and detaining persons suspected of disorderly conduct. That lawful objective did not, however, give officers unlimited discretion regarding the direction, duration, or scope of the OC-spray deployment. Each application of force must be evaluated under the constitutional standard applicable to the person or persons against whom the force was intentionally directed.

Fourth Amendment applicability and the existence of a seizure

Claims that an officer used excessive force while arresting, detaining, or otherwise seizing a person are ordinarily evaluated under the Fourth Amendment's prohibition against unreasonable seizures. A seizure may occur through the acquisition of physical control, a person's submission to a show of authority, or the intentional application of physical force undertaken with the objective of restraining the person. The Supreme Court has explained that physical force applied with an intent to restrain may constitute a seizure even when the person does not remain in police custody, while accidental force or force applied for a purpose other than restraint does not necessarily constitute a seizure[3].

The two identified fighters, Brekyah Antoine and [redacted] were plainly seized when officers physically separated, handcuffed, and detained them. The reasonableness of any force intentionally directed toward them is therefore governed by the Fourth Amendment.

The constitutional status of the unidentified crowd members is more complicated. If Sergeant McCormick intentionally directed OC spray at members of the crowd for the purpose of stopping, dispersing, or restraining them, persons physically struck by the spray may have experienced an application of force objectively intended to control their movement. Whether every affected person was legally seized may depend on the officer's objective intent, whether the spray made physical contact, and whether the person's freedom of movement was terminated or the person submitted to police authority.

[3] 19-292 Torres v. Madrid (03/25/2021)

The differing descriptions of the spray deployment are therefore legally significant. McCormick described spraying "over the large crowd" and subsequently turning the canister toward the two identified fighters. Officer Moore described McCormick as spraying "into the crowd." The preliminary investigation referred to a deployment "in the vicinity of the suspects," while the final supervisory investigation characterized the spray as having been discharged "into the air near the crowd."

If the spray was intentionally directed into the crowd to force its members to leave the area, the Fourth Amendment analysis is stronger than it would be if the spray was directed above the group solely as a visible or atmospheric dispersal measure and did not contact anyone. The present record does not reliably establish which description is most accurate. It also does not establish which persons were struck, whether they were intentionally targeted, or whether any person was prevented from leaving. The absence of identified claimants does not eliminate the need for APD to determine whether the force itself was constitutionally and tactically reasonable.

Objective reasonableness under *Graham v. Connor*

Under *Graham v. Connor*, the use of force must be evaluated from the perspective of a reasonable officer on the scene and in light of the totality of the circumstances, without relying on hindsight. The analysis generally considers the severity of the suspected offense, whether the person posed an immediate threat to officers or others, and whether the person was actively resisting or attempting to evade arrest. The evaluation must account for the fact that officers may be required to make rapid decisions in uncertain and evolving circumstances. The Supreme Court's later decision in *Barnes v. Felix* reaffirmed that this totality analysis is not restricted to the final moment in which force was applied; courts may consider the entire sequence of events bearing on the need for and reasonableness of force[4].

The first *Graham* factor, the severity of the offense, provides moderate support for police intervention but does not independently justify broad chemical force. Antoine and [redacted] were suspected of disorderly conduct based on active fighting. Although disorderly conduct is not among the most serious criminal offenses, the conduct itself involved immediate physical violence and a potential for injury. The seriousness of the observable conduct was therefore greater than the formal offense classification alone might suggest. The officers' governmental interest was not limited to making an arrest for a minor offense; it included stopping an active physical confrontation.

The second factor, immediate threat, is the most significant. The two fighters presented an immediate threat to one another. The surrounding crowd also created a potentially volatile environment in which other people could join the altercation, obstruct intervention, or be injured. McCormick reported that the crowd was moving frantically, yelling, and focusing on the center of the disturbance. He reasonably could have concluded that prompt action was necessary.

[4] QPReport

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The available evidence is less specific regarding the threat presented by individual crowd members. No report identifies a particular person within the broader group as striking another person, threatening an officer, attempting to prevent an arrest, or advancing toward the fighters. The supervisory conclusion that crowd members posed an "imminent safety threat" is stated generally rather than supported through individualized observations. The constitutional weight of the threat factor is therefore strongest as to the two fighters and less certain as to the crowd as a whole.

The third factor, active resistance or flight, also differs among the affected groups. Antoine and [redacted] remained physically interlocked and did not disengage when ordered to stop. Their continued fighting or failure to release one another could reasonably be characterized as active noncompliance warranting hands-on separation. The crowd, by contrast, apparently dispersed after the OC spray was deployed. The record does not establish that crowd members had previously refused a lawful dispersal order or actively resisted an officer's efforts to detain them.

Additional circumstances relevant under the totality include the size and density of the crowd, the presence of juveniles, the number of available officers, McCormick's distance from the group, the existence of an active public event, potential cross-contamination, and whether warnings or more focused tactics were reasonably available. The BlueTeam entry placed McCormick approximately seven to ten feet from the citizen or citizens. At that distance, the use of a stream-pattern chemical agent toward a tightly grouped crowd created a foreseeable possibility that persons other than active combatants could be exposed.

The record supports the legal reasonableness of physically separating and temporarily restraining the two identified fighters. That force appears directly related to terminating an observable assaultive encounter and ending when control was achieved. The legal conclusion regarding the crowd-directed OC deployment is less definitive. The deployment may have been reasonable if officers were confronted with a rapidly escalating group fight that they could not safely access without dispersing participants and if the spray was narrowly directed, brief, preceded by warning when feasible, and limited to persons creating an immediate threat. Conversely, the reasonableness of the deployment would be diminished if the spray was broadly directed into a mixed crowd without warning, without distinguishing fighters from observers, or when sufficient officers were positioned to make a more focused intervention.

The significance of *Barnes v. Felix*

In *Barnes v. Felix*, the Supreme Court rejected a rule that restricted the use-of-force inquiry to the precise moment an officer perceived a threat. The Court held that the totality of the circumstances has no artificial chronological boundary and that events preceding the final application of force may be relevant to the constitutional analysis[5].

[5] 23-1239 Barnes v. Felix (05/15/2025)

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Although *Barnes* involved deadly force during a vehicle encounter, its analytical principle applies more broadly. The review of McCormick's actions should therefore include not only the instant he pressed the OC canister but also the circumstances leading to the deployment. Those circumstances include his initial observations, radio information, activation of the bicycle's lights and siren, approach path, ability to observe the center of the crowd, location of other officers, commands given, event-specific operational planning, and available tactical alternatives.

Barnes does not establish that an officer's pre-force tactical mistake automatically makes subsequent force unconstitutional. Nor does it require officers to use the least intrusive available means. It does require that the reasonableness inquiry be based on the full encounter rather than a narrowly framed conclusion that active fighting existed at the instant of deployment. In this case, the full-sequence review is especially important because the record does not establish when the other officers arrived, whether they were close enough to conduct a coordinated separation, or whether any crowd warning was given before the spray.

Emergency aid and community caretaking

The emergency-aid doctrine permits officers, under limited circumstances, to take warrantless action to assist persons facing serious and immediate danger. In *Brigham City v. Stuart*, the Supreme Court recognized that officers may enter a residence when they have an objectively reasonable basis for believing that someone inside is seriously injured or imminently threatened with injury. The inquiry is objective rather than dependent on an officer's subjective motivation. The Court reaffirmed that standard in *Case v. Montana*, holding that emergency-aid entry is governed by whether officers had an objectively reasonable basis to believe emergency assistance was needed, rather than by the criminal-investigative concepts of reasonable suspicion or probable cause[6].

The emergency-aid doctrine is not directly controlling here because this incident did not involve warrantless entry into a home or another protected location. Nevertheless, the doctrine helps explain the officers' legitimate protective role. Active fighting gave officers an objective basis to believe people were at risk of injury and justified prompt action intended to stop the violence. Emergency aid supports the lawfulness of intervention, but it does not independently resolve whether deploying OC spray toward a broader group was reasonable. The force selected still must satisfy the Fourth Amendment standard governing seizures and APD's own use-of-force rules.

The separate community-caretaking doctrine provides little independent authority in this incident. In *Caniglia v. Strom*, the Supreme Court rejected the use of a broad community-caretaking exception to justify warrantless entry into a home, while preserving distinct emergency doctrines based on immediate threats to life or safety[7]. The relevant justification in this incident was not a generalized police responsibility to maintain public order; it was the specific need to stop active

[6] QPReport
[7] 20-157 Caniglia v. Strom (05/17/2021)

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physical violence. Framing the incident as emergency protection rather than broad community caretaking more accurately defines both the officers' authority and its limits.

Overall legal assessment

The officers had lawful authority to intervene in the active fights and to detain the identified participants. The hands-on separation and handcuffing of Antoine and [redacted] appear, based on the current record, to have been objectively related to stopping active violence and securing the scene.

The constitutional reasonableness of the OC deployment toward the broader crowd remains fact dependent. The deployment was more likely reasonable if it was a brief, controlled application directed at active combatants or persons physically obstructing officers during a rapidly escalating fight. It is less clearly reasonable if it was an indiscriminate application into a crowd that included uninvolved observers and juveniles who had not been given a meaningful opportunity to disperse.

The record's failure to identify the precise spray direction, number and duration of bursts, actual targets, persons exposed, warnings, wind conditions, and availability of other officers prevent a categorical independent legal conclusion. The internal finding of constitutional and policy compliance is relevant, but it does not resolve the factual ambiguities necessary for a complete Fourth Amendment assessment.

V. APD Policy Analysis

The policy analysis requires review of the incident under APD's Resisting Arrest/Use of Force Procedure, Chemical Defense Spray Procedure, Rules and Regulations, and related directives.

Resisting Arrest/Use of Force Procedure

APD's Resisting Arrest/Use of Force Procedure establishes objective reasonableness as the governing standard for force. It provides that force may be used only when reasonably necessary to accomplish a lawful objective, including overcoming resistance, effecting lawful arrest, preventing escape, or protecting officers or others from physical harm. The procedure directs officers to base their response on the subject's actions and behaviors and to discontinue force when resistance ceases or the person is under control. Chemical-defense spray is expressly classified as reportable force.

The incident involved a lawful objective. Officers had grounds to stop the physical fighting, prevent additional injury, and detain persons reasonably believed to have committed disorderly conduct. Antoine and [redacted] were reportedly physically engaged and remained interlocked after commands to stop. The use of reasonable hands-on force to separate them was consistent with the procedure's authorization to protect persons from an immediate threat and restrain individuals actively resisting or evading lawful detention.

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The policy justification for spraying the larger crowd is less explicit. The BlueTeam entry identifies "crowd control" as the reason for force, while the final investigation found that the spray was used so officers could approach the fight and prevent others from posing an imminent safety threat. APD's use-of-force procedure contains a separate provision authorizing force to suppress a riot when the statutory requirements are satisfied, but the present reports do not classify the incident as a riot or articulate probable cause to believe that the larger crowd collectively met that standard.

The broader crowd therefore should not be treated as a single resisting subject merely because some individuals within or near it were fighting. To establish compliance with the general less-lethal provisions, the investigation should have documented the behaviors that made the crowd or particular members of it an immediate threat. The existing descriptions, that the crowd was yelling, moving frantically, and focused on the center, support concern and urgency but do not conclusively establish that all persons within the spray pattern were actively resisting, assaultive, or attempting to interfere with an arrest.

The procedure places de-escalation at the center of encounters involving angry, agitated, or noncompliant persons. It defines de-escalation to include nonconfrontational communication, empathy, active listening, time, distance, resources, persuasion, command presence, repositioning, and warnings. McCormick explained that verbal de-escalation was not feasible because active fighting required immediate action. That explanation is reasonable as to the persons exchanging or attempting to exchange physical force. It does not fully address whether a brief command to move back, stop fighting, or clear a path could have been issued to the surrounding group before the chemical deployment.

Policy does not require officers to delay intervention when doing so would expose another person to continued assault. It does require officers to articulate why de-escalation was unavailable or unsuccessful. The final supervisory investigation accepted the need for immediate action but did not meaningfully evaluate whether a warning was feasible, whether officers had an alternate route to the fighters, whether the bicycle siren served as a sufficient warning, or whether arriving officers could have conducted a coordinated physical separation.

The procedure also requires involved officers to articulate the circumstances that gave rise to force and why they believed the force was reasonable. Witness officers must document what they observed, including relevant contributing factors. McCormick provided a detailed explanation of his observations and purpose. However, the differences between his report and Moore's report required closer supervisory reconciliation. The investigation should have determined whether the spray was discharged over the crowd, into it, toward the two fighters, or in multiple directions.

The classification of personnel also raises a policy issue. APD defines an involved officer to include an officer who applies reportable force, directs another officer to apply force, or assists in controlling a person upon whom reportable force was used. An officer who merely observes is classified as a witness officer. Moore reported that McCormick and Novak separated and handcuffed the two females. If Novak physically controlled a person toward whom McCormick

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directed OC spray, Novak may have met the definition of an involved officer. Moore's own classification depends on whether he merely observed or participated in control. The preliminary investigation's statement that there were no assisting or witness officers is inconsistent with the available reports and BlueTeam record.

The procedure requires investigating supervisors to identify witnesses, record interviews unless valid circumstances prevent recording, photograph persons subjected to force whether or not injured, collect relevant evidence, assess conflicting accounts, and document whether medical treatment was provided or refused. The investigation documented that the crowd left before affected persons could be identified. Nevertheless, it does not appear to explain whether event surveillance, third-party video, radio traffic, CAD entries, photographs of the crowd configuration, or statements from additional officers were used to identify exposed persons or reconstruct the deployment.

The internal investigation's conclusion that no one was sprayed directly in the face also warrants scrutiny. Because the crowd dispersed and no affected person was identified that finding could not have been established through interviews or physical examination of the people exposed. It may have been inferred from BWC or McCormick's aiming point, but the report does not explain its evidentiary basis. An investigative conclusion should distinguish between an established fact, an officer's stated intent, and the absence of evidence confirming contact.

Chemical Defense Spray Procedure

APD's Chemical Defense Spray Procedure describes OC spray as a tool for controlling combative, violent, or aggressive individuals. It permits use only by trained officers and requires deployment consistent with departmental training, procedure, and law. The procedure instructs officers to consider the proximity of other officers and wind direction before deployment. It directs officers to spray the product into the suspect's face and explains that a one- or two-second application may cause rapid eye closure. If a five-second spray produces no noticeable effect, the officer is directed to put the unit away and initiate a secondary plan.

The procedure appears written primarily for an identifiable suspect rather than for an area-directed deployment into a crowd. McCormick's reported application "over" the crowd and the supervisory characterization of spraying into the air "near" the crowd do not fit neatly within the procedure's instruction to spray the face of an identified combative or aggressive suspect. At the same time, Moore's report that McCormick sprayed "into the crowd" raises a separate concern because that tactic may expose multiple unidentified people without an individualized assessment.

The policy record does not establish whether McCormick evaluated wind direction, the proximity of other officers, or the likelihood of contaminating uninvolved persons. The BlueTeam report indicates that he was approximately seven to ten feet away. At that distance, wind and movement could materially affect the spray pattern. The absence of documentation does not establish that the factors were ignored, but it prevents the reviewer from confirming compliance.

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The procedure's aftercare provisions direct officers to expose affected persons to fresh air or cool water, advise them not to rub the affected area, avoid creams or lotions, monitor for breathing difficulties, and obtain medical assistance if the person displays an unusual reaction or requests treatment. Neither Antoine nor [redacted] reportedly claimed to have been affected, and no identified person requested medical treatment. However, the unidentified crowd members dispersed and could not be assessed. The inability to locate them limited APD's ability to carry out the procedure's aftercare and monitoring responsibilities.

The preliminary investigation stated that officers canvassed the area but found no person affected by the spray. The report does not describe whether officers announced the availability of decontamination, directed exposed persons to EMS, checked nearby event aid stations, or maintained a location where people experiencing delayed effects could seek assistance. For a chemical deployment at a large event, those details are necessary to determine whether reasonable aftercare measures were attempted.

The Chemical Defense Spray Procedure prohibits using spray as an investigative tool, against a person already in custody unless resistance must be overcome, intentionally into an open wound, as retaliation, or in an unprofessional manner. No evidence indicates that McCormick used the spray for any prohibited retaliatory or investigative purpose. His stated objective was to stop fighting and create access for officers. The principal policy question is therefore not improper motive but whether the method of deployment was authorized, properly targeted, and accompanied by required safety precautions.

APD Rules and Regulations

APD Rule 200.05 provides that physical force is restricted to circumstances specified by law and may be used only when necessary to accomplish a police task successfully. Rule 700.07 prohibits unnecessary or unwarranted violence. Rule 700.05 requires officers to maintain competency and perform their duties according to departmental procedures, while Rule 1000.01 requires the first responding officer to summon medical assistance and take appropriate action to prevent further injury when applicable.

McCormick's intervention served as a legitimate police task and was intended to prevent further injury. Nothing in the available record suggests retaliatory violence, punishment, or force motivated by anger. The primary Rules and Regulations issue is therefore whether the crowd-directed chemical deployment was necessary in its scope and executed consistently with APD's specialized force procedures.

Rule 200.01 further requires personnel to remain courteous, orderly, and calm despite provocation. The record contains no allegation that McCormick used profane, threatening, or retaliatory language. His conduct appears directed toward operational control rather than punishment. The evidentiary concern is the breadth of the tactic rather than officer demeanor.

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Rules governing prisoners require only the restraint necessary to ensure safe custody and make officers responsible for the safety and well-being of persons in custody. The record indicates that Antoine and [redacted] were handcuffed without further incident and were later released through summons or to a guardian. There is no documented allegation of unnecessary post-restraint force. The apparent lack of injuries and absence of additional force support compliance with these custody provisions.

Overall policy assessment

The hands-on separation and handcuffing of the two identified fighters appear consistent with APD's authorization to use reasonable force to protect persons from immediate harm and overcome active resistance. No evidence presently indicates that officers continued using force after the fighters were separated and controlled.

The policy compliance of the crowd-directed OC deployment is less certain. The deployment was connected to a legitimate and urgent purpose, but APD's Chemical Defense Spray Procedure appears oriented toward an identified aggressive suspect rather than a crowd. The record does not establish compliance with the wind-direction, officer-proximity, targeting, duration, warning, and aftercare considerations necessary to fully evaluate the tactic.

The supervisory investigation reached a within-policy conclusion without sufficiently resolving the differing descriptions of the spray, identifying all involved officers, determining the conduct of the persons exposed, or explaining the evidentiary basis for finding that no one was sprayed directly. The available evidence supports a finding that the purpose of the force was legitimate and not retaliatory, but it does not fully support an unqualified conclusion that every aspect of the deployment and investigation complied with APD policy.

VI. Tactical Assessment and De-escalation Review

The tactical review must account for the rapid, uncertain, and potentially volatile circumstances confronting officers. This was not a controlled custodial encounter or a situation involving passive noncompliance. Officers were assigned to a large public event when a group, largely described as juveniles, moved quickly toward a developing disturbance. McCormick received corroborating radio traffic and observed behavior consistent with active fighting. Near the larger gathering, he saw a second fight in which two individuals were physically interlocked. The possibility of injury, additional participants joining the altercation, and crowd escalation was real.

The decision to move toward the disturbance was tactically appropriate. McCormick used a marked bicycle equipped with emergency lights and siren, which allowed him to approach more quickly than an officer on foot and signaled the arrival of police. His recognition of behavioral indicators and decision to intervene before the fight expanded were consistent with preventive policing and public-safety responsibilities.

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The tactical question is whether the chemical deployment was the most reasonably controlled means available under the circumstances. The applicable standard does not require the least intrusive tactic or perfect decision-making. Officers may select a reasonable option even when another reasonable option is later identified. The review should nevertheless assess whether the chosen tactic accounted for the number of people present, the visibility of the actual combatants, the arrival of other officers, and the foreseeable consequences of using OC spray in a dense crowd.

McCormick reported that verbal de-escalation was not feasible because fighting was actively occurring. That conclusion has substantial force as to Antoine and [redacted] and any persons exchanging blows within the larger gathering. Officers are not required to conduct extended dialogue while one person is assaulting another. A prompt physical or less-lethal intervention may be justified when delay would permit continued injury.

De-escalation, however, is broader than prolonged conversation. It can include clear commands, warnings, officer positioning, coordinated movement, the use of distance, creation of an access path, designation of arrest teams, containment of bystanders, and communication among officers. The available record does not establish whether any officer gave a loud command to stop fighting, move back, or clear the area before the first spray burst. McCormick activated his siren, but a siren does not communicate the specific conduct required or warns that chemical force is imminent.

The failure to document a warning is not automatically a tactical or policy violation. A warning may have been impracticable if the fight was causing immediate injury or if the noise of the event made verbal communication ineffective. The problem is that the record does not analyze feasibility. It simply states that verbal de-escalation was not possible. A more complete tactical explanation should identify why even a brief warning could not be given and whether the bicycle's audible and visual signals were intended to function as notice.

Officer availability is also relevant. Moore stated that he and McCormick were the first to arrive. Tway and Bailey were nearby in Wagon 87, and Novak participated in separating the fighters. The timing of each officer's arrival is not clearly documented. If McCormick was momentarily alone or had only Moore with him while several people were fighting, using OC spray to create space may have been a reasonable method of reducing the numerical disadvantage and preventing officers from being surrounded. If several officers were already positioned to make a coordinated entry, a more focused hands-on intervention may have been feasible. The investigation did not establish the timeline with enough precision to resolve this tactical issue.

The spray pattern and direction are critical. A stream pattern can provide greater accuracy than a fog or cone pattern, but it may still affect unintended persons when directed toward a moving, tightly packed group. McCormick described deploying over the crowd, Moore described deployment into the crowd, and Bailey described spraying into the air. Those accounts suggest either different viewing perspectives or an imprecise description of a rapidly occurring event. Without clear BWC-based reconstruction, it is not possible to determine whether the tactic was designed to contact specific aggressors, create a visible barrier, expose the front portion of the group, or disperse the crowd generally.

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The record also does not address wind. APD's Chemical Defense Spray Procedure specifically directs officers to consider wind direction and proximity to other officers. At an outdoor event, wind could redirect the agent toward officers, uninvolved attendees, children, food-service areas, event staff, or persons unable to leave quickly. The absence of documented cross-contamination does not eliminate the need to evaluate this foreseeable risk.

The large juvenile presence was another tactical factor. McCormick initially believed both identified fighters were juveniles, and he described the larger gathering as primarily juveniles. Youth does not immunize a person from reasonable force when actively assaultive. It does increase the importance of clear directions, limited exposure, controlled deployment, supervision, and aftercare. Younger persons may react unpredictably to pain, panic, or sudden crowd movement. A tactic that causes a group to flee can solve the immediate access problem but also create collision, trampling, separation from guardians, or delayed medical issues.

The spray achieved the immediate operational objective: the crowd dispersed and officers gained access to the two remaining fighters. This outcome reduced the likelihood that the confrontation would expand and allowed officers to separate the participants without strikes or more substantial force. From a practical tactical standpoint, this was a significant benefit.

The same dispersal that made the tactic effective created an accountability and aftercare problem. People who were potentially affected left before officers could identify them, assess symptoms, provide decontamination guidance, or determine whether medical treatment was needed. The preliminary report states that officers canvassed the area, but it does not describe the size of the search area, length of the canvass, use of event announcements, contact with medical stations, or coordination with event staff. A tactical plan for OC use at a large event should anticipate that exposed people may flee and should include a mechanism for directing them to assistance.

The hands-on tactics used after the crowd dispersed appear sound on the present record. McCormick and Novak separated two individuals who remained physically entangled. Officers then used handcuffs and did not report strikes, takedowns, kicks, CEW use, or force after control was achieved. The absence of injury and the lack of further resistance suggest that officers applied limited physical control proportionate to the immediate objective.

The post-force scene management was less complete. The investigation materials do not establish that all officers involved were identified and separated by role, that the scene was photographed from perspectives showing the crowd and spray location, or that available event surveillance was collected. The investigation did review BWC, but the conclusions do not describe what the video established. For a crowd-use-of-force event, tactical reconstruction should include a map or diagram of officer positions, crowd location, spray direction, wind, distance, access routes, and the location of detained subjects.

Overall, McCormick's decision to intervene was tactically justified, and the OC deployment was operationally effective. The hands-on force was limited and controlled. The principal tactical deficiencies relate to the absence of a documented warning analysis, insufficient reconstruction of

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officer availability and positioning, lack of documentation concerning wind and spray mechanics, inability to distinguish active participants from bystanders, and inadequate planning for identification and care of exposed persons.

VII. Findings

Finding One: Officers had a lawful and legitimate basis to intervene.

The evidence establishes that officers observed active physical fighting during a crowded public event. McCormick's observations were supported by radio traffic, the movement and behavior of the crowd, and the independent accounts of Tway, Bailey, and Moore. Officers had a responsibility to stop the violence, protect the participants and surrounding persons, and detain those reasonably believed to have committed disorderly conduct. The decision to intervene was lawful, objectively supported, and consistent with constitutional-policing principles.

Finding Two: The hands-on separation of Antoine and [redacted] was objectively reasonable.

Antoine and [redacted] were physically fighting and remained interlocked when officers intervened. McCormick issued commands to stop, after which officers physically separated and handcuffed them. No strikes, kicks, forceful takedowns, neck restraints, CEW applications, or continued force after control were documented. The physical separation and temporary restraint were proportionate to the immediate threat and reasonably necessary to stop the fight.

Finding Three: Some degree of force to create access to the larger fight was reasonably justified.

The crowd was described as large, rapidly moving, yelling, and concentrated around active fighting. McCormick and Moore were reportedly among the first officers to arrive. Under those circumstances, officers reasonably could have believed that attempting to enter the group without first creating space exposed officers, combatants, and bystanders to additional risk. The brief use of less-lethal force to stop active violence and create an access route was not inherently unreasonable.

Finding Four: The existing record does not establish that the crowd-directed OC deployment was sufficiently individualized or narrowly targeted.

The evidence does not identify which members of the larger group were actively fighting, threatening others, obstructing officers, or merely observing. McCormick described spraying over the crowd, Moore described spraying into it, and Bailey described spraying into the air. The preliminary and final supervisory reports used additional formulations. These differences concern the intended and actual targets of force and should have been reconciled.

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The inability to identify exposed persons means the record cannot establish whether the spray contacted only active aggressors or also affected uninvolved persons and juveniles. The deployment may have been reasonable in the urgency of the moment, but the evidence is insufficient to support an unqualified finding that it was narrowly tailored.

Finding Five: The record does not adequately establish whether a warning was feasible or given.

McCormick stated that verbal de-escalation was not feasible because the fighting required immediate action. That explanation is reasonable regarding extended dialogue with active combatants. The record does not establish whether a brief warning to stop fighting, move back, or disperse could have been given before chemical force. The bicycle's emergency lights and siren announced police presence but did not necessarily communicate that OC spray would be used. The investigation should have documented whether a warning was feasible and, if not, why delay would have created additional danger.

Finding Six: The record does not establish compliance with all chemical-spray deployment considerations.

APD policy required consideration of wind direction and officer proximity. The investigative record does not document wind, the precise distance and angle of deployment beyond the general BlueTeam estimate, the number or duration of bursts, or the risk of cross-contamination. There is no affirmative evidence that McCormick disregarded these factors, but compliance cannot be fully verified from the available documentation.

Finding Seven: The officers appropriately discontinued force when control was achieved.

The spray ceased after the crowd dispersed. Officers then used limited hands-on force to separate the identified fighters and handcuffed them. No additional force was documented after the subjects were controlled. This aspect of the incident was consistent with the requirement that force end when resistance or the immediate threat ceases.

Finding Eight: No known officer or identified subject sustained a documented injury, but the absence of reported injury does not establish that no one was exposed.

Neither Antoine nor [redacted] reported being affected by the OC spray, and no officer injury was documented. The crowd dispersed, and officers could not locate anyone reporting exposure. The appropriate conclusion is that no identified person was documented as injured or requiring treatment. The record does not support a definitive finding that no crowd member was struck or experienced symptoms.

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Finding Nine: The post-deployment canvass was appropriate but insufficiently documented.

Officers reportedly checked the area for persons affected by OC spray and did not locate anyone. That effort was appropriate. The investigation did not document the scope, duration, or method of the canvass, whether event medical personnel were contacted, or whether decontamination information was made available. The lack of detail prevents the finding that all reasonable aftercare measures were undertaken.

Finding Ten: The classification and documentation of personnel involved were incomplete.

The preliminary investigation identified McCormick as the only involved officer and listed no assisting or witness officers. The record separately identifies Moore as a witness or assisting officer, Novak as participating in physical separation, and Tway and Bailey as arresting officers. Their exact roles in hands-on control and custody were not fully resolved. This prevented confirmation that every officer who met APD's involved-officer definition completed the required documentation.

Finding Eleven: The supervisory investigation did not adequately reconcile material inconsistencies.

The final review concluded that McCormick sprayed into the air near the crowd and that no person was directly sprayed in the face. It did not explain how BWC or other evidence resolved the differing descriptions from McCormick, Moore, and Bailey. It also did not explain the evidentiary basis for determining that no one was directly struck when the potentially exposed persons had left. The review established a legitimate force purpose but did not fully analyze deployment mechanics, targeting, warning, aftercare, or officer classification.

Finding Twelve: The internal within-policy conclusion is supportable as to intervention and hands-on force but is not fully substantiated as to every aspect of the OC deployment.

The evidence supports the conclusion that McCormick acted for a legitimate public-safety purpose and that the physical separation and restraint were objectively reasonable. There is no evidence of retaliation, punishment, unnecessary post-restraint force, or intentional misuse of the chemical agent.

The broader finding that the entire OC deployment was unequivocally within policy is less firmly supported. APD's Chemical Defense Spray Procedure is oriented primarily toward an identifiable combative or aggressive suspect and does not provide detailed standards for deploying a handheld OC stream toward a mixed crowd. The investigation did not establish the conduct of individual

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crowd members, precise direction of the spray, warning feasibility, wind, duration, number of bursts, or the full scope of exposure.

Finding Thirteen: APD policy contains a material gap regarding OC use for crowd dispersal.

The incident demonstrates that APD officers may confront active fights embedded within groups during festivals, protests, school events, and other large gatherings. The existing chemical-spray procedure does not clearly distinguish individual-target deployment from crowd-dispersal use. It does not provide specific guidance concerning authorization, warnings, juvenile-heavy crowds, minimum targeting standards, environmental considerations, medical support, documentation, or post-deployment identification of affected persons.

Overall Conclusion

The officers were justified in acting immediately to stop active fighting. Sergeant McCormick's perceptions were grounded in observable conduct and corroborating radio information. The limited hands-on separation and handcuffing of Antoine and [redacted] were objectively reasonable, proportionate, and terminated when control was achieved.

The OC deployment served a legitimate tactical purpose and was effective in dispersing the crowd and allowing officers to reach the remaining fighters. The available record does not establish, however, that the deployment was sufficiently targeted or that all relevant safety, warning, documentation, and aftercare considerations were evaluated. The principal deficiencies lie not in proof of malicious or punitive conduct, but in the breadth of the tactic, the lack of individualized documentation, unresolved inconsistencies among officer accounts, incomplete identification of involved personnel, and a supervisory review that did not fully reconstruct the force.

Accordingly, the incident does not support a finding that McCormick lacked authority to intervene or that the hands-on force was excessive. It does support qualified concerns about the manner in which OC spray was used toward a mixed crowd and about APD's current policy and investigative framework for evaluating that type of force.

VIII. Policy and Training Recommendations

The following recommendations address the policy, tactical, training, supervisory, medical-response, and documentation issues identified during the review. They are intended to strengthen APD practice beyond minimum constitutional requirements while preserving officers' ability to respond promptly to active violence. Each recommendation includes its rationale, application to this incident, a real-world agency example, and a source suitable for Chicago-style footnoting.

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Recommendation 1: Establish a separate APD policy governing the use of OC spray for crowd management and crowd dispersal.

Rationale: APD's current Chemical Defense Spray Procedure is principally written for deployment against an identifiable combative, violent, or aggressive individual[8]. It directs the officer to consider wind and nearby officers and generally contemplates directing a short spray toward the suspect's face. It does not clearly address when a personal OC canister may be used to disperse a group, who may authorize such use, the conduct required before deployment, or the precautions required when the crowd includes juveniles and uninvolved persons.

APD should distinguish among: individualized OC deployment against an identified subject; emergency use against multiple persons who are actively assaultive; and deliberate crowd-dispersal use. The policy should define each category and specify the corresponding authorization, warning, targeting, reporting, medical-response, and supervisory requirements.

Application to this incident: The BlueTeam report characterized the reason for force as "crowd control," while the written accounts variously described the spray as directed over, into, near, or into the air around the crowd. The absence of a crowd-specific policy made it difficult to determine which standard governed the deployment.

Real-world agency example: Seattle Police Department policy separately regulates crowd management and provides that an incident commander or designee ordinarily authorizes OC spray for crowd dispersal. A lieutenant may authorize it without incident-command approval only when an immediate life-safety emergency exists and there is insufficient time to obtain higher authorization. Seattle policy also connects crowd-dispersal authority to warnings and an available route of egress[9].

Recommendation 2: Require a clear warning and reasonable opportunity to comply before crowd-directed OC deployment, unless an immediate threat makes warning infeasible.

Rationale: When circumstances permit, officers should issue a loud, understandable warning identifying the prohibited conduct, the action required, and the likelihood that OC spray will be used if the conduct continues. A warning promotes voluntary compliance, distinguishes persons who are willing to leave from persons continuing violent conduct, reduces unnecessary exposure, and strengthens the subsequent articulation that chemical force was necessary.

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[8] Akron Police Department, *Chemical Defense Spray Procedure*, P-2020-003, January 31, 2020.

[9] Seattle Police Department, "Manual Section 14.090: Crowd Management," effective March 1, 2017, sec. 5, accessed July 30, 2026.

The policy should require officers to document the warning used, the approximate time allowed for compliance, and the facts making a warning infeasible when none was given. For large or noisy events, warnings should be amplified when equipment and time permit.

Application to this incident: McCormick activated his bicycle's lights and siren, but the record does not establish that anyone announced an instruction to stop fighting, move back, clear an access path, or disperse before the first spray application. The report stated generally that verbal de-escalation was not feasible, but it did not distinguish an extended attempt at dialogue from a brief force warning.

Real-world agency example: Seattle policy requires the incident commander or designee to issue a dispersal order before directing officers to disperse a crowd when feasible and requires sufficient egress for compliance. The Police Executive Research Forum likewise recommends providing warnings before gas or munitions are deployed and giving people adequate time to disperse[10].

Recommendation 3: Adopt heightened safeguards for the use of chemical agents in crowds containing juveniles or other vulnerable persons.

Rationale: Youth does not prevent officers from using objectively reasonable force against an actively assaultive person. It should, however, be a meaningful proportionality, tactical, and medical-response consideration. APD policy should require officers, when reasonably apparent, to consider age, body size, mobility, communication ability, respiratory distress, pregnancy, disability, and other vulnerabilities before using OC spray.

The policy should discourage crowd-directed chemical deployment when a group is primarily composed of children or juveniles unless active violence or an immediate threat makes the use objectively reasonable. When deployment occurs, supervisors should ensure prompt identification of minors, guardian notification when appropriate, symptom monitoring, and access to medical assessment.

Application to this incident: McCormick described the larger crowd as primarily juvenile and initially believed both identified fighters were juveniles. One identified participant was fourteen years old. The record does not show that juvenile-related tactical or aftercare considerations were included in the force review.

Real-world agency example: The New Orleans Police Department's general prohibition on routine officer possession and use of OC spray demonstrates that an agency may adopt standards more restrictive than the constitutional minimum when it determines that the operational and medical risks warrant stronger safeguards[11]. The DOJ Office of the Inspector General has similarly

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[10] Police Executive Research Forum, *Managing Demonstrations: New Strategies for Protecting Protesters and the Public*, Washington, DC: Police Executive Research Forum, 2022.
[11] New Orleans Police Department, *Operations Manual*, chap. 1.3, "Use of Force."

recommended that policies clearly address persons with known conditions that can increase the risk of adverse effects from OC exposure[12].

Recommendation 4: Require special-event operational plans to address spontaneous fights, juvenile crowds, chemical-agent authority, arrest teams, and medical response.

Rationale: Large public events require planning for predictable disturbances, including spontaneous fights, crowd surges, missing children, medical emergencies, and officer requests for assistance. The operational plan should establish:

- Incident-command authority;
- Criteria for declaring a crowd unlawful or ordering dispersal;
- Who may authorize chemical-agent use;
- Circumstances permitting emergency officer-level deployment;
- Arrest and extraction teams;
- Bicycle-unit roles;
- Juvenile processing and guardian reunification;
- EMS and decontamination locations;
- Evidence and video preservation;
- Public-address capabilities;
- Officer identification and accountability; and
- Post-event after-action review.

Application to this incident: Officers were assigned to a planned Fourth of July event where a large juvenile crowd was foreseeable. The reports do not indicate whether the event plan addressed the use of personal OC spray to create access to fights or provided a coordinated alternative for separating combatants.

Real-world agency example: PERF's guidance for large, preplanned events emphasizes advance staffing, interagency coordination, defined command structures, operational planning, and agreement about the rules governing less-lethal tools[13][14].

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[12] U.S. Department of Justice, Office of the Inspector General, "Recommendation 1a and Recommendation 1b, Report 23-077," June 7, 2023.

[13] Police Executive Research Forum, *Handling Large, Preplanned Events: Recommendations from Preparations for the 2016 National Political Conventions*, Washington, DC: Police Executive Research Forum, 2018.

[14] Police Executive Research Forum, *Managing Major Events: Best Practices from the Field*, Washington, DC: Police Executive Research Forum, 2011.

Recommendation 5: Provide scenario-based training on active fights embedded within mixed crowds.

Rationale: Officers should receive practical training on situations in which immediate intervention is necessary but participants, observers, juveniles, and potential aggressors are intermingled. Training should require officers to make and articulate decisions concerning:

- Immediate threat identification;
- Individualized versus crowd-directed force;
- Warning feasibility;
- Officer positioning;
- Time and distance;
- Use of bicycle units;
- Coordinated hands-on extraction;
- OC spray pattern and environmental risks;
- Transition from chemical force to physical control;
- Duty to provide aftercare;
- Juvenile-related considerations;
- BWC narration;
- Officer-role classification; and
- Supervisory review.

Training should use BWC-based exercises and branching scenarios in which officers must reassess as conditions change. It should make clear that de-escalation does not require unsafe delay, but it does require officers to recognize and use available tactical options.

Application to this incident: McCormick was required to decide rapidly whether to enter a volatile crowd, wait for additional officers, use OC spray, issue commands, or conduct a hands-on extraction. The investigation did not document a shared tactical model for making that decision.

Real-world agency example: PERF recommends staged tabletop and scenario exercises in which supervisors and officers are required to assess changing facts, articulate decisions, and consider alternate approaches through the Critical Decision-Making Model[15]. PERF's mass-demonstration guidance also emphasizes proportional responses that do not unnecessarily increase the risk of injury[16].

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[15] Police Executive Research Forum, *Critical Decision-Making Model: Training Guide for First-Line Supervisors.*
[16] Police Executive Research Forum, *Rethinking the Police Response to Mass Demonstrations: Nine Recommendations*, Washington, DC: Police Executive Research Forum, February 2022.

Recommendation 6: Create a post-event force review process that evaluates legality, policy compliance, tactics, supervision, and organizational learning separately.

Rationale: A binary "within policy" finding can obscure important distinctions. A force application may be constitutionally permissible but tactically avoidable, poorly documented, inconsistently supervised, or governed by inadequate policy. APD should require reviewers to make separate findings concerning:

- Constitutional reasonableness;
- Compliance with written policy;
- Compliance with training;
- Tactical soundness;
- De-escalation;
- Medical response;
- Reporting and evidence collection;
- Supervisory performance;
- Equipment performance;
- Policy or training gaps; and
- Corrective action or organizational learning.

A non-disciplinary tactical or policy concern should not automatically convert a lawful use of force into misconduct. Separating the findings allows APD to improve practice without distorting the constitutional standard.

Application to this incident: The internal review concluded that the force was objectively reasonable, within policy, and involved no violation of any law, rule, or procedure. That conclusion did not separately address the lack of crowd-specific OC guidance, conflicting descriptions of the deployment, incomplete officer classification, juvenile exposure risks, or limitations in aftercare.

Real-world agency example: Seattle's force framework emphasizes objective review of all reportable force and recognizes that even lawful force may affect public trust and should be assessed for necessity, proportionality, de-escalation, and professionalism[17]. PERF's major-event guidance recommends formal after-action reviews to identify lessons learned and revise plans, policy, and training[18][19].

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IX. Conclusion

The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

[17] Seattle Police Department, *Use of Force Policy*, court-approved December 17, 2013.
[18] Police Executive Research Forum, *Managing Major Events: Best Practices from the Field*.
[19] Police Executive Research Forum, *Rethinking the Police Response to Mass Demonstrations*.

The totality of the evidence supports the conclusion that Sergeant McCormick and the assisting APD officers were justified in taking prompt action to stop the active fights occurring near South Main Street and West State Street. Their intervention served a legitimate governmental and public-safety purpose, and the limited hands-on force used to separate and detain Antoine and [redacted] was reasonable under the circumstances.

The record does not establish that Sergeant McCormick acted with punitive intent, used force after the threat ended, or employed a level of physical control disproportionate to the observable fighting. His decision to cease chemical deployment after the crowd dispersed and transition to physical separation and handcuffing is consistent with the principle that force should be reduced and discontinued as control is gained.

At the same time, the broader OC deployment cannot be evaluated solely by its effectiveness or the absence of a documented injury. The spray was directed in relation to a mixed crowd whose members' individual conduct was not fully described, and the reports contain unresolved differences concerning where the spray was aimed. The investigation did not establish the mechanics of the deployment, warning feasibility, wind and environmental conditions, number of persons exposed, or adequacy of post-exposure care. Those omissions prevent a fully substantiated conclusion that the chemical force was narrowly tailored in every respect.

The internal within-policy finding is therefore most defensible when limited to the necessity of intervention and the reasonableness of the hands-on force. The finding is less persuasive when treated as resolving every tactical, documentation, and policy issue associated with spraying toward a larger crowd. The incident should be classified as involving a lawful and legitimate intervention, reasonable physical restraint of the identified combatants, and a crowd-directed chemical deployment that raises non-disciplinary policy, tactical, training, documentation, and supervisory concerns.

The incident ultimately demonstrates the distinction between constitutional minimums and constitutional-policing excellence. An action may be legally defensible while still revealing opportunities to improve precision, restraint, transparency, medical safeguards, and organizational learning. APD should use this incident not merely to determine whether discipline is warranted, but to strengthen the policies, training, event planning, and force-review systems that guide officers during future crowd disturbances.

The recommended reforms would better protect officers, persons engaged in unlawful conduct, uninvolved members of the public, and the City of Akron. They would also help ensure that future force decisions are supported by clear policy, accurately documented, independently evaluated, and consistent with the principles of necessity, proportionality, de-escalation, accountability, and preservation of human life.

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Independent Police Auditor
Use of Force Review

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**Randolph Lee Hicks**
CASE NUMBER:	**2026-00083776**
DATE OF INCIDENT:	**07/13/2026**
DATE OF OIPA REPORT:	**08/19/2026**
LOCATION OF INCIDENT:	**South Hawkins Avenue, Akron, Ohio 44320**
APD DISTRICT:	**8**

I. Incident Overview

The initial police activity began shortly before 6:45 PM on July 13, 2026. Officers Campbell and Phillips, operating Car 8, reported hearing a loud explosion while driving near Nome Avenue, Orrin Street, Seward Avenue, and Copley Road. They drove toward the sound and observed several employees looking west toward Seward. Campbell reported observing a silver Kia Forte leaving the area when no other people or vehicles were immediately present. A registration check showed the vehicle registration had expired on May 19, 2026, and Campbell also observed heavy window tint. Car 8 initiated a traffic stop on Little Street near South Hawkins Avenue.

Campbell and Phillips identified the driver as Destin Hicks and the front-seat passenger as Randolph Hicks. When asked about firearms, both occupants said Destin had a handgun in a sling bag in the back seat. When asked about the explosion, they described it as fireworks. Campbell reported that Randolph said he had given a firework to someone who lit it. Destin was removed first. Phillips reportedly observed a small plastic bag containing blue residue in the driver's-side door compartment as Destin exited. Destin then consented to a vehicle search. Campbell removed Randolph, asked whether he possessed anything illegal, and obtained consent to search him. Campbell found an open bottle of Jose Cuervo in Randolph's shorts pocket.

Officers Abel and Snader had arrived in Car 10 to assist. The two occupants were positioned near the front of Car 8 while officers investigated. Abel assisted Campbell in searching the vehicle. The search produced approximately .25 grams of a blue rock-like substance, later field-tested as amphetamine, and a loaded Kel-Tec P17 .22-caliber firearm. Snader remained with the occupants. According to Snader, Phillips was initially positioned nearest Randolph, but Abel called Phillips away to examine something. Once Phillips moved, Randolph suddenly ran from the stop.

Snader initially pursued Hicks through the yards between South Hawkins and Orlando Avenue. Snader states that he repeatedly ordered Hicks to stop. He then drew and discharged his CEW once, but it was ineffective. After that deployment, Snader states that he again ordered Hicks to stop and warned that Hicks would be Tased if he did not stop. Hicks continued fleeing. Snader lost visual contact when he reached an area with tall grass and deliberately slowed because he believed Hicks might conceal himself there. This tactical decision by Snader was reasonable: rather than blindly continuing at full speed through obscured terrain, he slowed, recognized an ambush/concealment risk, and attempted to reacquire the subject.

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Abel separately reacquired Hicks as Hicks moved toward Orlando Avenue. Abel states that he began closing the distance and issued commands to stop running and get on the ground. Hicks crossed Orlando, entered the yard behind 1139 Orlando Avenue, and approached a small chain-link fence. When Hicks grabbed the fence and attempted to cross it, Abel fired one cartridge. That deployment was ineffective. Abel immediately or shortly thereafter fired a second cartridge. The second pair of probes struck Hicks and produced neuromuscular incapacitation. Hicks fell to the ground. Abel ordered him to roll onto his stomach and put his hands behind his back. Hicks complied and was handcuffed without additional physical struggle.

Hicks sustained two CEW probe wounds and an abrasion to his right hand or wrist. Hicks attributed the abrasion to jumping a fence rather than to police force. Abel sustained puncture wounds to his left hand from an uncapped chain-link fence. Snader sustained abrasions to his hand and right shin during the pursuit. Those officer injuries are relevant to the tactical review because they demonstrate that the fence-crossing pursuit itself carried a nontrivial injury risk even apart from the CEW.

Beck interviewed Hicks at Akron General Medical Center. According to the subsequent supervisory summary, Hicks said he fled because he mistakenly believed he had a child-support warrant. He stated that he initially feared he might be shot but also described the officers as doing their jobs and acknowledged his own noncompliance. Hicks said officers did not strike or otherwise use additional force after the successful Taser deployment.

EMS evaluated Hicks on scene and removed the CEW probes. Hicks was then transported to Akron General Medical Center for medical evaluation and jail clearance. After clearance, he was transported to Summit County Jail. The arrest paperwork lists fireworks, open container, obstructing official business, and resisting arrest charges.

Sgt. Scott Myers later conducted or documented the substantive use-of-force review. Myers concluded that all three CEW deployments were objectively reasonable and “within policy.” He also addressed Abel's muted BWC, finding no policy violation and explaining that Abel had muted it while inventorying the vehicle, that Hicks's flight occurred suddenly, and that Abel unmuted after the rapidly evolving event had settled.

II. Constitutional Policing Analysis

The initial encounter was legitimate. Officers had an independently sufficient traffic basis for stopping the vehicle because its registration was reported expired, in addition to observed window tint and the officers' investigation of a recent explosion. Their observations of the Kia leaving the immediate area of an unexplained explosion added investigative context. Nothing in the supplied record suggests that the traffic stop was pretextually fabricated or lacked an objective legal basis.

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Randolph Hicks, although merely a passenger, was lawfully detained during that traffic stop. Under *Brendlin v. California*[1] and *Arizona v. Johnson*[2], a traffic stop seizes the passengers as well as the driver. Officers may exercise reasonable control over occupants while completing traffic and officer-safety tasks[3]. Thus, Hicks did not possess an unrestricted right simply to walk or run away while officers were still lawfully conducting the stop and associated investigation.

The officers' decision to remove Hicks from the vehicle also raises no constitutional concern on this record. The Supreme Court has long permitted officers to direct passengers out of lawfully stopped vehicles as a safety measure[4]. Hicks then independently consented to a search of his person, according to Campbell's report, and an open alcohol container was recovered.

The constitutional-policing question becomes more demanding once Hicks fled. It is important to distinguish the legitimate governmental authority to apprehend Hicks from the separate question of how much force was appropriate in doing so. Flight justified pursuit and some reasonable coercive means of recapture. It did not automatically make every available force option proportionate.

At the time of the CEW uses, Hicks's conduct constituted active flight and noncompliance. There is no evidence that he punched, kicked, struck, threatened, or charged an officer. There is likewise no evidence that he possessed a weapon while running. Officers knew a firearm had been found in the vehicle, but that fact did not by itself establish that Hicks was armed during the pursuit. On the supplied evidence, the threat Hicks posed was therefore principally the uncertainty associated with a fleeing detainee and his passage through residential properties, rather than an observed immediate assaultive threat.

That distinction matters. Under *Graham*, threat is ordinarily the most significant factor in assessing force. At the same time, active resistance and flight are also expressly relevant. Sixth Circuit law gives substantial weight to those latter factors in CEW cases. *Rudlaff* holds that a Taser may constitutionally be used against a person actively resisting arrest, and *Perez* states that flight from officers is active resistance[5]. This places all three deployments on constitutionally defensible ground.

Constitutional policing, however, should not be reduced to the question of whether qualified immunity or existing circuit precedent would defeat a civil-rights lawsuit. *Barnes v. Felix* reinforces that objective reasonableness is a totality inquiry without an artificial temporal cutoff. Earlier officer actions, communications, warnings, positioning, and tactical choices can inform what a reasonable officer would perceive when force is ultimately applied[6]. The APD review

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[1] *Brendlin v. California*, 551 U.S. 249, 255–59 (2007).
[2] *Arizona v. Johnson*, 555 U.S. 323, 326–27, 331–32 (2009).
[3] Juan Garridoaguilar, "Petition for Writ of Certiorari," *Juan Garridoaguilar v. State of California*, No. 25-5002 (U.S. Supreme Court, June 27, 2025).
[4] *Johnson v. Dunn*, 97 F.4th 1213 (11th Cir. 2024).
[5] *Rudlaff v. Gillispie*, 791 F.3d 638, 641–43 (6th Cir. 2015).
[6] *Barnes v. Felix*, 605 U.S. ___ (2025).

should therefore have considered more explicitly not only whether Hicks was fleeing at the precise instant each trigger was pulled but also the seriousness of the offenses, lack of assaultive behavior, number of pursuing officers, known location of the recovered firearm, terrain, fences, availability of containment, and predictable fall consequences of incapacitation.

From a procedural-justice perspective, the evidence is mixed but not troubling. Officers explained commands through repeated orders to stop; the evidence does not suggest taunting, punitive force, retaliation, or gratuitous violence. Once Hicks complied, the coercive phase ended. That is strongly consistent with procedural restraint and proportionality. The gap is that the record provides limited evidence of communication beyond commands during the pursuit. Given a rapidly fleeing subject, extended rapport-building was not realistic, and constitutional policing does not require officers to conduct a dialogue while running behind a fleeing detainee.

The duty to render aid was satisfied. The Constitution requires government to provide necessary medical care to persons injured while being apprehended, and APD's own requirements are more operationally specific. Officers promptly requested EMS, ensured professional removal of embedded probes, and obtained hospital clearance[7].

III. Legal Analysis

The Fourth Amendment governs both the detention and the successful application of physical force to Hicks. The traffic stop was a seizure from its inception. Hicks remained subject to that seizure while officers investigated the stop. His flight constituted an effort to terminate or evade that lawful detention.

The successful CEW deployment by Abel unquestionably constituted physical force used with intent to restrain and resulted in apprehension. The two missed CEW deployments did not physically restrain Hicks, but they remain highly relevant police uses of force for policy, supervisory, tactical, and totality-of-the-circumstances review.

Under *Graham v. Connor*, objective reasonableness requires careful attention to offense severity, immediate threat, active resistance, and flight, judged from the perspective of a reasonable officer on scene rather than with hindsight. *Barnes* now makes explicit that this totality analysis cannot be confined to a narrow "moment of threat[8]."

The severity-of-offense factor provides moderate rather than overwhelming governmental justification. Hicks was implicated in an investigation involving fireworks, an open container, and ultimately obstruction and resisting arrest. The vehicle contained amphetamine and a firearm, but the case report principally associated the drug-possession charge with the driver. The offenses related to Hicks were not violent felonies. That fact weighs against high levels of force.

[7] *Jakob v. Cheeks*, Petition for Writ of Certiorari, No. 23-587 (U.S. Supreme Court, filed November 29, 2023).
[8] *Barnes v. Felix*, 605 U.S. ___, slip op. at 5–7 (2025).

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The immediate-threat factor weighs more heavily in Hicks's favor. There is no evidence that he threatened anyone or displayed a weapon during the chase. His movement through yards and over fences created generalized risks, but this is materially different from charging an officer, reaching for a weapon, or threatening a civilian. Officers knew a firearm had been located in the vehicle; Snader's suggestion that Hicks "may" have been in illegal possession of one of the recovered items and "may or may not" have had warrants was speculative rather than established knowledge. Under an objective standard, force should be justified by facts reasonably known, not by possibilities unsupported by specific evidence.

The resistance-and-flight factor, by contrast, strongly favors the officers. Hicks did not merely remain passively noncompliant. He ran, crossed yards, jumped fences, ignored commands, and continued trying to escape. Sixth Circuit doctrine is particularly significant here. *Perez v. Simpson* stated that fleeing from officers is active resistance and reiterated that tasing an actively resisting suspect is generally not excessive force[9]. *Rudlaff* similarly holds that police may use a Taser to subdue an actively resisting arrestee[10].

Cockrell v. City of Cincinnati is also instructive because it involved a fleeing misdemeanant in Ohio. The Sixth Circuit granted qualified immunity where an officer Tased a man who fled after a nonviolent misdemeanor. The majority concluded that the right was not clearly established, while Judge Cole separately stated that he believed the particular use was excessive under the totality[11]. The case illustrates why "flight equals active resistance" should not become an automatic force rule detached from offense severity, warning, terrain, and injury risk.

Applying these principles, Snader's deployment was likely constitutionally reasonable. Hicks was actively fleeing lawful detention and disregarding commands. Snader used one CEW cartridge, did not make contact, did not continue firing once he lost visual contact, and later slowed because of environmental danger. The main unresolved factor is whether an explicit Taser warning preceded the shot.

Abel's first deployment was also likely reasonable in constitutional terms. Hicks continued fleeing and was attempting to surmount another fence, making imminent escape more likely. Abel had issued commands to stop and get on the ground. The deployment missed or otherwise failed.

Abel's second deployment presents the closest constitutional question. The need to apprehend Hicks had not disappeared; he was still actively fleeing. The deployment was limited to one successful cycle and force stopped immediately once Hicks was incapacitated. Those facts strongly support reasonableness. But Hicks was at a chain-link fence, and a CEW deliberately causes loss of voluntary muscular control. A reasonable officer should consider predictable secondary injury caused by an uncontrolled fall. Under *Barnes*, that situational fact is relevant to the totality, even though the ultimate injury happened to be minor.

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[9] *Perez v. Simpson*, 83 F.4th 1029, 1031–32 (6th Cir. 2023).
[10] *Rudlaff v. Gillispie*, 791 F.3d 638, 641–43 (6th Cir. 2015).
[11] *Cockrell v. City of Cincinnati*, 468 F. App'x 491, 492–97 (6th Cir. 2012).

Balancing the competing considerations, the record does not support the finding that Abel's successful deployment crossed the constitutional line. Active flight was substantial, the fence appears from the reports to have been relatively small, no evidence establishes a significant drop or other lethal fall hazard, only one effective cycle was delivered, and Abel immediately transitioned to commands and handcuffing. The appropriate conclusion is therefore constitutional compliance, with tactical concerns, rather than excessive force.

Ohio law reinforces the legitimacy of the officers' underlying law-enforcement objective. At the relevant time, Ohio Revised Code § 2921.31 prohibited a person, with purpose to obstruct or delay an official's authorized act, from committing an act that hampers or impedes official duties[12]. Ohio Revised Code § 2921.33 prohibited recklessly or forcibly resisting or interfering with a lawful arrest[13]. Whether every element of each eventual charge could be proved beyond a reasonable doubt is outside the scope of this administrative review, but Hicks's abrupt flight from an ongoing lawful stop plainly strengthened the officers' authority to apprehend him and supplied probable cause for at least obstruction-related enforcement.

IV. APD Policy Analysis

APD use of force procedures requires force to be objectively reasonable, permits reasonable force to prevent escape or overcome resistance, requires force to cease when resistance ends, and treats the severity of the offense, immediate threat, resistance, and flight as relevant factors. The supplied Rules and Regulations provide that physical force is restricted to circumstances allowed by law and only when necessary to accomplish a police task successfully. The three CEW deployments were directed at apprehending a person actively fleeing lawful police detention, so they served a legitimate police task. Whether each was “necessary” must be assessed in context rather than understood as requiring proof that no alternative existed.

The CEW Procedure P-2023-057 provides more concrete guidance. It states that CEW use must conform to the APD use-of-force procedure, recognizes every CEW application as a use of force, and requires special consideration where deployment may cause serious injury or death because of falling, drowning, or comparable hazards. It also requires supervisor and EMS response following cartridge deployment, medical notification, proper probe removal, medical clearance, and force reporting.

Snader's one deployment against an actively fleeing detainee appears facially consistent with the CEW procedure's incorporation of the general objective-reasonableness standard. The supplied CEW procedure does not expressly forbid shooting at a running person and does not expressly require a verbal warning. The warning sequence is therefore an important best-practice issue but cannot, on this record, be called a CEW-policy violation.

[12] Ohio Rev. Code Ann. § 2921.31 (West 2026).
[13] Ohio Rev. Code Ann. § 2921.33 (West 2026).

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Abel's first and second deployments require closer scrutiny under the special-consideration language. Hicks was physically at a fence when Abel fired. This circumstance presented an obvious possibility of secondary injury from incapacitation. The record does not show whether Abel evaluated the height of the fence, the landing surface, Hicks's precise body position, or whether Hicks was already elevated when the second cartridge was discharged. Because the policy uses "special consideration" rather than an absolute prohibition, the evidence does not establish a violation merely because a fence was present. The appropriate policy finding is indeterminate as to full compliance with the fall-hazard requirement, with a substantial tactical concern.

The officers' decision to stop force once Hicks complied is consistent with APD's use-of-force framework. After the effective CEW cycle, Abel did not fire another cartridge or activate an additional cycle. Hicks complied with ground and hand-position commands and was handcuffed. No officer struck, kicked, kneed, sprayed, or otherwise applied additional reportable force. This is one of the strongest indicators of proportional force management in the case.

Medical-aid compliance was strong. The CEW procedure requires supervisor and EMS response and medical clearance following CEW exposure. Beck responded, EMS evaluated Hicks, medical personnel removed the probes, and Hicks was transported to a hospital before jail acceptance. No deficiency is identified.

Reporting requirements appear substantially satisfied. Snader and Abel each prepared force narratives. The incident was documented in BlueTeam, CAD and arrest records were incorporated, photographs were taken, and a subject interview occurred. Beck canvassed the area and attempted to locate external video.

The supervisory-investigation requirement, however, deserves qualification. APD procedure requires the supervisor to compare and assess officer, witness, and suspect statements and address BWC capture, including the audio feature. Myers did identify Abel's muted audio and concluded it was not a violation. But the final analysis does not meaningfully address the secondary-fall risk or reconcile the warning discrepancy between Snader's narrative and the supervisor's own chronology. These are supervisory-review deficiencies, even though they do not establish that the underlying force was impermissible.

V. Tactical Assessment and De-escalation Review

The initial stop appears tactically conventional. Multiple officers were present, both occupants had been removed, and the firearm had been identified and subsequently located. The greatest pre-force tactical vulnerability arose when personnel attention shifted toward the search and Phillips moved away from the person he had been guarding. Hicks exploited that moment and ran.

The evidence does not establish that officers had concrete pre-flight indicators requiring them to handcuff Hicks earlier. Routine preventive handcuffing carries its own intrusion and must be

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justified. It would therefore be inappropriate to fault officers merely because, with hindsight, Hicks later fled.

Once the pursuit began, time became compressed by Hicks's actions rather than solely by police conduct. Officers did not manufacture the need to act by unnecessarily advancing on a stationary, contained subject. Hicks actively increased distance, moved through yards, crossed barriers, and attempted to continue to escape. This distinction limits the applicability of critiques normally associated with "officer-created jeopardy."

Nevertheless, immediate physical capture was not the only conceivable objective. With multiple officers available, radio communications, known streets surrounding the pursuit area, and nearby patrol units reflected in CAD, containment might eventually have become a viable alternative to repeated close foot pursuit. The evidence is insufficient to determine whether officers could reasonably have established a perimeter quickly enough to make disengagement safer. That issue is therefore indeterminate, not a finding of tactical misconduct.

Snader's tactical performance improved as the pursuit developed. He recognized that waist-high vegetation created concealment and ambush risks and slowed rather than running blindly into it. That was sound risk management.

Abel's decision-making at the fence is more problematic. The perceived benefit of a CEW was clear: incapacitation could prevent Hicks from getting over another barrier and extending the pursuit. The risk was equally recognizable: NMI eliminates a person's ability to protect himself during a fall. Both Abel and Snader suffered fence-related injuries during the chase, demonstrating the hazardous character of the terrain. A tactic intended to reduce pursuit injury thus simultaneously exposed Hicks to an uncontrolled-fall hazard.

PERF's ECW guidance specifically advises that flight should not by itself justify ECW use and requires consideration of offense seriousness, threat, and potential injury. That guidance does not mean Abel should have allowed Hicks to escape. It means the decision should have included an explicit assessment of whether continued pursuit, physical capture after the fence, containment, or CEW deployment posed the least unreasonable overall risk.

The first ineffective Abel deployment should also have caused a rapid reassessment before the second. Under the facts provided, however, little or no meaningful time may have existed between cartridges; Hicks was continuing to negotiate the fence. The second use therefore cannot fairly be criticized as if Abel had minutes to reconsider.

Warnings were another tactical de-escalation tool. PERF recommends a warning before ECW activation unless warning creates risk. Abel reports giving commands before firing. Snader's exact warning timing is unresolved. APD should distinguish an order to "stop" from a specific warning that a CEW is about to be used because the latter gives the subject a final opportunity to avoid incapacitating force.

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Post-force tactics were notably disciplined. Abel did not continue cycling the CEW once Hicks fell and began complying. Officers transitioned to verbal control, restraint, medical assessment, and scene stabilization. This is exactly the point at which force must cease, and it did.

VI. Findings

The initial traffic stop was constitutionally lawful on the available evidence. Officers had objective traffic-law grounds and additional facts supporting an investigation into the reported explosion.

The detention of Randolph Hicks as a passenger was constitutionally permissible. He remained seized during the active traffic stop and was not entitled to terminate that detention unilaterally by fleeing.

The pursuit and attempted apprehension were legally justified. Hicks's flight and refusal to stop supplied legitimate grounds for officers to pursue and materially strengthened probable cause for obstruction-related enforcement.

Snader's single CEW deployment is found consistent with constitutional requirements and likely consistent with APD's general force framework. Hicks was actively fleeing and disregarding police commands. The timing of an explicit CEW warning is indeterminate based on the available evidence.

Abel's first CEW deployment is found to be consistent with constitutional requirements. Hicks remained in active flight and was attempting to cross another barrier. The deployment was ineffective.

Abel's second, effective CEW deployment is found to be consistent with constitutional requirements but presenting tactical concerns. Hicks's ongoing flight justified meaningful nondeadly force under applicable Sixth Circuit authority, and Abel used no additional electrical force after achieving control. The fence, however, created a foreseeable secondary-fall risk that should have been expressly assessed.

Under the supplied CEW Procedure P-2023-057, the post-deployment medical, notification, and reporting requirements appear satisfied. The fence deployment raises a policy-application concern under the requirement for special consideration of fall hazards, but the available evidence is insufficient to establish a violation because the policy language is cautionary rather than absolutely prohibitory.

The cessation of force was appropriate. Once Hicks complied, officers stopped using force.

The medical response was consistent with policy and professional standards. EMS responded, embedded probes were removed by medical personnel, and Hicks received hospital evaluation and clearance.

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BWC-policy compliance is indeterminate. Abel's muted audio materially reduced the evidentiary value of an otherwise recorded critical incident. The investigating supervisor acknowledged the mute condition.

The preliminary investigation was generally adequate in documenting injuries, witnesses, scene evidence, medical treatment, and available recordings. A remaining investigative concern is the absence of documented follow-up concerning potentially relevant community-center video.

The final supervisory review reached a defensible ultimate conclusion but was analytically incomplete. It should have addressed the fence-related CEW risk, independently evaluated each of the three deployments, reconciled the warning discrepancy, and separated constitutional permissibility from tactical quality and best practice.

No evidence establishes a constitutional violation. No policy violation can be reliably established from the presently available materials. The principal issues are instead tactical risk management, evidentiary completeness, supervisory analysis, policy clarity, and training.

VII. Policy and Training Recommendations

Recommendation: Adopt explicit CEW restrictions for fleeing subjects and secondary-fall hazards.

Problem Addressed: APD's supplied CEW policy instructs officers to give "special consideration" to falling hazards but does not provide a sufficiently specific decision rule for a running person, fence, hard surface, or elevated position. The Hicks incident demonstrates ambiguity because the effective deployment occurred while Hicks was attempting to cross a fence.

Rationale: CEWs achieve control by disrupting voluntary motor function; the resulting fall can cause injury independent of the electrical exposure. Officers therefore need to assess both the need for immediate capture and the landing/fall environment.

Proposed Policy or Training Change: State that flight alone does not automatically justify a CEW; require consideration of offense severity, immediate threat, availability of containment, surface/landing area, height, momentum, traffic, water, and other secondary-injury risks. Provide that officers should not deploy against a person at a substantial elevation or where an uncontrolled fall is reasonably likely to cause serious injury or death unless the need to immediately incapacitate outweighs that risk.

National Best-Practice Basis: PERF Guideline 26 states that fleeing should not be the sole justification for ECW use and requires consideration of offense severity, threat, and serious-injury

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risk; Guideline 31 advises against deployment from an elevated position where a fall may cause substantial injury or death[14].

Real-World Agency Example: Wichita Police Department directs officers deploying a CEW on a running person to recognize heightened secondary-injury risk and consider a safe landing zone, while prohibiting use where an elevated-position fall may cause substantial injury or death[15].

Applicability to APD: The recommendation directly addresses the circumstances in this incident and builds on, rather than replaces, APD's existing falling-hazard language.

Recommendation: Require a specific CEW warning when feasible and require reports to document whether and when the warning occurred.

Problem Addressed: Snader's own chronology and the supervisory chronology differ as to whether Hicks was warned about CEW use before the first discharge.

Rationale: A clear warning can produce voluntary surrender, reduce force, provide tactical notice to other officers, and strengthen later evidence that force was necessary.

Proposed Policy or Training Change: Require a warning such as "Stop or you may be Tased" before CEW deployment when reasonably feasible and safe; require the officer's force report to state whether a warning was given, its approximate wording, whether the subject appeared to hear it, and why a warning was omitted if none was given.

National Best-Practice Basis: PERF Guideline 22 states that a warning should precede ECW activation unless it would place someone at risk[16].

Real-World Agency Example: Numerous modern CEW policies operationalize warnings; Austin ISD Police, for example, requires an audible "TASER, TASER" warning associated with deployment procedures[17].

Applicability to APD: The change would improve both de-escalation and the reliability of APD's BlueTeam investigations without materially restricting officers in rapidly evolving situations.

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[14] Police Executive Research Forum and U.S. Department of Justice, Office of Community Oriented Policing Services, *2011 Electronic Control Weapon Guidelines* (Washington, DC: Police Executive Research Forum, 2011), 20–21.
[15] Wichita Police Department, *Policy 910: Conducted Energy Weapon* (Wichita, KS: Wichita Police Department).
[16] Police Executive Research Forum and U.S. Department of Justice, Office of Community Oriented Policing Services, *2011 Electronic Control Weapon Guidelines* (Washington, DC: Police Executive Research Forum, 2011), 20
[17] Austin Independent School District Police Department, *Policy and Procedure Manual* (Austin, TX: Austin Independent School District Police Department).

Recommendation: Require continuous BWC audio/video during enforcement action, force, pursuits, and apprehensions absent a defined exception, with any muting expressly documented.

Problem Addressed: Abel's BWC remained muted from the vehicle search through Hicks's unexpected flight, pursuit, CEW use, and apprehension, leaving no objective audio record of a critical force sequence.

Rationale: BWC audio can resolve disputes about commands, warnings, officer coordination, subject statements, and timing. Missing audio weakens accountability for officers and subjects alike.

Proposed Policy or Training Change: Require officers who temporarily mute for an authorized tactical or investigative discussion to reactivate audio immediately when enforcement activity resumes or conditions change. Where technologically available, APD should use automatic activation triggers and pre-event buffering and require supervisors to identify and assess unexplained audio gaps in force reviews.

National Best-Practice Basis: BJA's BWC Toolkit reports that many departments allow deactivation only when an encounter has concluded and cites PERF's recommendation to continue recording until the incident ends, the officer leaves, or a supervisor authorizes deactivation[18].

Real-World Agency Example: DOJ-published tribal BWC policy guidance allows temporary muting only after the immediate encounter has stabilized and requires justification to be recorded and documented[19].

Applicability to APD: Akron is already investing in BWC infrastructure, and City Council in 2026 considered a pre-activation look-back requirement, making this recommendation operationally aligned with existing local technology initiatives[20].

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[18] U.S. Department of Justice, Bureau of Justice Assistance, "When Should an Officer Activate and Deactivate the Camera?," *Body-Worn Camera Toolkit*, accessed August 19, 2026.
[19] Robert Haas, Craig D. Uchida, Delaney Falsken, and David J. Rogers, *Body-Worn Camera Policies and Procedures: Guidelines for Tribal Law Enforcement* (Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, September 2024).
[20] City of Akron, Ohio, *Resolution in Which City Council and the Administration Commit to Working Together to Establish a Pre-Activation Look-Back Requirement for All Body-Worn Cameras Utilized by Officers of the Akron Police Department* (proposed March 9, 2026).

Recommendation: Require supervisory force reviews to assess each application separately and include tactical/proportionality analysis, not merely a global "within policy" determination.

Problem Addressed: The APD review found all three CEW applications within policy but did not meaningfully analyze the fence hazard, distinguish the rationale for each cartridge, or reconcile conflicting warning evidence.

Rationale: Circumstances can materially change between successive force applications. A use that is reasonable initially may become unnecessary later, while a failed application may justify or undermine a subsequent tactic depending on what changed.

Proposed Policy or Training Change: Supervisory templates should require a separate finding for every CEW discharge/cycle and other significant force application, addressing offense severity, threat, resistance, warnings, environmental risks, alternatives, changed circumstances, cessation, and preceding tactical decisions. Supervisors should also be required to identify material contradictions and explain how objective recordings resolve, or fail to resolve, them.

National Best-Practice Basis: *Barnes v. Felix* requires a totality-of-the-circumstances analysis without an artificial temporal cutoff and recognizes that earlier events can affect the reasonableness of later force. PERF likewise recommends that each subsequent ECW application be independently justified and weighed against alternative force options.

Real-World Agency Example: Indiana University Police Department's revised 2026 ECW order requires every operational ECW deployment to be reported and administratively reviewed[21].

Applicability to APD: APD already maintains a BlueTeam supervisory system; this change primarily improves analytical content rather than creating a new review bureaucracy.

Recommendation: Establish a documented follow-up and preservation protocol for identified third-party video in reportable-force investigations.

Problem Addressed: Beck identified potentially relevant cameras at the Gus Johnson Community Center but could not make contact during the initial canvass; the supplied record does not show a subsequent attempt before closure.

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[21] Indiana University Police Department, "G7.1.7 Electronic Control Weapons," *IUPD General Orders*, chap. 7, "Use of Force," effective September 18, 2018, revised August 4, 2026.

Rationale: Independent video can resolve disputes that officer reports and partially muted BWC cannot, including warning timing, subject movement, deployment distance, and environmental hazards.

Proposed Policy or Training Change: When investigators identify a potentially relevant camera, they should document the owner/custodian, initial contact attempt, estimated retention period, preservation request if appropriate, follow-up attempts, retrieval outcome, and reason the investigation was closed without the video.

National Best-Practice Basis: BWC and digital-evidence guidance emphasizes preservation and systematic management of video evidence because recordings can materially affect charging, constitutional analysis, and reliability of factual findings. BJA describes BWC evidence as critical to informed charging and safeguarding constitutional rights[22].

Real-World Agency Example: This recommendation can be implemented through APD's existing BlueTeam evidence-attachment requirement rather than requiring a new operational program; the supplied APD procedure already directs supervisors to determine whether other video is available and attach relevant supporting media.

Applicability to APD: The gap occurred directly in this investigation and could be corrected through a checklist and supervisory closure requirement.

VIII. Conclusion

The available evidence supports the conclusion that Akron police officers acted within constitutional limits during the July 13, 2026, encounter with Randolph Hicks. The APD investigation into the officers' use of force determined the force used was **Objectively Reasonable**. OIPA concurs with the finding.

The effective Abel deployment nevertheless presents the most significant tactical lesson. A CEW predictably deprives a person of the ability to control a fall. Deploying it while Hicks was attempting to negotiate a chain-link fence introduced an environmental risk that APD's own CEW procedure required officers to consider. The record does not establish that the fence presented a substantial elevation or a likely deadly fall, and Hicks ultimately suffered no serious fall injury. Those facts prevent the concern from becoming a finding of excessive force. They do not eliminate the underlying tactical issue.

The principal deficiencies are supervisory and organizational rather than constitutional. The final APD review did not adequately distinguish constitutional legality from tactical quality, did not meaningfully analyze the fall risk created by firing a CEW while Hicks was at the fence, did not

[22] Michael C. Green, Robert Haas, Frank P. Carrubba, Craig D. Uchida, and Delaney Falsken, *Body-Worn Camera Policies and Procedures: Guidelines for Prosecutors* (Washington, DC: U.S. Department of Justice, Bureau of Justice Assistance, 2023)

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reconcile contradictory evidence concerning Snader's pre-deployment warning, and accepted an important BWC audio gap without the more rigorous evidentiary analysis that such a gap warrants. The preliminary investigation also identified potentially relevant third-party video without establishing in the supplied record whether follow-up preservation efforts occurred.

The broader lesson for APD is that a finding of "within policy" should not terminate the organizational inquiry. Constitutional permissibility defines a legal floor. A mature constitutional-policing system should additionally ask whether tactics minimized avoidable injury, whether officers used warnings and environmental awareness effectively, whether objective evidence fully documents critical moments, and whether supervisory review captures lessons that can reduce force in future incidents. *Barnes v. Felix* reinforces that this wider lens is no longer merely an aspirational best practice; the complete course of an encounter matters when police force is evaluated.

Anthony Finnell



Independent Police Auditor

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Independent Police Auditor
Use of Force Review

SUBJECT NAME:	**DeShawn Oden**
CASE NUMBER:	**2026-00085273**
DATE OF INCIDENT:	**07/16/2026**
DATE OF OIPA REPORT:	**08/20/2026**
LOCATION OF INCIDENT:	**Morgan Ave. and Beardsley St., Akron, Ohio 44311**
APD DISTRICT:	**6**

I. Incident Overview

At approximately 11:10 p.m. on July 16, 2026, Officers Gorham and Williams were working uniformed patrol in Car 21 when they observed a male later identified as DeShawn Oden riding a bicycle southbound on Brown Street near Morgan Avenue. Gorham reported that the bicycle did not have the lighting required by Akron City Code 75.06. Williams similarly reported observing Oden riding without a bicycle light. Oden subsequently turned westbound onto Morgan Avenue.

The officers attempted to stop Oden near Morgan Avenue and Beardsley Street by activating the cruiser's emergency lights. When Oden did not stop, the officers activated the emergency siren. According to IVS footage[1] showed Oden turn his head and look back toward the officers before continuing southbound on Beardsley Street. Officer Williams requested emergency radio traffic while the officers continued following Oden. The officers used the cruiser's spotlight, and Gorham provided dispatch with a description of Oden and his direction of travel. Oden proceeded from Beardsley Street onto Lovers Lane and then southbound onto Wilbur Avenue. The supervisor calculated the total flight path at approximately 1,100 feet.

The encounter transitioned from a bicycle pursuit to a physical apprehension near 1072 Wilbur Avenue. Oden rode from the sidewalk into the roadway while turning back toward the north. Car 21 was approximately parallel to him, and the passenger side of the cruiser blocked his path. Officer Gorham opened the passenger-side door as Oden entered the roadway. Oden's bicycle struck the cruiser door. The available documentary accounts differ somewhat in how they characterize this moment: Gorham reported that Oden made a quick U-turn and ran the bicycle into the passenger door as Gorham was exiting, while the supervisory investigation states that Oden's bicycle struck the open door and specifically notes that the available camera footage did not show the contact itself.

Following the contact with the cruiser door, Oden turned back toward the south. Gorham attempted to physically apprehend him while directing him to get on the ground. Gorham reported that Oden continued trying to pull away. Gorham then wrapped both arms around Oden in a rear body lock

[1] IVS – (Extraction_1.1)_GORHAM_Robert_(1606)Suspicous_Person_MORGAN_AVE_BEARDSLEY_ST, mark 00:33 – 01:55.

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and used his body weight to perform a rear-body-lock takedown, separating Oden from the bicycle and bringing him to the ground.

The physical encounter continued briefly on the ground. Gorham reported that Oden attempted to pull his arms underneath his body in an effort to get up. Gorham reached underneath Oden, brought his right arm behind his back, and applied what Gorham identified as a Kimura shoulder lock to restrict the mobility of the arm. Gorham then assumed a rear-mount position to prevent Oden from getting up. Officer Williams brought Oden's other arm behind his back, after which Gorham applied handcuffs. Gorham reported that he immediately got off Oden once Oden was handcuffed.

Williams's account is less detailed concerning the ground-control techniques but is materially consistent with the principal sequence. Williams reported seeing Gorham perform the rear-body-lock takedown and stated that he and Gorham then placed Oden under arrest without further incident. Williams requested EMS and a supervisor. T

A search incident to arrest resulted in officers recovering approximately 16 grams of a white substance that field-tested positive for methamphetamine and approximately 2.5 grams of marijuana. Oden was ultimately cited for bicycle-related violations and charged with offenses identified in the case records as possession of drugs, obstructing official business, resisting arrest, and failure to comply with the order or signal of a police officer.

II. Legal Analysis

The principal constitutional issue in this incident is whether the seizure of DeShawn Oden and the force used to accomplish his arrest were reasonable under the Fourth Amendment. The encounter originated as a self-initiated traffic-related enforcement action after Officers Robert Gorham #1606 and Aaron Williams #1579 observed Oden operating a bicycle at night without required lighting. The legal analysis therefore begins with the legitimacy of the attempted stop and proceeds to the reasonableness of the force used after Oden failed to stop and continued attempting to evade the officers.

Fourth Amendment — Initial Stop and Seizure

A temporary traffic stop constitutes a seizure within the meaning of the Fourth Amendment. Where an officer observes conduct providing an objectively sufficient basis for a traffic enforcement action, an ensuing stop ordinarily satisfies the Fourth Amendment regardless of an officer's subjective motivations. *Whren v. United States*, 517 U.S. 806 (1996), reflects the Supreme Court's objective approach to traffic enforcement under the Fourth Amendment. The central constitutional question is whether objective circumstances justified the police action, not whether some different subjective purpose motivated the officer[2].

[2] *Whren v. United States*, 517 U.S. 806, 813 (1996).

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Here, Gorham and Williams separately reported observing Oden riding a bicycle after dark without required lighting. Gorham specifically identified the conduct as a violation of Akron City Code 75.06[3]. The officers thereafter activated the cruiser's emergency lights near Morgan Avenue and Beardsley Street and, when Oden did not stop, activated the siren. The in-car recording depicted Oden looking back at the officers before continuing southbound on Beardsley Street, after which the officers continued following him for approximately 1,100 feet.

On the record supplied, the initial attempted stop had an objectively legitimate law-enforcement basis. The case does not present facts suggesting that the officers lacked authority to investigate an observed bicycle-equipment violation. Consequently, the constitutional inquiry does not turn on whether officers were entitled to initiate police contact; the more significant issue is how the governmental interest evolved as Oden continued away from the officers and how much force reasonably could be used to terminate that flight.

Ohio law in effect on the date of the incident made it unlawful to fail to comply with a lawful order or direction of a police officer invested with authority to direct, control, or regulate traffic. Ohio Revised Code § 2921.331(A). Unlike § 2921.331(B), which specifically addresses flight while operating a motor vehicle, subsection (A) is framed more broadly around failure to comply with a lawful traffic-related police order[4]. The APD case report identifies § 2921.331(A), rather than the motor-vehicle flight subsection, as one of the offenses charged.

The case also identifies obstructing official business under Ohio Revised Code § 2921.31. At the time of this incident, that statute prohibited a person, without privilege and with the purpose to prevent, obstruct, or delay an authorized official act, from committing an act that hampers or impedes the public official's lawful duties[5]. Whether every element of that offense ultimately could have been proven beyond a reasonable doubt is not necessary to decide the force question. For Fourth Amendment purposes, the more pertinent circumstances are that the officers had initiated a lawful police stop; Oden allegedly recognized the officers' signal and continued away; and when the officers finally attempted hands-on apprehension, he allegedly continued moving and pulling away.

Ohio Revised Code § 2921.33(A) likewise provides that no person shall recklessly or by force resist or interfere with a lawful arrest[6]. This offense necessarily depends on the underlying arrest being lawful. Here, the supplied evidence supports a legitimate basis for the original stop and provides additional grounds for detention or arrest based on Oden's conduct after the officers attempted to stop him. Thus, the available record supports the legal authority of the officers to physically apprehend and detain Oden when they caught up with him.

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[3] City of Akron, Ohio, *Codified Ordinances*, § 75.06.
[4] Ohio Rev. Code Ann. § 2921.331 (2024).
[5] Ohio Rev. Code Ann. § 2921.31.
[6] Ohio Rev. Code Ann. § 2921.33.

Fourth Amendment — Use of Force and *Graham v. Connor*

The controlling constitutional standard for force used during an arrest or investigatory seizure is the Fourth Amendment's objective-reasonableness test established in *Graham v. Connor*, 490 U.S. 386 (1989). *Graham* requires examination of the facts and circumstances confronting officers without regard to their underlying intent or motivation. Reasonableness is assessed from the perspective of a reasonable officer on scene, recognizing that police officers sometimes must make rapid decisions concerning the amount of force required[7].

The Supreme Court identified several considerations relevant to that analysis, including the severity of the crime at issue, whether the person posed an immediate threat to officers or others, and whether the person was actively resisting arrest or attempting to evade arrest by flight. These factors are not an inflexible checklist. They assist in evaluating the totality of the circumstances and the relationship between the governmental interest at stake and the degree of force used[8].

The first *Graham* consideration, which is the severity of the suspected offense, initially weighs against a substantial use of force. This encounter began because of an alleged bicycle-lighting violation. Nothing in the supplied record indicates that Officers Gorham and Williams initially believed Oden had committed a violent offense, possessed a weapon, or posed an immediate threat to another person. The later discovery of approximately 16 grams of methamphetamine cannot retroactively strengthen the justification for force because the drugs were not discovered until after Oden had been taken into custody. Constitutional reasonableness must be assessed based on information available to the officers when the force was used, not facts learned afterward.

The governmental interest nevertheless increased as the encounter progressed. According to the supervisory investigation, Oden looked back toward the officers after the emergency equipment had been activated and continued riding away. The officers then activated the siren, requested emergency radio traffic, maintained visual contact with a spotlight, and followed Oden through several streets for approximately 1,100 feet. Although flight from a minor traffic matter does not by itself permit unlimited force, attempted evasion is expressly relevant under *Graham*.

The immediate-threat factor is more limited. The record does not establish that Oden displayed a weapon, struck or attempted to strike either officer, threatened an officer, or otherwise engaged in assaultive behavior before the takedown. The collision between the bicycle and the cruiser door requires particular caution in the legal analysis. Gorham reported that Oden made a quick U-turn and ran the bicycle into the passenger door as Gorham was exiting. The supervisory investigation describes the bicycle striking the opened passenger door, but the available camera footage did not depict the actual contact. The supervisor specifically noted that neither Oden nor Gorham reported the cruiser door being intentionally used to strike Oden. The evidence therefore does not establish that Oden used the bicycle as a weapon against Gorham or that the contact amounted to an assault.

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[7] *Graham v. Connor*, 490 U.S. 386, 395–97 (1989)
[8] *Id.*

The collision contributes to the rapidly changing circumstances surrounding the apprehension, but it should not be overstated as evidence of a violent threat.

The third *Graham* consideration, which is active resistance or attempted flight, provides the strongest justification for the physical force. After the bicycle contacted the cruiser door, Gorham reported that Oden turned back south and again attempted to flee. Gorham pursued him, grabbed him in a rear body lock, and ordered him to get on the ground. According to Gorham, Oden continued pulling away. Gorham then performed the rear-body-lock takedown. Once on the ground, Oden allegedly attempted to pull his arms underneath himself and get up, which led Gorham to control the right arm with a Kimura shoulder lock and rear-mount position while Williams controlled the left arm.

Sixth Circuit law generally recognizes an important distinction between active resistance and a person who is compliant, secured, or merely passively resistant. Recent Sixth Circuit authority continues to describe takedown maneuvers as potentially reasonable when used against an actively resisting arrestee, while emphasizing that significant physical force may become excessive where a person is not actively resisting or has ceased resisting[9]. That distinction is consistent with APD's own supplied policy language, which links less-lethal force to active resistance or evasion and requires force to stop when resistance ceases.

On the facts documented in the supplied record, Gorham's rear-body-lock takedown was proportionate to a legitimate need to prevent continued escape. The force was physical and significant enough to bring Oden to the ground, but it was materially less intrusive than strikes, chemical spray, a conducted-energy weapon, impact weapon, or deadly force. Gorham first attempted to grab Oden while issuing a command to get on the ground, and the takedown reportedly followed after Oden continued pulling away. Given Oden's documented flight and continued movement away during the attempted apprehension, the available evidence supports the conclusion that the takedown was objectively reasonable.

The ground-control force requires a separate assessment because constitutional reasonableness may change as circumstances change. A lawful initial takedown does not authorize continued force after resistance has ended. According to Gorham, after Oden reached the ground he attempted to bring his arms underneath his body and get back up. Gorham therefore pried Oden's right arm behind his back, applied a Kimura shoulder-control technique, and used a rear-mount position while Williams secured the opposite arm. Once the handcuffs were applied, Gorham reported that he immediately got off Oden. The review of BWC and IVS similarly found that the officers communicated concerning control of Oden's arms, completed the handcuffing, and used no additional reportable force afterward.

The progression of force was closely tied to Oden's changing behavior: a body lock while he continued moving away; a takedown after he continued pulling away; arm and positional control

[9] *Lucas v. City of Reynoldsburg*, No. 25-3481, slip op. at 5–7 (6th Cir. 2026).

after he attempted to place his arms underneath himself or rise; and cessation of force once handcuffed. That proportional progression substantially supports constitutional reasonableness.

The relatively limited injury is consistent with, although not dispositive of, that assessment. Sgt. Joseph Brewer documented a scrape to Oden's left knee and reported that Oden made no complaint of pain and identified no other injury at the scene. A minor injury does not automatically make force reasonable, just as a significant injury does not automatically establish excessive force. The principal question remains the need for and degree of force at the time it was used. Here, however, the limited injury is consistent with the documented use of brief control-oriented force rather than punitive or gratuitous force.

Barnes v. Felix and the Totality of the Encounter

The constitutional assessment should also account for the Supreme Court's 2025 decision in *Barnes v. Felix*. *Barnes* rejected a rule that would confine Fourth Amendment review to only the precise instant when an officer perceived the threat causing force to be used. Courts must consider relevant events occurring before the climactic moment as part of the totality of the circumstances[10].

Barnes does **not**, however, establish a categorical "officer-created jeopardy" rule. The Supreme Court expressly declined to decide whether or how an officer's creation of a dangerous situation independently affects the Fourth Amendment reasonableness inquiry. The Court resolved the timing question: earlier relevant events cannot simply be excluded from consideration[11].

Applied here, the force should therefore not be evaluated only at the instant Gorham executed the takedown. Relevant earlier circumstances include the minor nature of the original bicycle violation, the officers' use of emergency lights and siren, Oden's continued flight, the approximately 1,100-foot pursuit, Car 21's position parallel to Oden near 1072 Wilbur Avenue, Gorham's decision to open the passenger door while Oden was turning into the roadway, the bicycle's contact with the door, and the transition from vehicle pursuit to hands-on apprehension.

Nothing in the documentary record establishes that the officers deliberately used the cruiser or cruiser door as an impact weapon. The evidence also does not establish that the officers' pre-force conduct rendered the subsequent takedown constitutionally unreasonable. Nevertheless, *Barnes* reinforces the importance of evaluating the vehicle positioning and door-opening decision as part of the overall encounter rather than treating the takedown as an isolated event. Whether those decisions were tactically optimal is a separate matter addressed more directly in the tactical assessment. Constitutional compliance and tactical best practice are not necessarily identical.

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[10] *Barnes v. Felix*, 605 U.S. 73, 78–83 (2025).
[11] *Id.*

Force Used to Prevent Flight

The fact that Oden was attempting to flee is significant, but it does not provide unlimited authority to use force. A person fleeing a minor offense cannot constitutionally be subjected to any degree of force merely because apprehension is more difficult. Rather, the force must remain proportional to the governmental interest and the safety circumstances.

In this case, Gorham used a hands-on takedown rather than a weapon. The purpose described in his report was to stop Oden from continuing to flee. Oden had already traveled a substantial distance after the officers attempted to stop him and allegedly continued pulling away after Gorham obtained physical contact. Under those circumstances, some degree of physical control was reasonably necessary if the officers intended to complete the lawful detention or arrest. The employed force was directed at immobilizing Oden rather than punishing his flight.

The analysis changes once the subject is under control. Both constitutional law and the supplied APD procedure recognize that continued injurious force against a restrained, compliant person can be unreasonable. The record does not document such force. Gorham stated that he disengaged immediately once Oden was handcuffed, and the supervisor reported observing no additional reportable force on BWC or IVS. Accordingly, the record supports the conclusion that the officers terminated the physical force when its immediate objective had been achieved.

Search Incident to Arrest

Following the arrest, officers searched Oden and recovered approximately 16 grams of methamphetamine and 2.5 grams of marijuana. The APD field case report states that the methamphetamine was located in Oden's front-right pants pocket. A lawful custodial arrest generally permits a contemporaneous search of the arrestee's person and items immediately associated with the person. Because the available evidence supports a lawful arrest before the drugs were discovered, the supplied record does not reveal an apparent Fourth Amendment defect in the search incident to arrest.

Importantly, however, the drugs discovered after the force cannot be used to retroactively justify the force itself. The reasonableness analysis remains confined to what the officers knew or reasonably perceived when they decided to seize Oden physically.

Post-Arrest Medical Care

The constitutional responsibilities of officers do not end when force ceases. Once a person is in custody, officers have obligations concerning reasonably apparent medical needs and must not act with constitutionally impermissible disregard for serious medical conditions.

The documentation in this case is not entirely consistent regarding Oden's medical evaluation. Gorham and the APD case report state that Oden was treated and released by EMS at the scene.

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Officer Williams's report states that Oden refused treatment. The supervisory investigation records a scrape to the left knee, no complaint of pain, and no other injury identified by Oden. Those accounts can potentially be reconciled if EMS evaluated Oden and Oden declined additional treatment, but the materials themselves do not expressly explain the discrepancy.

The CAD material further indicates that Oden was later refused admission at the jail because of the use-of-force incident and was transported for additional medical evaluation. That later development does not establish that officers initially failed to provide appropriate care. It does, however, demonstrate why complete documentation of medical assessment, refusal, clearance, subsequent jail rejection, and hospital disposition is important in a use-of-force investigation.

On the presently available evidence, there is insufficient basis to find a constitutional denial of medical care. EMS was requested after the force, Oden was evaluated or offered treatment, a supervisor documented the visible injury, and subsequent medical evaluation was obtained when the detention facility would not accept him. The record more strongly presents a documentation and continuity-of-care issue than evidence of deliberate disregard for an obvious serious medical need.

Overall Legal Assessment

Based on the evidence presently available, the officers had an objectively legitimate basis to initiate a police stop for the observed bicycle violation. As the encounter progressed, Oden's continued flight provided an increasing governmental interest in apprehension. When Gorham made physical contact, Oden allegedly continued moving away and pulling from the officer, and after the takedown he allegedly attempted to place his arms beneath himself and rise. The documented force was limited to hands-on control, a rear-body-lock takedown, arm manipulation and shoulder control, positional control, and handcuffing. No strikes, chemical spray, CEW deployment, impact weapons, firearm use, or continued force after handcuffing are documented.

Under the totality of those circumstances, the evidence supports a finding that Gorham's takedown and subsequent control techniques were objectively reasonable under the Fourth Amendment. Williams's assistance in controlling Oden's left arm appears constitutionally reasonable as part of the effort to complete handcuffing. That constitutional conclusion does not foreclose separate scrutiny of the officers' tactics, the cruiser positioning, the force-reporting classifications, supervisory documentation, or professional conduct.

III. APD Policy Analysis

Objectively Reasonable Force and Necessity

APD procedure states that when officers must use force to defend themselves or others, prevent escape, or overcome resistance to an arrest or detention, the force must satisfy the objectively reasonable standard. The procedure defines reportable force to include tackling or forcefully taking

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a person to the ground and defines an "involved officer" to include an officer who applies reportable force as well as an officer who assists in controlling or goes hands-on with a person against whom force has been used.

The Rules and Regulations similarly provide that physical force is restricted to circumstances authorized by law and only when necessary to accomplish a police task successfully. Rule 700.07 additionally prohibits unnecessary or unwarranted violence.

The documented force was connected directly to the objective of apprehending Oden after his continued flight. Gorham initially obtained a rear body lock while commanding Oden to get on the ground. According to Gorham, the takedown occurred only after Oden continued pulling away. Ground-control techniques followed when Oden allegedly attempted to bring his arms beneath himself and get up. Force stopped after handcuffing. On those facts, the force was directed toward accomplishing a lawful police objective rather than punishment or retaliation and appears consistent with the general necessity and reasonableness principles contained in the supplied APD materials.

De-escalation

APD procedure defines de-escalation broadly to include non-confrontational verbal skills, empathy, active listening, additional time and distance, additional resources, persuasion, command presence, repositioning, and warnings intended to reduce the intensity of an encounter and lessen the potential need for force.

This incident presents a different de-escalation environment from a barricade, behavioral-health crisis, or stationary noncompliant subject. Once Oden was actively riding away on a bicycle, the officers had limited opportunity to establish rapport or engage in extended verbal persuasion. They initially used nonphysical police authority, such as emergency lights, siren, spotlight, radio coordination, and commands, before resorting to physical force. The available record therefore does not establish that officers bypassed an obvious, safe verbal alternative at the immediate point of apprehension.

The policy question is more nuanced when considering the full encounter. The officers followed a bicyclist approximately 1,100 feet in a patrol cruiser and then attempted to transition rapidly from vehicle containment to physical apprehension when Oden reversed direction near the passenger side of the cruiser. Whether more distance, different positioning, additional responding officers, or a different method of containment could have reduced the collision and takedown risk is principally a tactical issue. The supplied record does not establish that such alternatives were clearly feasible at the moment force was used. Accordingly, there is insufficient evidence to find a de-escalation policy violation, while the incident remains appropriate for tactical-training review.

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Proportionality and Cessation of Force

The supplied APD procedure directs that officers' responses be based on the subject's actions and behavior and provides that force should be discontinued when resistance ceases or the subject is under control. This principle is particularly important because the physical encounter involved several distinct stages rather than one indivisible application of force.

The body lock corresponded to Oden's continued movement away. The takedown corresponded to his reported pulling away and continuing effort to escape. The arm manipulation and rear-mount control corresponded to his reported effort to place his arms beneath him and get up. Handcuffs were then applied. Gorham reported that he immediately disengaged once Oden was handcuffed, and the supervisor stated that no further reportable force was observed on the recordings.

The sequence therefore reflects a reduction and termination of force when the officers achieved control. The record does not show punitive strikes, gratuitous force, or continued pressure after restraint. On the evidence supplied, the force appears consistent with the APD principle requiring officers to cease force once resistance ends or control is achieved.

Cruiser Door Contact

The contact between Oden's bicycle and the passenger door requires careful policy treatment. If an officer intentionally opened or used a cruiser door as an impact device to strike a moving person, that conduct potentially could constitute a distinct use of force requiring separate justification and reporting. The supplied record, however, does not establish that this occurred.

Gorham described opening the door to exit the cruiser as Oden made a U-turn, after which Oden's bicycle ran into the door. The supervisor stated that neither Gorham nor Oden claimed the door was used to strike Oden and that the available video did not depict the contact itself. The supervisor went further and offered a hypothetical conclusion that deliberate use of the door would have been reasonable. This independent review need not adopt that hypothetical finding because the factual predicate, intentional use of the door as force, was not established.

Accordingly, the more supportable policy conclusion is that the available evidence is insufficient to classify the cruiser-door contact as a deliberate application of force. The positioning and door-opening decision can still be evaluated tactically even if it is not classified as reportable force.

Classification of Officer Gorham's Force

The rear-body-lock takedown plainly fits the supplied APD definition of reportable force because the procedure specifically includes tackling and taking a person to the ground forcefully. Gorham appropriately completed a Use of Force/Resisting Arrest report describing the circumstances preceding his force and the specific techniques he used.

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Gorham's narrative is notably more detailed than the supervisor's ultimate characterization of the reportable force. Gorham described the rear body lock, rear-body-lock takedown, Kimura shoulder lock, rear-mount position, and handcuffing. The supervisory conclusion focused principally on the rear-body-lock takedown as the reportable force and stated that no other reportable force was observed.

APD procedure does not expressly list every joint lock or ground-control technique as independently reportable. Thus, the documentation does not establish that failure to classify the Kimura or rear mount as a separate reportable force category was a policy violation. Nevertheless, a comprehensive force investigation should identify and assess every physical control technique that materially contributed to restraint. Gorham did so in his individual narrative. The supervisory report could have been more explicit in analyzing those techniques independently rather than effectively subsuming them into the takedown and apprehension sequence.

Classification of Officer Williams

A more significant policy-classification question concerns Officer Williams. The supervisor found that ***"Officer Gorham was the only officer to use reportable force."*** That conclusion may be correct if the phrase is read narrowly to mean that Gorham was the only officer who personally applied a technique independently meeting the definition of "reportable force." Williams did not perform the takedown.

The APD definition of ***"involved officer,"*** however, is broader than *"officer who used reportable force."* It includes an officer who assists in controlling or goes hands-on with a person against whom force has been used. Williams acknowledged participating in the physical arrest, and Gorham stated that Williams brought Oden's opposite arm behind his back. The supervisory investigation similarly states that Williams gained control of Oden's left arm during handcuffing.

Under the terminology contained in the supplied policy, Williams therefore appears to fit the definition of an ***involved officer***, even if he did not independently employ a reportable technique. That distinction matters because the supplied procedure states that all officers involved in a use-of-force/resisting-arrest incident must complete the appropriate BlueTeam report, while witness officers report their observations from the perspective of a witness. Williams did submit a Use of Force Report, which is consistent with treating him as an involved participant for reporting purposes. The principal issue is therefore one of ***classification clarity***, not an apparent failure by Williams to submit documentation.

For future supervisory reviews, APD would benefit from distinguishing expressly between the finding that "only Gorham applied reportable force" and the separate determination that "Gorham and Williams were involved officers." Such terminology would more accurately reflect the Department's own definitions and avoid ambiguity in statistical tracking and accountability review.

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Reporting Requirements

APD procedure requires officers involved in a use-of-force/resisting-arrest incident to complete BlueTeam reporting. Officers using force must articulate the factors they perceived that gave rise to the force and why the force was reasonable. The procedure also requires an incident report regardless of criminal charges and contains provisions for documenting property damage associated with the incident.

Gorham's report substantially satisfies the articulation objective. He identifies the basis for the attempted stop, Oden's flight, the bicycle/cruiser-door contact, Oden's continued attempt to leave, the verbal direction to get on the ground, Oden's continued pulling away, and Oden's effort to place his arms beneath himself on the ground. He also identifies each physical technique he used and explains the purpose of the Kimura shoulder lock.

Williams's report is less detailed. He describes the pursuit, Gorham's takedown, his participation in the arrest, the request for EMS and a supervisor, and the subsequent charges. His report does not describe his own arm-control action with the specificity contained in Gorham's report or the supervisor's investigation. This does not necessarily establish a violation based on the documentation available, but it represents an opportunity to improve individual force articulation. Each officer's report should make clear what that particular officer physically did rather than relying on another officer's report or subsequent supervisory review to establish the officer's role.

Supervisory Investigation

The supplied policy imposes significant responsibilities on the investigating supervisor. The supervisor is expected to respond when reportable force has been used or resisting-arrest charges are filed; ensure injured persons receive medical attention; locate and interview witnesses and the subject; photograph the scene, the subject, injuries, and relevant property damage; identify video and other evidence; and prepare a comprehensive BlueTeam investigative package.

The investigative package is also expected to document allegations and their resolution, compare relevant accounts, document injuries, indicate whether medical treatment was provided or refused, identify BWC evidence, and assess contributing circumstances in relation to objective reasonableness.

Sgt. Brewer responded to the scene, spoke with both officers, attempted to obtain a statement from Oden, photographed Oden's injury, reviewed BWC and IVS, reviewed officer statements, reconstructed the pursuit and physical apprehension, and made an objective-reasonableness finding. Those actions are consistent with the core supervisory review requirements reflected in the supplied policy.

There are nevertheless areas where the investigation could have been more complete. Most importantly, the supervisor's report does not reconcile the discrepancy between Gorham's

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statement that EMS treated and released Oden and Williams's statement that Oden refused treatment. The supplied policy specifically contemplates documentation of whether medical treatment was ***provided or refused***. Both propositions should not be left unresolved where the underlying records can likely establish precisely what occurred.

The supervisor also could have more explicitly addressed the later jail refusal and hospital transport documented in CAD, particularly because APD's investigative requirements call for consideration of CAD information and medical disposition. The absence of that reconciliation does not invalidate the force finding, but it reduces the completeness of the post-force medical review.

Further investigation could have separately evaluated the Kimura shoulder lock and rear-mount position described by Gorham. Even if those techniques were not independently reportable under the operative policy, acknowledging them and assessing whether they were consistent with training would improve the transparency and completeness of the supervisory review.

Medical Care and Prisoner Safety

APD's Rules and Regulations impose continuing obligations after arrest. Rule 1200.08 provides that prisoners are to be securely and humanely treated and that officers responsible for a person in custody are responsible for that person's safety and well-being. The Rule requires supervisory response where physical force is used and requires appropriate action when a prisoner is injured or ill. Rule 1200.12 further provides that prisoners requiring medical attention are to be taken to an appropriate emergency hospital.

Officers requested EMS following the arrest, and Brewer documented the visible scrape. Those steps were consistent with APD's medical and prisoner-safety responsibilities. The later jail refusal appropriately resulted in additional medical evaluation rather than an attempt to circumvent the facility's medical-clearance requirement.

The weakness is documentary rather than an established failure of care. The available package should more clearly explain whether Oden was examined and released by EMS, declined treatment, or both; what caused the jail to refuse admission; what subsequent medical clearance occurred; and how that related, if at all, to the force event. Complete continuity-of-care documentation is particularly important when a detention facility declines to accept an arrestee following police force.

Conduct Toward the Public

Rule 200.01 requires APD personnel to be courteous and orderly in dealings with the public, to perform their duties without harsh, violent, profane, or insolent language, and to remain calm despite provocation.

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The supervisor documented "banter" between Williams and Oden while Oden was in the cruiser. Brewer determined that the exchange did not rise to a violation of Rule 200.01 but counseled Williams about the public perception his interaction could create. Based on the language of APD Rule 200.01 and the portions of the Williams–Oden exchange reviewed[12], I would ***not agree with Sergeant Brewer's conclusion that the interaction categorically "did NOT cross the lines" into a Rule 200.01 violation.*** There is a reasonable and, in my assessment, fairly strong basis for concluding that at least portions of Williams's comments crossed from permissible conversational banter into discourteous, insulting, or insolent language toward a person in police custody.

The matter nevertheless implicates constitutional-policing principles extending beyond the minimum legal threshold. Persons under arrest should be treated professionally even where the person participates in or initiates verbal banter. The supervisor's coaching response does not appear to be appropriate based on the information available: it does recognize professionalism concerns but stops short of declaring a policy violation which is supported by the evidence.

Rule 200.01 establishes a higher standard than merely avoiding profanity

Rule 200.01 states:

Officers/employees shall be courteous and orderly in their dealings with the public, and shall perform their duties quietly, **not using harsh, violent, profane, or insolent language, and remaining calm despite provocation to do otherwise.**

A violation is classified as a minor offense of the third degree.

That language is significant because it does not require profanity, threats, shouting, or an overtly hostile confrontation before a violation occurs. The prohibition separately includes "insolent language," while the first clause affirmatively requires officers to be courteous in dealings with the public. It also specifically anticipates provocation and nevertheless requires officers to remain calm.

Accordingly, describing the interaction as "mutual banter" does not by itself resolve the policy question. The officer and the arrestee are not situated equally under Rule 200.01. Oden has no departmental obligation to be courteous to Williams; Williams has a departmental obligation to be courteous to Oden.

That becomes particularly important because Oden was already handcuffed and in police custody during the cruiser conversation. The underlying reports establish that after Oden was apprehended,

[12] BWC-(Extraction_1.1)_Williams_Aaron_(1579)Suspicious_Person_MORGAN_AVE_BEARDSLEY_ST-2, mark 17:42-18:09 (reference Oden's smell), 18:57-18:59 (reference Oden's lack of a frontal lobe).

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officers searched him, recovered suspected drugs, and arranged his transportation to the Summit County Jail.

"I can smell you and it definitely doesn't smell like alcohol"[13]

Of the statements identified, I consider this one of the stronger candidates for a Rule 200.01 violation.

There could theoretically be a legitimate law-enforcement reason for an officer to comment upon an odor. For example, saying, "I smell alcohol," "I smell marijuana," or describing another odor relevant to impairment, contraband, evidence, or medical condition can be professionally appropriate.

But that does not appear to be what Williams was doing when he told Oden, in substance, ***"I can smell you and it definitely doesn't smell like alcohol."*** In context, the statement appears less like an evidentiary observation and more like a personal comment about Oden's body odor or hygiene.

That distinction matters.

If Williams had simply documented an odor relevant to the investigation, there would be little basis for a Rule 200.01 concern. But directing a remark at an arrestee that essentially communicates *you smell bad* serves no apparent legitimate police purpose. Depending upon the tone and surrounding exchange reflected in the BWC, it is reasonably characterized as ridiculing, belittling, or insulting the person in custody.

That fits considerably less comfortably with the requirement that officers "shall be courteous" and shall refrain from "insolent language."

I would therefore characterize this statement as violative, and more likely than not inconsistent with Rule 200.01. BWC footage confirms that it was delivered as a personal insult rather than a legitimate investigative observation.

The "frontal lobe" comment is more problematic[14]

Williams's reference to Oden's apparent lack of a frontal lobe presents an even stronger Rule 200.01 concern.

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[13] BWC-(Extraction_1.1)_Williams_Aaron_(1579)Suspicious_Person_MORGAN_AVE_BEARDSLEY_ST-2, mark 17:42-18:09 (reference Oden's smell).
[14] BWC-(Extraction_1.1)_Williams_Aaron_(1579)Suspicious_Person_MORGAN_AVE_BEARDSLEY_ST-2, mark 18:57-18:59 (reference Oden's lack of a frontal lobe).

A statement suggesting that a person lacks part of his brain is, in ordinary usage, essentially an assertion that the person is stupid, intellectually deficient, or incapable of rational thought. There does not appear to be a legitimate law-enforcement purpose for making such a statement to Oden.

This is qualitatively different from an officer saying:

- "That was a bad decision."
- "You shouldn't have run."
- "You could have gotten hurt."
- "You need to think about what you're doing."

Those statements criticize conduct.

A statement implying that Oden lacks a frontal lobe criticizes or mocks the person himself and his intellectual capacity.

That distinction makes the statement difficult to reconcile with Rule 200.01's requirement of courteous treatment. In my assessment, the frontal-lobe statement provides the strongest individual basis for finding a violation of Rule 200.01.

Mutual banter does not eliminate the violation

Sergeant Brewer specifically concluded:

"I had a discussion with Officer Williams about the banter with Oden while in the cruiser. Although it was mutual between the two it could appear to some as unprofessional. It did NOT cross the lines into a violation of Rule and Regulation 200.01; however, Officer Williams was told to be aware of public perception in his dealings with the public."

The supervisory recognition that the conversation "could appear to some as unprofessional" is important, but I would frame the issue somewhat differently.

Public perception is not the central question. Compliance with the rule is.

Rule 200.01 does not prohibit conduct only when a member of the public might perceive it negatively. It establishes substantive behavioral requirements. The proper analytical question therefore is:

> **Were Williams's particular words courteous, and did they avoid harsh or insolent language?**

The fact that Oden participated in the banter is relevant context, particularly when evaluating tone and severity. It may mitigate the seriousness of the conduct. But it does not necessarily transform otherwise insulting comments into compliant conduct.

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Indeed, Rule 200.01 expressly requires officers to remain calm ***"despite provocation to do otherwise."***

That language strongly suggests that citizen behavior does not excuse an officer from the professional standard imposed by the rule.

The custodial setting heightens the concern

I also place weight on the fact that this occurred after the force encounter, after Oden had been subdued, and while he was confined in a police cruiser.

There was no apparent tactical necessity requiring Williams to match Oden's verbal tone. The immediate physical confrontation had ended. The supervisory investigation itself determined that Oden had been apprehended and placed into handcuffs, after which no additional reportable force occurred.

This matters because an officer sometimes must use stern, forceful, or even harsh-sounding commands during a rapidly evolving confrontation. Those circumstances were no longer present.

Once an arrestee is secured in the back of a cruiser, comments about his odor or intelligence cannot readily be justified as command presence, officer-safety communication, gaining compliance, or de-escalation.

The cumulative exchange should also be evaluated

I would also caution against evaluating the statements individually and concluding that no single remark was sufficiently egregious to establish misconduct.

Rule 200.01 governs the officer's **"dealings with the public."** The appropriate unit of analysis can therefore include the entire interaction.

A single sarcastic response to an arrestee might reasonably be treated as an isolated lapse in professionalism. Multiple personalized remarks, particularly remarks concerning someone's odor, intelligence, appearance, education, mental capacity, or other personal characteristics, can cumulatively establish a pattern of ridicule even though none contains profanity or a threat.

This is where Brewer's characterization of the interaction as "banter" potentially understates what should have been analyzed. The better question is whether ***Williams transitioned from professional interaction into reciprocal ridicule of an arrestee.***

BWC demonstrates that Williams repeatedly responded to Oden's provocations with personal insults or mocking comments, therefore the cumulative case for a Rule 200.01 violation becomes substantially stronger.

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Overall APD Policy Assessment

The available evidence supports the Department's substantive finding that the force used to apprehend Oden was reasonably related to his continued flight and resistance and ceased when control was achieved.

The are some policy issues concerning documentation and classification rather than the justification for force. Williams appears to meet the supplied policy definition of an involved officer because he physically assisted in controlling Oden, even though Gorham was the only officer who personally applied the reportable takedown. The supervisor's investigation also could have more specifically analyzed all documented control techniques and reconciled the inconsistent accounts of Oden's medical treatment.

Finally, there is the significant professionalism concern with the "banter" between Williams and Oden and the manner in which it was addressed by Sergeant Brewer. The distinction is important: the issue is not whether Williams was allowed to converse with Oden, joke with him, respond to Oden's comments, or defend himself verbally. The issue is whether particular statements by Williams remained consistent with the affirmative standards imposed on an APD officer by Rule 200.01.

IV. Tactical Assessment and De-escalation Review

The tactical assessment should be considered separately from the constitutional analysis. The use of force may be lawful and objectively reasonable even if earlier tactical decisions could have been safer, more deliberate, or more consistent with contemporary best practices. The master review framework specifically calls for examination of approach, positioning, distance, communication, time, resources, tactical disadvantage, and whether officer decisions foreseeably increased the likelihood that force would become necessary.

The officers initially attempted to resolve the encounter through nonphysical means. They activated emergency lights, then siren, used the cruiser spotlight, requested emergency radio traffic, and communicated Oden's description and direction of travel. The supervisor states that Oden looked back at the officers and nevertheless continued away. In that respect, the officers did not immediately resort to physical force and used ordinary police signals and communication before attempting hands-on apprehension.

The practical limits of de-escalation in this encounter should also be recognized. Oden was mobile on a bicycle and continuously increasing distance from the officers. This was not a stationary encounter in which officers could safely establish prolonged verbal rapport, use active listening, or wait for a crisis-intervention resource. There is no indication that the officers believed Oden was experiencing a mental-health emergency requiring specialized intervention. Extended verbal de-escalation was therefore not a realistically available option while Oden was actively riding away.

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The most significant tactical issue arose during the transition from vehicle pursuit to physical apprehension near 1072 Wilbur Avenue. The supervisor states that Oden rode from the sidewalk into the roadway while turning north, with Car 21 parallel to him. That positioning effectively placed the passenger side of the police vehicle close to Oden's turning path. Gorham then opened the passenger door as Oden came into the roadway, and Oden's bicycle struck the door.

The record does not establish that Gorham intentionally used the door as an impact weapon. Nevertheless, the configuration created foreseeable collision and balance risks for both Oden and Gorham. A bicyclist turning near a patrol vehicle has limited stability and maneuvering space. Simultaneously opening a vehicle door and transitioning immediately to a foot apprehension can narrow the reactionary gap, create an obstacle, and compress decision-making time for both the officer and the cyclist. That does not make the tactic unconstitutional. It does, however, present a legitimate training question concerning how officers should transition from a slow-speed vehicle pursuit of a bicyclist to hands-on apprehension.

An alternative tactical approach might have included maintaining slightly greater lateral separation, using the patrol car to contain or pace the bicyclist without placing the door directly in the anticipated path, or allowing additional responding officers to establish containment if circumstances permitted. The record establishes that additional units were responding, but it does not establish their exact proximity at the moment Oden reversed direction. Because Oden was continuing to flee, waiting indefinitely for additional resources could also have resulted in escape. The availability and practicality of any alternative therefore cannot be determined with certainty from the supplied evidence.

The officers' communication during the pursuit appears generally effective. Williams requested emergency radio traffic, the officers maintained visual contact, and Gorham provided identifying and directional information. During the ground-control phase, the supervisor specifically states that Gorham and Williams communicated and confirmed control of Oden's right arm before Williams gained control of the left arm. Clear communication during handcuffing is tactically important because uncoordinated officers can unintentionally apply competing force, lose control of a limb, or injure one another.

The hands-on tactics themselves were comparatively restrained. Once Gorham made contact, he used a rear body lock and takedown rather than striking Oden or immediately deploying a weapon. After the takedown, the officers used arm control and positional control to handcuff him. No CEW, chemical spray, baton, firearm, or head strike was used. This avoided some of the secondary risks associated with intermediate weapons and appears proportionate to a subject who was attempting to flee and physically resist control.

The tactical sequence also shows appropriate force reduction. Gorham reported immediately disengaging once Oden was handcuffed, and the supervisor observed no further reportable force. That is tactically significant because ground-control situations can become more dangerous when officers maintain unnecessary pressure or continue force after a subject is secured.

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The use of time as a tactical resource was limited by the circumstances. Once Oden was actively fleeing, officers had to choose between continuing the pursuit, terminating it, or attempting apprehension. The record does not identify a policy or tactical reason requiring immediate capture for a dangerous violent felony; the original reason for the stop was a bicycle violation. That fact weighs in favor of evaluating whether the risks of continued vehicle-to-bicycle pursuit were proportionate to the underlying enforcement objective. At the same time, Oden's continued refusal to stop and later physical resistance altered the situation. By the time Gorham used force, the officers were no longer merely deciding whether to issue a bicycle citation; they were attempting to apprehend a person who had repeatedly refused lawful police direction and continued to evade them.

The record does not establish that the officers unnecessarily compressed time in the classic sense of rushing into a stationary crisis where time, cover, and distance were readily available. The encounter was inherently dynamic because Oden was continuously moving. The tactical concern is narrower: whether the vehicle position and passenger-door exit unnecessarily increased the risk of collision during the apprehension transition.

The post-force tactical response was generally appropriate. Once Oden was secured, force stopped, EMS and a supervisor were requested, and Oden was searched and prepared for transport. Subsequent jail refusal resulted in additional medical evaluation rather than continued detention without clearance. The principal weakness lies in documentation of that post-force medical sequence rather than in an apparent failure to obtain care.

Overall, tactical performance should be characterized as generally effective and constitutionally sound, with a specific training concern regarding vehicle-to-bicycle positioning and the transition from mobile pursuit to physical apprehension. The record does not establish reckless or clearly unsound tactics, but it identifies an opportunity for APD to address the collision risks created when officers open a vehicle door or exit a cruiser immediately adjacent to a moving bicyclist.

V. Findings

Based upon an independent review of the available reports, supervisory investigation, BWC and IVS information reflected in the investigative record, applicable APD policies and Rules and Regulations, and the totality of the circumstances, this review reaches the following findings and conclusions.

A. Lawfulness of the Initial Police Contact

The initial attempt to stop DeShawn Oden was supported by a lawful enforcement purpose. Officers Gorham and Williams observed Oden operating a bicycle without required front or rear illumination. According to the supervisory investigation, Oden looked back toward the officers after they activated the cruiser's overhead lights and subsequently fled as the officers attempted to

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stop him. The officers activated the emergency siren, notified dispatch, and continued attempting to stop Oden.

The evidence therefore supports APD's conclusion that the officers had a lawful basis for the initial attempted stop and that Oden's subsequent conduct materially changed the circumstances confronting the officers.

B. Officer Gorham's Use of Force

The supervisory investigation determined that, after Oden's bicycle contacted the cruiser door, Oden continued attempting to move away while Officer Gorham gave commands for him to get on the ground. Gorham obtained a rear body lock and brought Oden to the ground. Gorham and Williams subsequently coordinated control of Oden's arms, after which Oden was handcuffed. APD found no additional reportable force after Oden was brought under control.

Sergeant Brewer concluded that Gorham did not employ more force than necessary to prevent Oden's escape and that the force was proportionate to Oden's resistance. The supervisory investigation consequently found no violation of APD's use-of-force procedure.

This independent review concurs with that determination. The force was employed for the legitimate purpose of apprehending a person who had fled from a lawful attempted stop and was actively resisting the officers' efforts to take him into custody. Nothing in the available evidence establishes that force continued after Oden was controlled or that force was employed gratuitously or for punishment.

C. Officer Williams's Verbal Conduct Following the Use of Force

The conclusion concerning the physical use of force does not resolve every issue of officer conduct arising from the encounter. In particular, this review does not concur with APD's disposition of Officer Williams's subsequent verbal interaction with Oden.

Sergeant Brewer expressly identified the interaction as a matter warranting supervisory attention. He documented that he discussed Williams's "banter with Oden while in the cruiser," acknowledged that the interaction "could appear to some as unprofessional," but ultimately determined that it did not violate Rule and Regulation 200.01. Williams was instead advised to be mindful of public perception in his dealings with the public.

This independent review reaches a different conclusion.

As discussed elsewhere in this report, Williams's comments included a statement to Oden concerning his smell, "I can smell you and it definitely doesn't smell like alcohol", and a remark concerning Oden's supposed lack of a frontal lobe. Considered in their context, these comments went beyond legitimate investigative communication, necessary commands, rapport-building, or

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reasonable criticism of Oden's conduct. They were personalized remarks reasonably capable of being understood as ridiculing Oden's hygiene and intelligence or mental capacity.

The circumstances under which the statements occurred are significant. The physical confrontation had ended. Oden had been apprehended and was in police custody. The statements therefore did not serve an apparent tactical purpose, were unnecessary to gain compliance, and were not required to protect officer or public safety.

The fact that Oden participated in the exchange does not eliminate Williams's independent professional obligations. Mutual banter may provide context and may appropriately mitigate the seriousness of misconduct, but it does not necessarily determine whether an APD rule was violated.

D. Finding Concerning Rule 200.01

The evidence supports a finding that Williams crossed the line from conversational interaction into unnecessary personalized ridicule. Particularly when considered cumulatively and in the custodial context in which the remarks occurred, the comments concerning Oden's odor and his supposed lack of a frontal lobe were inconsistent with the professional standards imposed upon an APD officer dealing with a member of the public.

This conclusion should not be interpreted as equating Williams's conduct with severe verbal abuse. The available evidence does not establish threats, discriminatory language, retaliatory conduct, or prolonged verbal abuse. Oden's participation in the exchange and the absence of subsequent escalation are relevant mitigating circumstances.

Those circumstances, however, are more appropriately considered in determining the appropriate corrective or disciplinary response than in deciding whether the underlying rule was violated.

Accordingly, I find sufficient evidence to conclude that Officer Williams violated Rule and Regulation 200.01.

E. Assessment of the Supervisory Response

I also conclude that the supervisory response did not adequately resolve the Rule 200.01 issue.

This conclusion should be carefully distinguished from a finding of misconduct by Sergeant Brewer. Brewer did not ignore the interaction. To the contrary, he identified the exchange during his review, documented his concern, spoke directly with Williams, and provided counseling regarding the public perception created by the interaction.

The disagreement concerns Brewer's classification and disposition of the conduct, rather than a failure to perform supervisory review.

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On the present record, there is insufficient evidence to conclude that Brewer intentionally minimized misconduct, knowingly disregarded APD policy, or otherwise committed a disciplinary violation himself. A reasonable disagreement concerning the application of a broadly worded professionalism standard should not, without additional evidence, result in discipline against the reviewing supervisor.

Nevertheless, because this independent review concludes that Williams's conduct crossed the threshold into a Rule 200.01 violation, the matter should not remain closed solely as informal counseling concerning public perception.

F. Required Administrative Follow-Up

APD should reconsider Rule 200.01 finding in light of the complete BWC exchange and determine the appropriate corrective or disciplinary action under APD's applicable disciplinary procedures, disciplinary history requirements, collective-bargaining obligations, and comparable prior cases.

This recommendation is deliberately distinct from prescribing a particular penalty. The independent review can appropriately determine that the existing disposition does not adequately address the conduct while recognizing that APD is institutionally responsible for determining discipline consistent with its established disciplinary system.

If Williams has no relevant prior disciplinary history, the nature of the conduct identified in this review would generally support a low-level corrective disciplinary response rather than severe punishment. Relevant mitigation includes the mutual nature of portions of the exchange, the absence of threats or discriminatory language, the absence of physical escalation, and Brewer's previous counseling of Williams. Any aggravating or mitigating disciplinary history unavailable to this review should be considered by APD before imposing discipline.

VI. Policy, Training, Supervisory, and Disciplinary Recommendations

The recommendations are intended to address both individual accountability and the broader organizational lessons presented by the incident. They are informed by APD's existing Rules and Regulations, APD's use-of-force/de-escalation framework, and practices employed by other law-enforcement agencies.

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Policy Recommendation: Clarify Rule 200.01 and Establish an Express Professional-Communication Standard

APD should revise Rule 200.01, or adopt a complementary professional-conduct provision, expressly addressing inappropriate verbal interactions between officers and members of the public, particularly detained or arrested persons.

Rule 200.01 presently requires officers and employees to be "courteous and orderly in their dealings with the public," prohibits "harsh, violent, profane, or insolent language," and requires officers to remain calm despite provocation. A violation is expressly classified as a minor offense of the third degree.

The existing rule establishes an appropriate general principle, but the Williams-Oden interaction demonstrates the ambiguity created by terms such as "courteous" and "insolent." Sergeant Brewer recognized that Williams's comments warranted counseling and could be perceived as unprofessional yet concluded that the statements did not cross the threshold into a Rule 200.01 violation. That distinction suggests that supervisors may benefit from more specific guidance concerning what constitutes prohibited verbal conduct.

APD should therefore supplement Rule 200.01 with language substantially providing that officers shall not ridicule, taunt, mock, demean, belittle, or direct unnecessary disparaging personal comments toward a member of the public, including comments concerning a person's intelligence, mental capacity, physical appearance, hygiene, disability, socioeconomic condition, education, or other personal characteristics when those comments do not serve a legitimate law-enforcement purpose.

The policy should simultaneously preserve officers' reasonable ability to communicate naturally. Informal conversation, appropriate humor, rapport-building, and even firm criticism of a person's conduct should not automatically constitute misconduct. The policy should distinguish between criticizing conduct, for example, explaining that fleeing from officers was dangerous, and personally demeaning the individual, such as ridiculing the person's intelligence or hygiene.

Real-world comparison: Seattle Police Department

The Seattle Police Department provides a particularly useful model for APD. Seattle's professionalism policy directs employees to treat people with dignity and to refrain from language, demeanor, or actions that may cause individuals to feel "belittled, ridiculed, or intimidated." Its standards further prohibit language that is derogatory, contemptuous, or disrespectful toward another person[15].

[15] U.S. District Court for the Western District of Washington, *Order Entering Monitor's Plan*, July 10, 2014

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That language provides considerably more practical guidance than a generic prohibition against "insolent" language. It identifies the types of interactions officers and supervisors should recognize as problematic without attempting to catalogue every possible offensive statement.

Applicability to APD. APD does not need to replace Rule 200.01 with Seattle's policy. Rather, Seattle demonstrates how APD could modernize and clarify its existing rule while preserving its fundamental requirement of courtesy. Adding concepts such as *ridicule, belittlement, taunting, and unnecessary personal disparagement* would provide officers and supervisors with more objective benchmarks for evaluating conduct such as Williams's comments about Oden's smell and supposed lack of a frontal lobe.

Policy Recommendation: Explicitly Address Provocation and Reciprocal "Banter"

APD should clarify that a citizen's participation in banter, profanity, sarcasm, insults, or provocative speech does not eliminate an officer's independent obligation to maintain professional conduct.

This principle is already implicit in Rule 200.01 because officers are expressly required to remain calm "despite provocation to do otherwise." The Williams-Oden investigation demonstrates, however, that the significance of this provision may not be sufficiently understood. Brewer's reliance upon the exchange being "mutual" appears to have functioned, at least in part, as a reason for determining that Williams did not violate the rule.

The policy should make clear that mutuality is context, not a defense. It may mitigate the seriousness of misconduct, but it does not necessarily determine whether misconduct occurred.

The distinction is especially important once an individual has been handcuffed or placed in a cruiser. The officer remains the governmental authority and remains subject to APD rules regardless of whether the detained person invites or participates in the verbal exchange.

Training Recommendation: Establish Scenario-Based Professional Communication Training

APD should incorporate professional verbal communication into recruit training, field training, annual in-service training, de-escalation instruction, and supervisory development.

This recommendation is consistent with APD's existing use-of-force philosophy. APD's use-of-force procedure defines de-escalation as involving "non-confrontational verbal skills, empathy and active listening" and recognizes persuasion, communication, time, distance, and other techniques as methods for reducing the intensity of encounters.

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The training should move beyond simply instructing officers to "be professional." Officers should be presented with realistic BWC scenarios and required to identify the point at which legitimate conversation becomes sarcasm, taunting, ridicule, or personal disparagement.

The Williams-Oden interaction itself could be converted into an anonymized scenario. Officers could evaluate statements such as telling a detainee that running was dangerous compared with telling the detainee that he smells or implying that he lacks part of his brain. This would make the distinction between behavior-focused communication and person-focused ridicule concrete.

Training should reinforce a practical principle:

Officers may respond to behavior; they should not attack the person.

Another practical training principle should be:

Do not take the bait.

The latter is consistent with law-enforcement communication guidance emphasizing that officers should maintain professional tone and demeanor rather than reciprocating personal insults. Contemporary de-escalation guidance similarly cautions against insulting or taunting language because it can unnecessarily escalate an encounter[16].

Applicability to APD. This recommendation does not require creation of an entirely new training program. APD could incorporate a professional-communication block into existing de-escalation, BWC, use-of-force, field-training, and supervisory curricula. Because APD already recognizes non-confrontational verbal skills as part of de-escalation, this represents an extension of existing departmental doctrine rather than a new policing philosophy.

Training Recommendation: Teach the Transition from "Control" to "Custody"

APD should specifically train officers regarding the change in communication expectations that occurs after an individual has been brought under control.

During an active confrontation, officers may reasonably need to use loud, direct, repetitive, and forceful commands. Once an individual has been restrained and the immediate threat has diminished, the purpose of police communication changes. Communication should generally shift toward safety, medical assessment, transportation, processing, investigation, explanation, and other legitimate custodial functions.

The distinction is particularly applicable here. Williams's challenged statements were not commands delivered while attempting to overcome Oden's resistance. They occurred after Oden

[16] Laurence Miller, "Patrol Psychology 101: Communication and Conflict Resolution," *Police1*, April 17, 2008.

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had been placed in the cruiser. Consequently, comments about Oden's odor or intelligence cannot readily be characterized as necessary command presence.

Training officers to recognize this transition would reinforce that the conclusion of physical resistance should generally correspond with a reduction in confrontational verbal behavior as well.

Supervisory Recommendation: Develop a Rule 200.01 BWC Review Framework

APD should provide supervisors with a structured framework for evaluating potential professionalism violations discovered during BWC review.

Supervisors should consider the content of the officer's words; tone and context; whether the person was detained, handcuffed, or otherwise vulnerable; whether the statement served a legitimate law-enforcement purpose; whether the officer initiated or escalated the exchange; whether comments attacked conduct or personal characteristics; whether the citizen provoked the officer; whether the officer had an opportunity to disengage; and whether the cumulative interaction involved ridicule, humiliation, antagonism, or unnecessary personal disparagement.

This would help distinguish among three different categories that appear to have become blurred in the Williams review: acceptable communication, conduct warranting coaching, and conduct constituting a policy violation.

Organizational Recommendation: Use BWC as an Early-Intervention and Training Tool

APD should formally recognize BWC review as an organizational-learning mechanism rather than viewing it exclusively as an evidentiary tool.

When supervisors reviewing a use-of-force incident discover unrelated conduct that presents a professionalism concern, APD should have a documented mechanism for distinguishing among positive performance, informal coaching, remedial training, policy violations, and conduct warranting formal investigation.

The Williams-Oden incident demonstrates the benefit of such review. Brewer deserves credit for identifying the exchange even though it was collateral to the principal use-of-force investigation. The organizational issue is therefore not a failure to review the BWC; it is the absence of sufficiently clear standards for determining what should happen after problematic conduct is discovered.

This recommendation also promotes proportional accountability. Not every undesirable BWC observation should result in discipline. Conversely, conduct should not automatically be reduced to "coaching" merely because it is relatively minor.

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Real-World Accountability Example: Seattle's Training and Low-Level Discipline Model

Seattle's publicly available Office of Police Accountability decisions provide a useful example of proportional accountability. In one professionalism case involving derogatory language, OPA sustained the professionalism allegation and the resulting discipline consisted of an oral reprimand accompanied by policy training[17].

The example should not be treated as establishing what APD must impose in Williams's case. Different agencies operate under different collective bargaining agreements, disciplinary matrices, civil-service requirements, and precedent. It nevertheless demonstrates that a department can formally sustain a professionalism violation while imposing corrective rather than severe punishment.

Applicability to APD. That approach is particularly relevant here. A sustained finding does not require APD to characterize Williams's behavior as serious misconduct. APD can distinguish between the finding and the penalty. The evidence can support a Rule 200.01 violation while the mutual nature of the conversation, absence of threats or discriminatory statements, and limited severity support relatively minor corrective discipline.

Disciplinary Recommendation — Officer Williams

Based upon the revised assessment, there is sufficient evidence to support the finding that Officer Williams violated Rule 200.01 through portions of his interaction with Oden. Rule 200.01 itself classifies such misconduct as a minor offense of the third degree.

The disciplinary response should nevertheless remain proportionate to the nature of the misconduct.

The available evidence does not establish that Williams threatened Oden, used discriminatory language, retaliated against him, employed force because of the verbal exchange, or subjected him to prolonged verbal abuse. Oden participated in the exchange, and there is no indication that Williams's comments caused the situation to escalate physically. Those circumstances constitute meaningful mitigation.

Accordingly, assuming Williams does not have a relevant history of similar misconduct, I recommend low-level formal corrective discipline, such as a documented oral or written reprimand as authorized under APD's disciplinary framework, together with targeted remedial training concerning Rule 200.01, professional communication, and interactions with detained persons.

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[17] Seattle Office of Police Accountability, *Closed Case Summary, Complaint No. OPA#2015-0229* (Seattle: Office of Police Accountability, September 11, 2015).

I would not recommend suspension based solely upon the presently established verbal conduct, absent aggravating disciplinary history or APD precedent requiring a greater penalty.

This recommendation preserves an important accountability principle: APD should not have to choose between declaring the conduct acceptable and imposing severe discipline. A finding can be sustained while the sanction remains corrective and proportionate. Seattle's documented use of an oral reprimand coupled with training for a professionalism violation illustrates that approach in practice.

Disciplinary Recommendation — Sergeant Brewer

I do not recommend formal discipline against Sergeant Brewer on the evidence presently available.

Brewer reviewed the BWC, recognized the interaction as problematic, documented the issue, counseled Williams, and warned him concerning the public perception generated by such interactions. His actions therefore do not demonstrate indifference to misconduct or a failure to perform supervisory review.

The disagreement concerns the classification of the conduct, not Brewer's failure to recognize it.

A subsequent independent reviewer reaching a different interpretation of an imprecisely defined professionalism rule should not, standing alone, become grounds for disciplining the original supervisor. Doing so could discourage supervisors from making good-faith judgments in cases where policy language provides substantial discretion.

The appropriate response is supervisory counseling and training rather than discipline. Brewer should receive guidance concerning the application of Rule 200.01, particularly the distinction between conduct that merely creates an unfavorable public perception and conduct that independently violates the courtesy and insolent-language provisions of the rule.

Formal discipline should be reconsidered only if additional evidence demonstrates that Brewer knowingly disregarded established APD policy, intentionally minimized Williams's misconduct, failed to follow a mandatory investigative requirement, treated comparable cases materially differently without justification, or had previously been directed that comparable conduct constituted a Rule 200.01 violation.

Recommended APD Policy Language

To operationalize these recommendations, APD should consider adding language substantially similar to the following to Rule 200.01 or an associated procedure:

> Officers and employees shall treat members of the public with courtesy, dignity, and respect. Officers shall not ridicule, taunt, mock, demean, belittle, or direct unnecessary

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> disparaging personal remarks toward any person. This includes comments concerning a person's intelligence, mental capacity, physical appearance, hygiene, disability, socioeconomic condition, education, or other personal characteristics when such comments do not serve a legitimate law-enforcement purpose. Officers shall maintain professional composure notwithstanding verbal criticism, profanity, insults, ridicule, or other provocation directed toward them. Nothing in this provision prohibits reasonable commands, appropriate rapport-building, legitimate investigative communication, or professionally appropriate humor.

This approach incorporates the core principle already contained in APD Rule 200.01 while providing officers and supervisors with substantially clearer operational guidance. It also parallels Seattle's express prohibition against communication that belittles or ridicules members of the public.

Overall Recommendation

The Williams-Oden exchange should ultimately be treated as both an individual accountability issue and an organizational learning opportunity. Williams's statements concerning Oden's odor and apparent lack of a frontal lobe provide sufficient grounds to support a low-level Rule 200.01 violation. Brewer appropriately identified and addressed the conduct but appears to have applied too narrow a threshold in determining whether the comments constituted an actual rule violation.

The proportionate organizational response is therefore not severe discipline. It is to sustain the Rule 200.01 violation as to Williams, impose corrective low-level discipline and training, provide Brewer supervisory guidance rather than formal discipline, clarify Rule 200.01, and incorporate the incident into scenario-based officer and supervisory training.

Most importantly, APD should clarify the distinction between professional rapport and reciprocal ridicule. Officers need not become impersonal or robotic when interacting with detained persons. Appropriate humor, empathy, conversation, and rapport can contribute positively to police encounters. But the authority relationship changes the equation when an officer responds to an arrestee's provocation with personalized insults. The citizen's willingness to participate in the exchange does not remove the officer's independent professional obligations.

This recommendation is consistent with APD's existing requirement that officers remain courteous and calm despite provocation, APD's existing emphasis upon non-confrontational communication and de-escalation, and comparable professional-conduct standards used by other major police agencies.

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VII. Conclusion

The totality of the available evidence supports the Akron Police Department's determination that the reportable force used during the apprehension of DeShawn Oden was proportional and objectively reasonable under the circumstances confronting the officers.

The officers initiated the encounter for a lawful enforcement purpose. Oden subsequently fled from their attempt to stop him and actively resisted the efforts to take him into custody. Officer Gorham used a rear body-lock takedown to separate Oden from the bicycle and bring him to the ground, after which Gorham and Williams coordinated control of Oden's arms and placed him in handcuffs. The supervisory investigation found no additional reportable force after Oden was controlled. Sergeant Brewer ultimately determined that Gorham's force was proportional and objectively reasonable and that Gorham did not employ more force than was necessary to prevent Oden's escape and overcome his resistance.

I concur with that determination.

Nothing developed during this independent review provides sufficient evidence or legal basis to overturn APD's conclusion regarding the physical force used to apprehend Oden. The force was responsive to Oden's flight and resistance, was directed toward accomplishing a lawful arrest, and ceased once officers achieved control. The evidence does not establish gratuitous force or force employed for punishment.

That concurrence, however, does **not** extend to every aspect of the officers' conduct following the arrest.

I specifically **do not concur** with APD's determination concerning Officer Williams's verbal interaction with Oden after Oden was taken into custody. Sergeant Brewer recognized that the interaction warranted supervisory intervention and acknowledged that it could appear unprofessional but determined that it did not cross the threshold into a violation of Rule and Regulation 200.01.

The independent review reaches a different conclusion.

Williams's comments concerning Oden's odor and his reference to Oden's supposed lack of a frontal lobe were personalized, unnecessary, and demeaning. They served no apparent legitimate law-enforcement purpose at the point in the encounter when they were made. The fact that portions of the conversation involved mutual banter provides relevant context but does not eliminate Williams's professional responsibilities as an on-duty officer dealing with a person in police custody.

The distinction is important. **An objectively reasonable use of force does not insulate unrelated officer conduct from administrative scrutiny.** Constitutional reasonableness, compliance with APD's use-of-force procedure, professionalism, and compliance with APD's Rules and

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Regulations are separate inquiries. An officer's physical force may be entirely lawful and within policy while other conduct during the same encounter violates departmental standards.

Accordingly, this review finds the APD use-of-force determination to be supported by the evidence but finds the administrative disposition of Williams's verbal conduct insufficient. The matter concerning Williams should be returned to APD for reconsideration under Rule and Regulation 200.01 and for the imposition of appropriate corrective or disciplinary action consistent with APD's established disciplinary processes and comparable cases.

The review does not recommend formal discipline against Sergeant Brewer based upon the presently available evidence. Brewer identified the interaction, documented his concern, and counseled Williams. The concern is that the conduct was classified too narrowly as a public-perception issue rather than recognized as a potential substantive violation. Supervisory guidance and training concerning application of Rule 200.01 are therefore more appropriate than discipline on the existing record.

The broader organizational lesson is that professionalism must remain part of the continuum of police accountability after force ends. The transition from active resistance to custody should ordinarily be accompanied by a corresponding transition in officer communication. Once the immediate threat and resistance have ended, personalized ridicule, taunting, or unnecessary disparagement can undermine the legitimacy of an otherwise lawful police encounter.

The final determination of this independent review is: **CONCUR** with APD's use-of-force finding; **DO NOT CONCUR** with APD's disposition of Officer Williams's conduct under Rule and Regulation 200.01; and **REQUEST** that APD conduct further administrative review and take appropriate disciplinary action concerning Officer Williams consistent with the findings of this report.

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Anthony Finnell



Independent Police Auditor

Independent Police Auditor
Citizen Complaint Review

SUBJECT NAME:	**“Doug” and “Anonymous”**
COMPLAINT NUMBER:	**26TR-0406 / 26C-16**
DATE OF INCIDENT:	**01/15/2026 and 01/25/2026**
DATE OF REPORT:	**08/01/2026**
LOCATION OF INCIDENT:	**Social Media Platform - Facebook**
APD DISTRICT:	**N/A**

I. Introduction

Complaint 26TR-0406 originated from materials submitted by an individual identified in the record as “Doug.” The complaint concerned Facebook posts attributed to Officer Kathryn Hight and asserted that the statements were inappropriate for a police officer and reflected a willingness to violate citizens’ constitutional rights. The complainant provided screenshots of the posts, a photograph of Officer Hight in uniform with her K-9 partner, and written commentary expressing concern that the posts had apparently gone unnoticed or uncorrected by supervisors and other officers. The complainant also argued that APD employees who reacted favorably to the posts should be reviewed because their reactions could reasonably be interpreted as endorsing the messages.

The first statement at issue was posted on January 15, 2026, and stated, “If any pets are left outside today, best believe I will be taking them.” The second statement was posted on January 25, 2026, and stated, “If you’re out driving today, I’m going to pull you over and throw your keys in the snow. Then drive away.” The screenshots showed that the posts generated numerous reactions and comments. The submitted materials also included a photograph of Officer Hight in uniform, standing next to her K-9 partner and an Akron police vehicle. Because the officer was visually associated with APD, the complainant viewed the statements not merely as private humor but as remarks linked to actual governmental authority.

The complaint was forwarded for departmental review and ultimately assigned to Sergeant Scott Myers. The Blue Team record reflects that the matter moved through several levels of administrative assignment and review, including Lieutenant Patrick Neumann, Sergeant Myers, Deputy Chief Jesse Leeser, Sergeant Matthew Eckart, Lieutenant Christy Forsch, and Sergeant Angela Falcone. The Blue Team record identifies Officer Hight as the employee involved and reflects that two allegations were found unfounded, while a competency or procedural allegation was sustained and resulted in a written reprimand.

As part of the investigation, Sergeant Myers issued written questions to Officer Hight. He asked her to explain the intent behind both posts, whether she had posted photographs of herself in uniform or displaying APD insignia, whether those photographs had been created for departmental use, how viewers could distinguish her personal statements from official APD representations, and whether the posts or photographs had been placed on social media while she was on duty.

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Officer Hight responded in writing. Regarding the statement about stopping motorists and throwing their keys into the snow, she stated that there was no ill intent or malice and that the comment was intended as a joke related to snow conditions and citywide snow restrictions. Regarding the animal-related statement, she explained that it was also intended humorously and arose from concern about companion animals being left outside during freezing temperatures. She stated that the posts were limited to approved viewers connected to her account rather than broadly disseminated to the general public.

Officer Hight acknowledged posting the photograph of herself in uniform with her K-9 partner. She explained that the photograph had been taken for a public charitable calendar associated with Brady's K-9 Fund, an organization that had provided a ballistic vest for her police dog. She stated that the photograph had been approved through APD's chain of command. The supporting email thread confirms that Captain Michael Rinn approved the photograph of Officer Hight standing beside her dog for the calendar.

The investigation reviewed the timing of the posts and Officer Hight's scheduled working hours. The animal-related post was reportedly made at approximately 7:54 a.m. on January 15, and the driving-related post was made at approximately 8:02 a.m. on January 25. Officer Hight's scheduled shift began at 11:00 a.m. The investigator therefore concluded that the posts were made before she was on duty.

Sergeant Myers also reviewed Officer Hight's documented police activity between January 15 and January 31. The investigation report states that she responded to 86 calls for service, including animal-related complaints. Those calls reportedly resulted in dispositions such as being unable to locate the animal or advising the owner because the minimum criteria for seizure were not met. The investigation found no incident in which Officer Hight seized an animal. The report also states that only three of the reviewed calls involved traffic stops, that Officer Hight assisted other officers rather than initiating the stops, and that she did not take or discard anyone's keys.

Based on those facts, Sergeant Myers found the allegation that Officer Hight had promoted or carried out Fourth Amendment violations to be unfounded. His conclusion relied heavily on the absence of actual unconstitutional conduct, Officer Hight's stated joking intent, the lack of corresponding enforcement activity, and the interpretation of the posts by other viewers as humor. He also classified the allegation that she posted while on duty as unfounded because the timestamps preceded her shift.

The complainant declined Sergeant Myers's invitation to discuss the matter further. In an email, the complainant stated that the submitted material was self-explanatory and characterized the posts as references to federal civil-rights offenses. The complainant indicated that no further discussion was necessary and maintained that the posts themselves were sufficient to establish the seriousness of the issue.

Although the initial investigation found the constitutional and on-duty allegations unfounded, Deputy Chief Leeser conducted a subsequent command review and reached a separate policy

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conclusion. He agreed that two allegations were unfounded but determined that Officer Hight's statement concerning traffic stops and discarded keys violated APD Procedure P-2021-028, the Social Media Policy. His review emphasized that Officer Hight had previously identified herself as a police officer on social media and that the statement could bring discredit to the officer and the Department, promote an appearance of misconduct, and undermine community confidence.

Deputy Chief Leeser also noted that Officer Hight had a prior sustained procedural violation from July 23, 2025, for which she had received coaching and counseling. In light of the prior violation and the newly sustained social-media policy violation, he directed that she receives a written reprimand and documented counseling that included a comprehensive review of the Social Media Policy and APD's expectations regarding professional conduct.

The written reprimand was issued on July 15, 2026. It stated that posts made on January 15 and January 25 violated the Social Media Policy and therefore constituted a violation of Rule 700.05(c), which addresses violations of departmental procedures. The reprimand was signed by Lieutenant Christy Forsch and Chief Brian Harding and was accepted by Officer Hight.

During the accompanying counseling session, Officer Hight was described as receptive to the feedback. She stated that she had taken steps to think before posting, even when intending a joke, and acknowledged that different viewers could interpret social-media statements differently. The counseling focused on performance improvement, policy clarification, professional development, and the relationship between compliance with written procedures and the public manner in which an officer conducts herself.

No physical encounter, traffic stop, animal seizure, arrest, detention, or use of force formed the basis of the administrative case. The incident was therefore a social-media and professional-conduct matter rather than a conventional use-of-force incident. The facts nevertheless required constitutional-policing review because the statements referenced core governmental powers, detention, seizure, and property control, and because Officer Hight was identifiable as a police officer.

II. Constitutional Policing Analysis

Constitutional policing requires officers and police agencies to do more than avoid conduct that meets the technical elements of a constitutional violation. It requires the lawful, restrained, fair, and professionally accountable exercise of governmental authority. It also requires officers to recognize that public confidence depends not only on what police personnel actually do, but on whether their statements and conduct demonstrate respect for constitutional limits.

The complaint against Officer Hight presents an important distinction between an actual constitutional deprivation and speech that creates the appearance of disregard for constitutional protections. The evidence does not establish that Officer Hight stopped a motorist, seized vehicle keys, confiscated an animal, entered private property, or exercised physical control over any

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person. Because no governmental action was taken against an identifiable person or property, the record does not support the finding that she completed an unlawful search or seizure.

That conclusion does not end the constitutional-policing analysis. Officer Hight's statement that she would pull motorists over, throw their keys into the snow, and drive away invoked two significant exercises of police authority: traffic detention and the seizure of personal property. A traffic stop is a governmental seizure, and an officer may not initiate one arbitrarily or merely for amusement. Similarly, taking and disposing of a person's vehicle keys without legal justification would interfere with that person's possessory interests and freedom of movement. The statement therefore described conduct that, if actually performed without lawful justification, would raise serious Fourth Amendment concerns.

The animal-related post also invoked governmental seizure authority. Officers may have lawful authority under particular circumstances to protect animals from imminent harm or remove them when statutory requirements are satisfied. Such authority is not unlimited. An officer's ability to seize an animal would depend on the facts known at the time, the location of the animal, the severity and immediacy of the danger, applicable state and local law, and whether entry onto private property was required. Although the investigation found that Officer Hight did not actually seize any animal, the broad wording of the post did not communicate those legal limitations.

Constitutional policing therefore requires an analysis of both actual conduct and public meaning. Officer Hight stated that the posts were jokes, and the surrounding circumstances support the conclusion that she did not intend to announce an actual plan to violate citizens' rights. Her traffic activity and animal-related calls also provide no evidence that she acted consistently with the literal wording of the posts. Those facts substantially reduce the basis for finding intentional unconstitutional conduct.

Intent, however, does not fully determine how police-related speech affects public trust. A reasonable community member may not know the officer's intended tone, the privacy settings of the account, the nature of her personal relationships with viewers, or the internal humor understood by colleagues. A viewer may instead see an identifiable Akron police officer making light of stopping citizens and interfering with their property. That perception is especially foreseeable when the officer's social-media presence includes uniformed photographs, a police K-9, and an APD vehicle.

The fact that the K-9 photograph was approved for a public calendar does not eliminate the constitutional-legitimacy concern. The approval establishes that the photograph itself was authorized for a charitable public purpose. It does not necessarily mean that APD endorsed the later combination of police imagery and personal remarks about hypothetical seizures. A reasonable viewer may not distinguish between a photograph approved for one purpose and its later use on a personal account.

The investigation initially focused on whether Officer Hight had actually violated the Fourth Amendment. That was a necessary inquiry, but it was not the only relevant constitutional-policing

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question. A complete review also required consideration of whether the posts undermined confidence in APD's commitment to lawful stops, lawful seizures, impartial decision-making, and respect for individual rights. Deputy Chief Leeser's command review appropriately broadened the analysis by recognizing that a statement can violate professional and social-media standards even when it does not establish a completed constitutional deprivation.

Constitutional policing also depends on procedural fairness in the complaint process. The investigation appropriately obtained Officer Hight's explanation, reviewed objective timestamps, considered her work activity, attempted to interview the complainant, and verified the origin and approval of the photograph. These steps were necessary to avoid reaching a conclusion based solely on the emotional or literal impact of isolated screenshots.

At the same time, the investigative reasoning that the posts' numerous favorable reactions confirmed they were jokes should be treated cautiously. A large number of "likes" or supportive reactions may show that some viewers interpreted the post humorously, but it does not establish that the statement was professionally appropriate or that other viewers could not reasonably perceive it as troubling. Reactions from other police employees may, in fact, heighten public concern by creating the appearance that dismissive attitudes toward constitutional restraints are accepted within the organization.

The constitutional-policing concern is therefore institutional as well as individual. Police departments delegate substantial authority to officers, including the authority to detain, search, seize property, arrest, and use force. Public legitimacy depends on confidence that those powers will be exercised only for lawful purposes and with appropriate restraint. Statements that make arbitrary detention or property interference the subject of humor can weaken that confidence, even when no one is actually stopped or harmed.

The final administrative outcome reflects the proper distinction. The evidence does not support the finding that Officer Hight committed an unlawful seizure, acted under color of law against a particular individual, or used reportable force. The original constitutional allegation was therefore properly not sustained on the available evidence. However, the statement concerning traffic stops and discarded keys was inconsistent with the broader principles of constitutional policing because it trivialized powers that officers may exercise only within clearly defined legal limits.

Officer Hight's acknowledgment during counseling that social-media communications have a subjective tone and may be interpreted differently by different viewers is significant. It indicates an understanding that police employees must evaluate communications not only according to their personal intent but also according to their foreseeable effect on the public.

Accordingly, the constitutional-policing assessment supports three principal conclusions. First, no completed Fourth Amendment violation or use of force was established. Second, the posts created a reasonable appearance of indifference toward the legal constraints governing detention and seizure. Third, APD's decision to address the matter through its Social Media Policy, written

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reprimand, and documented counseling was more legally and administratively appropriate than characterizing the conduct as an actual constitutional offense.

III. Legal Analysis

The allegations against Officer Kathryn Hight require careful separation between conduct that actually implicates constitutional protections and speech that merely references police authority. Although the complainant asserted that the officer advocated conduct amounting to violations of the Fourth Amendment and federal civil-rights law, the investigative record does not establish that Officer Hight exercised governmental authority against any identifiable individual. Consequently, the legal analysis focuses on the distinction between hypothetical statements describing police authority and the actual exercise of that authority under federal and Ohio law.

Fourth Amendment Analysis

The Fourth Amendment to the United States Constitution protects individuals against unreasonable searches and seizures by government officials. Police officers may temporarily detain individuals, search persons or property, and seize persons or property only when authorized by the Constitution and applicable law. The reasonableness of those actions is evaluated objectively under the totality of the circumstances.

One of the Facebook posts attributed to Officer Hight stated:

“If you're out driving today, I'm going to pull you over and throw your keys in the snow. Then drive away.”

Standing alone, that statement describes two governmental actions:

1. a traffic stop; and
2. the seizure of personal property.

Under established Fourth Amendment jurisprudence, a traffic stop constitutes a seizure because a reasonable person would not believe that he or she was free to leave. Similarly, intentionally taking a person's vehicle keys without lawful justification would constitute a governmental interference with possessory interests and therefore implicate the Fourth Amendment.

If those actions had actually occurred without reasonable suspicion or probable cause, significant constitutional concerns would exist. However, Sergeant Myers' investigation found no evidence that Officer Hight stopped motorists for improper reasons, confiscated vehicle keys, or otherwise acted consistently with the literal wording of the post. Review of her activity logs showed only three traffic stops during the relevant period, all involving assistance to other officers rather than stops initiated by Officer Hight herself, and no evidence that any citizen's keys were taken.

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Accordingly, while the language of the post referenced conduct that would ordinarily require constitutional justification, the evidence does not establish that an actual Fourth Amendment seizure occurred.

The second post stated:

"If any pets are left outside today, best believe I will be taking them."

Unlike the vehicle-key statement, this post references potential removal of animals from their owners. Animal seizures by police officers are also subject to constitutional scrutiny because companion animals constitute property under Ohio law. Officers may seize animals only when authorized by statute or when objectively reasonable circumstances justify immediate intervention to prevent imminent harm.

The investigation reviewed Officer Hight's calls for service involving animals and found no incident in which she actually removed or confiscated an animal. Instead, the documented calls resulted in dispositions such as advising owners or determining that legal criteria for removal were not met.

Therefore, although both statements referenced actions that could implicate Fourth Amendment protections if actually performed, the investigative record supports the conclusion that no unconstitutional seizure occurred.

Graham v. Connor

The constitutional standard governing police use of force is established by *Graham v. Connor*, 490 U.S. 386 (1989)[1]. Under *Graham*, claims of excessive force are evaluated under the Fourth Amendment's objective reasonableness standard based upon the totality of the circumstances known to the officer at the time force is used.

The three principal *Graham* considerations include:

- the severity of the suspected offense;
- whether the individual posed an immediate threat to the safety of officers or others; and
- whether the individual was actively resisting or attempting to evade arrest.

Those factors are inapplicable in the present matter because there were:

- no investigatory detention,
- no arrest,
- no physical encounter,
- no resistance,

[1] Graham v. Connor, 490 U.S. 386, 395–97 (1989).

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- no reportable force,
- no injury,
- no deployment of intermediate weapons, and
- no governmental use of physical control.

Accordingly, *Graham* provides constitutional background regarding lawful police authority but does not directly govern the facts presented in this administrative complaint.

Barnes v. Felix and the Expanding Totality-of-the-Circumstances Analysis

Although *Graham* is not directly implicated, recent Supreme Court guidance reinforces the importance of evaluating police decision-making within the broader constitutional context. *Barnes v. Felix* (2025)[2] rejected the former "moment-of-threat" approach and held that courts evaluating police conduct should consider the entire encounter rather than only the final seconds preceding force. Likewise, *Case v. Montana* (2026)[3] reaffirmed that emergency-aid entries must be evaluated objectively under the totality of the circumstances rather than through generalized notions of community caretaking.

Although neither decision involves social-media conduct, both reinforce an important constitutional-policing principle: officers are increasingly judged not only by the legality of a single action but also by the broader context of their judgment, communication, tactical decisions, and professionalism. Consequently, even speech that does not itself constitute governmental action may appropriately be evaluated administratively when it affects public confidence in officers' future exercise of constitutional authority.

Emergency Aid and Community Caretaking

The complainant argued that Officer Hight's statements reflected an intention to seize animals unlawfully.

Police officers unquestionably possess important responsibilities involving animal welfare, emergency assistance, and protection of life. Nevertheless, the United States Supreme Court has repeatedly emphasized that generalized community caretaking responsibilities do not create unlimited authority to enter private property or seize personal property.

As explained in *Caniglia v. Strom* (2021)[4], officers may not rely upon a broad "community caretaking" doctrine to justify warrantless entry into homes. Rather, warrantless entry generally requires objectively reasonable facts establishing an immediate emergency under the emergency-aid doctrine.

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[2] U.S. Supreme Court — Barnes v. Felix opinion
[3] 24-624 Case v. Montana (01/14/2026)
[4] https://www.law.cornell.edu/supremecourt/text/20-157

Similarly, *Case v. Montana* reaffirmed that emergency aid depends upon objective evidence of an immediate threat rather than generalized public-safety concerns.

Accordingly, had Officer Hight actually removed animals solely because they were outside during cold weather, the constitutional analysis would have required examination of:

- the severity of the weather conditions;
- the animal's condition;
- Ohio animal-cruelty statutes;
- whether exigent circumstances existed;
- whether entry onto private property occurred;
- available statutory authority; and
- whether less intrusive alternatives existed.

Because no animal was actually seized, those constitutional questions remain hypothetical.

Federal Civil Rights (18 U.S.C. § 242)

The complainant asserted that the Facebook posts constituted violations of federal civil-rights law, specifically 18 U.S.C. § 242.

Section 242 criminalizes the willful deprivation of constitutional rights under color of law.

To establish a criminal violation, the government generally must prove:

- action under color of law;
- deprivation of a federally protected right;
- willfulness; and
- an identifiable victim whose rights were actually violated.

The investigative record establishes none of those elements. Officer Hight made statements on a personal social-media account before reporting to duty, and investigators found no evidence that she actually exercised governmental authority against any identifiable citizen consistent with the language of the posts. Accordingly, the evidence does not support the complainant's assertion that Officer Hight committed a criminal violation of federal civil-rights law.

First Amendment Considerations

Although police officers retain First Amendment protections, those protections are not absolute.

Public employers possess legitimate authority to regulate employee speech when that speech:

- impairs departmental efficiency;
- interferes with public trust;

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- disrupts working relationships;
- undermines confidence in the agency; or
- conflicts with established departmental policy.

Here, APD did not discipline Officer Hight because it determined that she committed a constitutional violation. Instead, command staff concluded that the statements undermined the Department's professional standards and violated the Social Media Policy. That distinction is legally significant because the discipline addressed professional conduct rather than the expression of political or personal viewpoints.

The administrative response therefore appears more closely tailored to departmental operational interests than to suppression of protected personal speech.

IV. APD Policy Analysis

Unlike the constitutional allegations, which were ultimately determined to be unsupported, the administrative record demonstrates that Officer Hight's conduct implicated several APD policies governing professionalism, competency, and public conduct.

APD Social Media Procedure (P-2021-028)

The principal policy governing this matter is APD Procedure P-2021-028, Social Media.

Deputy Chief Jesse Leeser concluded that Officer Hight's statement regarding stopping motorists and throwing away their keys violated this policy because it had the potential to:

- bring discredit upon the Department;
- diminish public confidence;
- portray arbitrary enforcement authority;
- undermine perceptions of fairness;
- reflect adversely upon APD professionalism; and
- conflict with expectations of integrity and ethical conduct.

Accordingly, the command review sustained the policy violation and directed issuance of a written reprimand.

This distinction demonstrates sound administrative judgment. Rather than attempting to characterize the statements as completed constitutional violations, command staff focused on the actual policy implicated by the conduct.

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APD Rules and Regulations — Rule 700.05(c)

Officer Hight ultimately received formal discipline under Rule 700.05(c), which identifies violations of departmental procedures as competency-related misconduct. Rule 700.05 requires officers to maintain sufficient competency to perform their duties and specifically provides that violation of departmental procedures constitutes a disciplinary offense.

The written reprimand specifically cites Rule 700.05(c) as the basis for discipline following the sustained Social Media Policy violation.

APD Rules and Regulations — Rule 700.08(k)

Although not formally charged, Rule 700.08(k) provides additional guidance regarding conduct unbecoming. The rule prohibits officers from making oral or written statements that tend to bring the Police Division into disrepute, ridicule, or otherwise impair discipline or public confidence.

Officer Hight's comments regarding arbitrary traffic stops and confiscation of vehicle keys reasonably implicate the concerns underlying Rule 700.08(k), particularly because she was publicly identifiable as an APD officer.

APD Rules and Regulations — Rule 200.01

Rule 200.01 requires officers to conduct themselves courteously and professionally in dealings with the public. Although the Facebook posts were not made during an official encounter, they nevertheless represented public communications made by an identifiable police officer.

The rule reflects APD's expectation that officers maintain professionalism not only during arrests or investigations but throughout their interactions with the community.

V. Use-of-Force Description

Following a comprehensive review of the complaint, investigative materials, activity logs, supervisory reports, and command findings, no reportable use of force occurred during the events giving rise to Complaint 26TR-0406.

Officer Kathryn Hight was not alleged to have physically encountered the complainant or any other citizen in connection with the Facebook posts. There is no evidence that she detained, arrested, physically restrained, struck, kicked, tackled, pushed, or otherwise used physical force against any individual. Likewise, the investigation found no evidence that she displayed or discharged a firearm, deployed chemical defense spray, utilized a conducted electrical weapon, employed a police K-9 as a force option, or used any other reportable force technique.

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The conduct under review consisted entirely of written social-media statements made before Officer Hight reported for duty. Although those statements referenced hypothetical traffic stops and removal of vehicle keys, investigators determined that Officer Hight did not actually conduct such stops or confiscate any driver's property. Review of departmental activity records confirmed that she participated in only a limited number of traffic-related incidents during the relevant period, none of which involved taking a driver's keys or conducting arbitrary traffic stops.

Similarly, although one post suggested that Officer Hight would take pets left outdoors during freezing weather, the investigation reviewed her documented animal-related calls for service and found no evidence that she unlawfully removed or confiscated any animal. Instead, the documented calls reflected routine police responses, including advising owners or determining that statutory criteria for removal had not been met.

Accordingly, no reportable force techniques were used, no force reporting requirements were triggered, no use-of-force investigation was required under APD procedures, and no constitutional use-of-force analysis under *Graham v. Connor* is applicable to the facts of this administrative complaint.

Although no physical force occurred, the statements themselves referenced governmental powers involving detention and seizure. For purposes of constitutional policing, those statements were appropriately reviewed because they concerned subjects, traffic stops and property seizures, that are ordinarily governed by the Fourth Amendment. The investigation properly distinguished between hypothetical language referencing police authority and the actual exercise of that authority.

The record therefore supports the conclusion that this matter is not a use-of-force incident, but rather an administrative review of officer conduct involving social-media communications, professional judgment, constitutional legitimacy, and compliance with APD policy.

VI. Findings and Conclusions

After reviewing the complaint, investigative reports, officer statements, supervisory analyses, disciplinary records, supporting documentation, and applicable APD policies, the following findings are reached.

The evidence does not establish that Officer Kathryn Hight conducted an unlawful traffic stop, unlawfully seized personal property, confiscated an animal, entered private property without lawful authority, or otherwise violated an identifiable citizen's Fourth Amendment rights. Investigative review of departmental activity records found no evidence supporting the literal conduct described in the Facebook posts.

The evidence further establishes that Officer Hight authored the Facebook posts before reporting for duty. Departmental scheduling records corroborate that the posts were made before the

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beginning of her scheduled shift. Accordingly, the allegation that she improperly used social media while on duty is unsupported by the evidence.

The investigation also establishes that the photograph depicting Officer Hight in uniform with her assigned K-9 partner had previously been approved through APD's chain of command for inclusion in a charitable public calendar. Consequently, the photograph itself was not improperly obtained or originally disseminated.

Nevertheless, approval of the photograph for one public purpose did not authorize every subsequent use or context in which it might appear. When combined with statements referencing police authority, the photograph reasonably increased the likelihood that members of the public would associate the comments with official law-enforcement authority rather than purely personal humor.

Officer Hight's explanation that the statements were intended as jokes appears credible when considered together with her documented law-enforcement activities, the absence of corresponding enforcement conduct, and her cooperation throughout the investigation. However, an officer's subjective intent does not entirely resolve the constitutional-policing implications of publicly attributable communications. Police officers are routinely held to higher professional standards because public confidence depends upon both lawful conduct and the appearance of respect for constitutional principles.

The investigation conducted by Sergeant Scott Myers effectively resolved the factual allegations presented by the complainant through objective evidence. Command review by Deputy Chief Jesse Leeser appropriately expanded the analysis to include broader questions of professionalism and public trust. By sustaining the Social Media Policy violation while rejecting the unsupported constitutional allegations, APD distinguished between unlawful governmental conduct and conduct inconsistent with departmental expectations of professionalism.

The written reprimand and documented counseling issued to Officer Hight represent proportionate administrative responses consistent with progressive discipline principles. The counseling documentation indicates that Officer Hight understood the concerns raised by supervisors and expressed a commitment to exercising greater care in future social-media communications.

The evidence also demonstrates that no reportable use of force occurred. Accordingly, APD's Use of Force Procedure, Resisting Arrest Procedure, Conducted Electrical Weapon Procedure, Chemical Defense Spray Procedure, and Chief's Order governing strikes to the head or neck were reviewed as part of this analysis but were not operationally implicated by the facts of the complaint.

From a constitutional-policing perspective, the most significant lesson arising from this matter is that public confidence depends upon communications that demonstrate respect for the lawful limits of police authority. Even where no constitutional violation occurs, statements that appear to trivialize detention, seizure, or governmental power may diminish public trust and expose agencies to unnecessary reputational risk.

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Accordingly, the evidence supports the following overall conclusions:

1. The allegation that Officer Hight committed an actual constitutional violation is not supported by the evidence.
2. The allegation that Officer Hight posted the statements while on duty is not supported by the evidence.
3. Officer Hight's statements nevertheless reflected poor professional judgment because they referenced arbitrary detention and seizure while she was publicly identifiable as an Akron police officer.
4. APD appropriately distinguished between unsupported constitutional allegations and sustained administrative policy violations through command review.
5. The written reprimand and documented counseling were appropriate corrective actions designed to reinforce constitutional-policing principles, professional communication, and public confidence.

These findings provide the foundation for the policy and training recommendations presented in this report.

VII. Policy and Training Recommendations

Recommendation 1 — Revise APD Procedure P-2021-028 to expressly prohibit social-media content that appears to endorse arbitrary stops, searches, seizures, arrests, uses of force, retaliation, discrimination, or other misuse of police authority.

Rationale: APD's current policy allowed command staff to address Officer Hight's statement as conduct that could bring the Department into disrepute. The policy would be more instructive and consistently enforceable if it expressly identified jokes, memes, videos, reposts, comments, and other communications that depict unconstitutional or unauthorized police conduct as examples of potentially prohibited activity. The revision should clarify that the concern is not limited to proof that the officer intended to carry out the conduct. A post may violate policy when a reasonable person could interpret it as endorsing, celebrating, threatening, or trivializing an unlawful exercise of governmental authority.

In this case, the investigation did not establish that Officer Hight conducted an unlawful traffic stop, seized vehicle keys, or unlawfully removed an animal. Nevertheless, command review reasonably determined that the statement about pulling motorists over and throwing their keys into the snow could undermine public confidence and violate APD's Social Media Policy. More specific policy language would help officers understand that the absence of a completed constitutional violation does not necessarily make a public-facing statement professionally acceptable.

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National best practice and agency example: The International Association of Chiefs of Police provides social-media policy resources addressing both effective agency use of social media and appropriate regulation of employee use[5]. The IACP also cautions that model policies should be adapted to local community expectations, operational needs, and agency resources[6]. Detroit Police Department's 2025 social-media directive requires members to maintain professionalism and integrity and to exercise discretion when identifying or associating themselves with the Department to avoid discredit or disrespect[7].

Proposed policy concept: "Employees shall not create, post, transmit, share, endorse, or react to content that a reasonable person would interpret as promoting, threatening, celebrating, or trivializing unlawful detention, search, seizure, arrest, force, retaliation, discrimination, dishonesty, or other misconduct."

Recommendation 2 — Adopt a reasonable-viewer standard for evaluating personal social-media activity.

Rationale: APD policy and training should direct employees to evaluate communications from the perspective of an objectively reasonable community member, not solely according to the employee's intended humor, privacy settings, personal relationships, or anticipated audience. An officer's subjective intention remains relevant, but it should not be treated as dispositive when determining foreseeable harm to public trust or departmental operations.

The original investigation relied partly on the number of favorable reactions to Officer Hight's post as evidence that other viewers understood the statement as a joke. That fact provides context, but it does not establish that the communication was professionally appropriate. A private acquaintance, fellow officer, complainant, litigant, juror, prosecutor, defense attorney, or community member may interpret the same communication differently.

National best practice and agency example: The United States Department of Justice instructs its employees that professional and ethical standards governing communications continue to apply to personal social-media activity, regardless of whether employees are on duty, off duty, or using government equipment[89]. Metropolitan Police Department training materials similarly warn

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[5]International Association of Chiefs of Police, "Social Media," Policy Center Resource, accessed July 31, 2026.
[6] International Association of Chiefs of Police, "Policy Topic Directory," accessed July 31, 2026.
[7] Detroit Police Department, *Directive 102.8: Department Internet Usage—Web Pages—Social Networking*, proposed revision presented to the Detroit Board of Police Commissioners, June 12, 2025.
[8] United States Department of Justice, "1-9.000—Personal Use of Social Media," *Justice Manual*, accessed July 31, 2026.
[9] United States Department of Justice, Office of the Deputy Attorney General, *Guidance on the Personal Use of Social Media by Department Employees* (Washington, DC: U.S. Department of Justice, 2014).

officers that personal social-media activity has created substantial professional scrutiny for officers nationwide and that employees must consider the risks associated with personal accounts[10].

Proposed policy concept: "The Department will evaluate social-media conduct based on the content, context, audience, connection to Department employment, and reasonably foreseeable effect on operations, public confidence, officer credibility, and community relationships."

Recommendation 3 — Clarify when an officer's personal account has a sufficient nexus to APD employment.

Rationale: APD should define factors that create a connection between personal social-media activity and departmental employment. Relevant considerations should include the display of a uniform, badge, identification card, police vehicle, weapon, equipment, K-9, department insignia, workplace location, job title, biography, email address, or photographs associated with police service.

Officer Hight's account included a photograph of her in uniform with her K-9 partner and an Akron police vehicle. The photograph had been approved for a charitable public calendar, but the image also made her police affiliation readily identifiable to viewers. The policy should make clear that approval of an image for one official or charitable purpose does not necessarily authorize its use in every later personal context.

National best practice and agency example: Detroit Police Department's directive specifically addresses personal social-media activity and requires discretion when members mention or associate themselves with the Department[11]. Wichita Police Department separately regulates official and personal social-media use and requires authorization for official social-media activities conducted for investigative or departmental purposes[12].

Proposed policy concept: "A nexus to Department employment may exist even when an account is designated private or personal and even when the employee does not expressly state that the views expressed are those of the Department."

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[10] Metropolitan Police Department, *1.8 Social Media*, training material (Washington, DC: Metropolitan Police Department, n.d.).
[11] Detroit Police Department, *Directive 102.8: Department Internet Usage—Web Pages—Social Networking*, proposed revision presented to the Detroit Board of Police Commissioners, June 12, 2025.
[12] Wichita Police Department, *Policy 225: Social and Electronic Media* (Wichita, KS: Wichita Police Department, n.d.).

Recommendation 4 — Establish clear rules for the reuse of department-approved photographs and police-identifying imagery.

Rationale: APD should distinguish between approval to create or distribute a photograph for an identified official, charitable, recruitment, or community-engagement purpose and permission to reuse that photograph in unrelated personal communications. The policy should not impose an unnecessary blanket prohibition on photographs involving police service. It should instead address context and require employees to avoid pairing official imagery with material that could reasonably suggest departmental endorsement or diminish public confidence.

In this matter, Captain Michael Rinn approved a specific photograph of Officer Hight and her K-9 for inclusion in a Brady's K-9 Fund calendar. That approval supports the propriety of the photograph's original use but does not necessarily resolve its later association with unrelated posts involving hypothetical detention or seizure.

National best practice and agency example: Fargo Police Department's social-media policy establishes an agency-wide system for management, administration, and oversight that is intended to remain applicable as technologies and platforms change[13]. DOJ guidance similarly requires agencies to manage approved social-media content in accordance with ethics, privacy, security, accessibility, and records-management obligations[14].

Proposed policy concept: "Authorization to use a Department photograph or image for a specified purpose does not constitute unrestricted authorization for later personal publication or association with unrelated content."

Recommendation 5 — Incorporate social-media credibility and courtroom implications into training and supervisory review.

Rationale: Social-media posts can be used to challenge an officer's credibility, judgment, impartiality, or motive in criminal prosecutions, civil litigation, disciplinary proceedings, and oversight reviews. APD training should explain that statements about stopping motorists, taking property, using force, or selectively enforcing the law may later be offered to impeach an officer or support claims of bias or improper purpose.

This recommendation does not assume that every inappropriate post constitutes discoverable impeachment evidence. Rather, APD should require consultation with legal counsel and prosecutors when sustained online conduct may materially affect an officer's credibility or pending cases.

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[13] Fargo Police Department, *Department Use of Social Media* (Fargo, ND: Fargo Police Department, n.d.).
[14] United States Department of Justice, *Department of Justice Instruction: Social Media Management* (Washington, DC: U.S. Department of Justice, n.d.)

National best practice and agency example: DOJ instructs employees that professional-conduct requirements apply to personal online communications and has investigated employees for violations involving social-media and confidentiality policies[15][16]. PERF's national social-media report addresses the investigative, legal, tactical, and reputational implications of officers' online activity[17].

Implementation measure: Add a legal block to annual social-media training addressing authentication, disclosure, impeachment, civil discovery, public records, and coordination with prosecutors.

Recommendation 6 — Use social media affirmatively to reinforce constitutional policing and rebuild trust after controversial incidents.

Rationale: APD should not treat social media solely as a disciplinary risk. A mature policy should also use department platforms to explain lawful police authority, public-safety concerns, complaint procedures, animal-welfare responsibilities, traffic restrictions, and constitutional limits in clear language.

For example, during extreme weather APD could issue official messages explaining when residents should keep animals indoors, when officers or animal-control personnel may intervene, what road restrictions are in effect, and what conduct may result in enforcement. Accurate official communication would reduce the perceived need for individual officers to improvise messages involving enforcement authority.

National best practice and agency example: IACP describes strategic social-media communication as a means of shaping public perception, strengthening community relationships, improving safety messaging, and building trust[18]. DOJ uses social media to distribute information, expand access to government services, and increase transparency. PERF identifies social media as a significant tool for police communication, public engagement, and operational messaging.

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[15] United States Department of Justice, "1-9.000—Personal Use of Social Media," *Justice Manual*, accessed July 31, 2026.

[16] United States Department of Justice, Office of the Inspector General, *Investigative Summary: Findings of Misconduct by Three Then-Senior DOJ Officials for Violating the Department's Confidentiality and Media Contacts Policy; and by One Senior Official for Violating the Department's Social Media Policy*, Report No. 25-019 (Washington, DC: U.S. Department of Justice, December 30, 2024).

[17] Police Executive Research Forum and Office of Community Oriented Policing Services, *Social Media and Tactical Considerations for Law Enforcement* (Washington, DC: Police Executive Research Forum and U.S. Department of Justice, 2013).

[18] International Association of Chiefs of Police, "Social Media Matters: Why Law Enforcement Leaders Should Embrace Strategic Communication through Social Media," training resource, accessed July 30, 2026

Implementation measure: Assign responsibility to a trained public-information function and publish preapproved seasonal templates concerning severe weather, animals, traffic conditions, emergencies, and commonly misunderstood police powers.

VIII. Conclusion

Officer Kathryn Hight's social-media posts did not constitute an actual use of force, unlawful traffic stop, seizure of property, animal confiscation, or completed constitutional violation. No citizen was detained, deprived of vehicle keys, subjected to force, or otherwise harmed as a result of the statements. The allegations of an actual Fourth Amendment violation and on-duty posting were therefore unsupported by the evidence.

Nevertheless, the post stating that Officer Hight would pull motorists over, throw their keys into the snow, and drive away was inconsistent with the standards of professional judgment expected of an identifiable Akron police officer. The statement made light of governmental powers that may only be exercised for lawful purposes and with constitutional justification. Its foreseeable effect was to create doubt regarding the officer's respect for the limits governing traffic stops and property seizures.

Officer Hight's explanation that the statement was intended as a joke mitigates the seriousness of the conduct but does not eliminate its professional impact. Public confidence is evaluated from the perspective of community members who may not know the officer personally, understand the intended humor, or recognize that the post was made before her shift. The presence of police-identifying imagery on the account strengthened the connection between the statement and her official status.

APD's final disposition properly distinguished between unconstitutional conduct and policy misconduct. The Department did not find that Officer Hight actually deprived anyone of constitutional rights. It instead concluded that the statement violated the Social Media Policy because it could bring discredit upon the officer and the Department and undermine public confidence. That conclusion was supported by the record.

The written reprimand and documented counseling were reasonable and proportionate responses. They recognized the seriousness of the professional lapse without overstating the conduct as a completed constitutional or criminal offense. The corrective process also provided Officer Hight with an opportunity to understand how online communications may affect public perception and to improve her future judgment.

The broader lesson is that constitutional policing includes both lawful conduct and communications demonstrating respect for lawful authority. Police officers must understand that humor involving arbitrary stops, seizures, arrests, force, or confiscation can weaken public trust even when no enforcement action follows. Departments must therefore provide clear policy

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language, realistic training, consistent supervision, and carefully structured complaint investigations.

Accordingly, the final administrative findings should be stated as follows:

The allegation that Officer Hight committed an actual Fourth Amendment violation is **unfounded**.

The allegation that Officer Hight posted the statements while on duty is **unfounded**.

The allegation that Officer Hight violated APD's Social Media Policy through the post concerning traffic stops and discarded vehicle keys is **sustained**.

APD's written reprimand and documented counseling were appropriate corrective actions.

OIPA concurs with the findings from APD's review of this complaint.

Anthony Finnell



Independent Police Auditor

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INDEPENDENT AUDIT REPORT
AKRON POLICE DEPARTMENT
PROPERTY DAMAGE INCIDENTS

Audit Period: January 1, 2022 – August 31, 2025

Anthony Finnell
Independent Police Auditor

I. Executive Summary

This audit reviewed available documentation concerning property damage incidents caused by members of the Akron Police Department. The materials reviewed include APD Lost, Damaged, or Inoperable reports, Blue Team/IAPro records, moral claim investigations, Law Department claim forms, approval letters, release documents, denial letters, tracking sheets, incident reports, photographs, BWC references, call notes, and supervisory reviews.

The available records show that APD property damage incidents generally fall into four broad categories:

1. **Forced entry** into homes or apartments during emergency calls, welfare checks, domestic violence calls, burglary calls, medical emergencies, and barricade-related incidents.
2. **Vehicle-related damage or loss** involving tows, recovered stolen vehicles, impounds, or access to locked vehicles during medical emergencies.
3. **Damage or loss of personal property** during police contacts, arrests, or evidence-related activity.
4. **Administrative claim matters** where the Law Department approved, partially approved, denied, or investigated claims through the moral claim process.

The records show that some claims were approved or partially approved, while others were denied based on governmental-function immunity under Ohio law. The APD moral claim investigations also show that APD classified some officer actions as "exonerated" when the incident occurred, but the officers' actions were justified and within policy, and as "substantiated" when the reported loss or damage occurred as alleged.

Overall, the available documentation supports the following conclusions:

- APD generally documents property damage incidents through Blue Team/IAPro and Lost, Damaged, or Inoperable reports.
- APD supervisory reviews commonly assess whether the damage was justified, reasonable, necessary, or within policy.
- The Law Department separately evaluates legal liability and may approve payment without admitting liability, deny claims based on immunity, or partially approve claims as a compromise.
- There is no single integrated tracking system in the provided materials that consistently link the APD incident, moral claim number, Law Department claim disposition, amount claimed, amount paid, evidence reviewed, and administrative finding.
- Documentation is strongest where APD reports, photographs, BWC references, claim forms, Law Department letters, and supervisory memoranda appear in the same claim packet.
- Documentation is weaker where claim outcomes exist without corresponding APD administrative findings, or where APD Blue Team files do not show the final claim disposition.

II. Audit Objectives

The objectives of this audit were to:

1. Assess the completeness and accuracy of claim documentation.
2. Evaluate the timeliness and consistency of claim resolution by the Law Department.
3. Identify whether APD supervisory reviews and Blue Team findings align with claim outcomes.
4. Determine whether available evidence supports City determinations.
5. Provide recommendations to improve policy, training, documentation, and claims-handling practices.

III. Scope and Limitations

The audit scope includes all property damage incidents and claims filed with the City of Akron from January 1, 2022, through August 31, 2025, where the damage resulted from APD officer action[1].

The available documentation includes both APD administrative records and a set of Law Department moral claim files. However, the materials do not appear to include every claim filed during the audit period or a master claims database. Therefore, this report should be understood as an audit of the materials provided, not a certification that every APD-related property damage claim during the period has been reviewed.

IV. Methodology

The review examined the available records for:

- Claim number.
- Date of incident.
- Date claim was received or investigated.
- Property allegedly damaged or lost.
- Amount claimed and amount approved, where available.
- Law Department disposition.
- APD administrative finding.
- Evidence referenced, including BWC, photos, police reports, call notes, and case supplements.
- Timeliness indicators.
- Consistency between administrative findings and claim outcomes.

[1] 130 total incidents were reported for this period.

V. Summary of Reviewed Claim and Incident Patterns

A. Approved and Partially Approved Claims

The Law Department files show that some claims were approved or partially approved. In those cases, the City typically required the claimant to execute a release and W-9 before issuing payment. The release language generally stated that payment was a compromise of a disputed claim and was not an admission of liability.

Examples include:

- Claim CA 22-04-02, approved in full for $407.55.
- Claim CA 22-04-14, partially approved for $439.95, representing the remaining balance due on an iPhone 12, while the remainder of the claim was denied.
- Claim CA 22-05-01, approved for $218.84.

These claims show that the City sometimes resolves APD-related property damage claims through payment even while denying legal liability.

B. Denied Claims

The Law Department files also show denial of claims based on governmental-function immunity under Ohio law. The denial language generally states that the claim arose from the performance of a governmental function and that no statutory exception to immunity applied.

This approach appears legally consistent across the denial documentation reviewed, but the provided materials do not always include a detailed factual explanation in the denial letter itself.

C. APD Moral Claim Investigations

APD moral claim investigation memoranda commonly classify claims as either ***"exonerated"*** or ***"substantiated."***

"Exonerated" is used where the incident occurred but APD concluded that officer conduct was justified and in accordance with APD policy and procedure.

"Substantiated" is used where the investigation concluded that the reported incident occurred as stated by the reporting party. In some substantiated cases, APD still asserted that the officers' actions fell under the City's sovereign immunity protection.

D. Blue Team / IAPro Property Damage Reviews

The Blue Team and IAPro records show APD's internal property damage review process. These files often include:

- Lost, Damaged, or Inoperable reports.
- SCAD or case numbers.
- Tracking numbers.
- Incident summaries.
- Involved employees.
- BWC references.
- Photographs or photo attachments.
- Case reports and call notes.
- Chain-of-command review.
- Supervisory conclusions.

Many of these cases involved emergency forced entry where supervisors concluded that officers acted reasonably and within policy.

VI. Findings

Finding 1: APD has an established internal process for documenting property damage.

The available APD records show that property damage incidents are commonly entered into Blue Team or IAPro as Lost, Damaged, or Inoperable reports. These reports generally identify the damaged property, describe how the damage occurred, record whether photographs were taken, list involved officers, and document routing through the chain of command.

This process is a strength because it creates an administrative record separate from the Law Department's claim file. It also allows supervisors to evaluate whether officer conduct complied with APD policy.

Finding 2: APD supervisory findings generally align with the facts documented in the incident records.

In the reviewed APD files, supervisors typically connected their conclusions to the underlying facts. For example, forced entry was commonly justified by emergency circumstances such as suspected domestic violence, welfare checks, medical emergencies, fire conditions, burglary concerns, or the need to reach an unconscious person in a locked vehicle.

The strongest files included a clear factual narrative, BWC references, photographs, call notes, and a supervisory explanation of why the damage was reasonable or unavoidable.

Finding 3: Law Department claim outcomes are not always fully integrated with APD administrative findings.

The Law Department records show claim outcomes, including approvals, partial approvals, releases, and denials. However, the APD Blue Team records and Law Department claim files are not consistently linked in a single tracking document.

This creates an audit limitation. In some instances, the APD file explains the officer action but does not show whether a citizen claim was filed or paid. In other instances, the claim file shows the Law Department outcome but does not clearly identify the corresponding APD Blue Team tracking number or administrative finding.

Finding 4: Timeliness can be partially assessed but not fully measured without a master claims log.

Some moral claim tracking sheets show when Patrol Operations received a claim and when it was completed and returned to the Law Department. Some Law Department letters show the date of final disposition. These documents allow limited timeliness review.

However, the available materials do not include a complete claims log showing every key milestone, including:

- Date of incident.
- Date claim received by Law Department.
- Date sent to APD.
- Date received by APD.
- Date returned to Law Department.
- Date final decision issued.
- Date release returned.
- Date payment issued.

Without those fields, the audit cannot reliably calculate average processing time or compare timeliness across all claims.

Finding 5: The City's claim decisions sometimes distinguish between legal liability and practical resolution.

The Law Department approval and release documents indicate that the City may approve payment while expressly denying liability. This is a common risk-management approach, particularly for

relatively low-dollar property damage claims where payment may avoid litigation or promote fairness.

However, the documentation would be stronger if each claim decision expressly explained whether payment was based on legal liability, moral responsibility, practical settlement value, evidentiary uncertainty, or customer-service considerations.

Finding 6: Evidence documentation is generally present but inconsistently summarized.

Many APD records reference BWC, photographs, case reports, call notes, and supervisory review. Some claim investigations specifically state that BWC was reviewed and corroborated the officers' account. Other files simply reference attached evidence without summarizing what the evidence showed.

For accountability and transparency, claim files should include a short evidence summary stating what was reviewed and how it supported the final determination.

Finding 7: The APD moral claim terminology may be confusing to the public.

The terms "exonerated" and "substantiated" have internal administrative meaning. However, a member of the public may misunderstand them. For example, a claim can be "substantiated" because the loss occurred, while APD may still conclude that officer conduct was protected by sovereign immunity or otherwise lawful. Similarly, "exonerated" does not mean the incident did not occur; it means the officer action was found justified.

The City should clarify these terms in claim correspondence and audit reporting.

VII. Objective-by-Objective Analysis

Objective 1: Completeness and Accuracy of Claim Documentation

The documentation is partially complete.

The strongest files include a claim form, APD investigation memorandum, moral claim tracking sheet, police reports, BWC or photo references, and a Law Department disposition letter. These files allow a reviewer to understand what was claimed, what APD investigated, what evidence was reviewed, and how the city resolved the claim.

The weaker files lack one or more critical components, such as the final claim disposition, APD tracking number, evidence summary, or clear linkage between the claim and the related Blue Team entry.

Audit Conclusion: APD incident documentation is generally complete for internal administrative purposes. Law Department claim documentation is sufficient in files with approval or denial letters. However, the overall claim record is not consistently complete because APD and Law Department records are not uniformly linked.

Objective 2: Timeliness and Consistency of Claim Resolution

Timeliness can be assessed only in part.

The moral claim tracking sheets are useful because they show when Patrol Operations received and returned claim packets. However, not every file contains a complete tracking timeline. Some claim files include final decision letters months after the incident date, but without a full milestone record it is not possible to determine whether delays occurred in the Law Department, APD review, claimant response, documentation collection, or release/payment processing.

Consistency appears stronger in denial letters, which use similar governmental immunity language. Approval letters also follow a consistent structure requiring release and W-9 documentation before payment.

Audit Conclusion: The City uses consistent approval, release, and denial formats. Timeliness cannot be fully evaluated without a centralized claims timeline.

Objective 3: Alignment Between APD Supervisory Reviews and Claim Outcomes

The available records show general alignment between APD findings and claim outcomes, but not enough to make a complete systemwide finding.

Where APD found officer conduct "exonerated," the documentation generally concluded that the damage or loss occurred but that officer actions were justified and within policy. This finding is consistent with later denial or immunity-based reasoning.

Where APD found claims "substantiated," the files generally recognized that the incident occurred as alleged. However, substantiation did not always translate into City payment, because the City may still assert immunity or deny legal liability.

Audit Conclusion: APD findings and claim outcomes appear broadly consistent when both are available, but the city should better document how APD administrative findings informed Law Department outcomes.

Objective 4: Whether Evidence Supports City Determinations

The evidence generally supports APD administrative determinations where the files include BWC references, photographs, incident reports, and supervisory summaries.

The strongest examples involve emergency forced entry where call notes, witness statements, BWC, and officer narratives supported the conclusion that entry was necessary. Other strong examples involve vehicle access during overdose or medical emergencies where officers damaged property to render aid.

However, the audit cannot independently verify every claim disposition because not all BWC, photographs, and attachments are fully viewable in the provided materials.

Audit Conclusion: The available evidence generally supports the APD administrative findings. Claim determinations would be stronger if each Law Department file contained a concise evidence-review summary.

Objective 5: Recommendations to Improve Policy, Training, and Claims Handling

The City should strengthen the property damage claims process by improving integration, tracking, documentation, and transparency.

VIII. Recommendations

Recommendation 1: Create a unified APD-Law Department property damage claims log.

The city should maintain a single tracking log that includes:

- APD Blue Team tracking number.
- SCAD or case number.
- Law Department claim number.
- Claimant name.
- Date of incident.
- Date claim received.
- Date sent to APD.
- Date APD completed review.
- Date returned to Law Department.
- Date final decision issued.
- Amount claimed.
- Amount approved or paid.

- Final disposition.
- APD administrative finding.
- Evidence reviewed.

Recommendation 2: Require a final claim disposition to be uploaded or cross-referenced in the APD file.

When a citizen files a claim arising from APD property damage, the final Law Department outcome should be added to the APD administrative file or cross-referenced by claim number.

Recommendation 3: Require an evidence-review summary in each claim file.

Each claim file should include a short summary identifying:

- Whether BWC was reviewed.
- Whether photographs were reviewed.
- Whether call notes were reviewed.
- Whether police reports were reviewed.
- Whether claimant documentation was reviewed.
- How the evidence supported the outcome.

Recommendation 4: Standardize the relationship between APD findings and Law Department outcomes.

The City should adopt a written matrix explaining how APD findings such as "exonerated," "substantiated," "within policy," or "policy violation" are considered by the Law Department when deciding whether to approve, deny, partially approve, or settle a claim.

Recommendation 5: Clarify claim terminology for the public.

Claimants should receive plain-language explanations of terms such as:

- Exonerated.
- Substantiated.
- Within policy.
- Moral claim.
- Governmental function.
- Sovereign immunity.
- No admission of liability.
- Partial approval.

Recommendation 6: Improve officer and supervisor documentation regarding citizen notification.

APD reports should state whether the property owner was informed of the damage and whether the owner was advised how to file a claim.

Recommendation 7: Track low-dollar settlements separately from legal-liability determinations.

The city should distinguish between:

- Payment based on legal responsibility.
- Payment as compromise or settlement.
- Payment for customer service or practical reasons.
- Denial based on immunity.
- Denial based on lack of proof.
- Denial because damage was justified or unavoidable.

Recommendation 8: Publish an annual property damage claims summary.

The city should publish an annual summary showing:

- Number of APD-related property damage claims.
- Number approved.
- Number partially approved.
- Number denied.
- Number settled.
- Total amount claimed.
- Total amount paid.
- Most common incident types.
- Average time to resolution.

Personal identifying information should be excluded.

Recommendation 9: Continue training on forced entry and property damage documentation.

APD should continue training officers and supervisors to document:

- The emergency basis for forced entry.

- Attempts to avoid damage.
- Whether consent was sought or obtained.
- Whether warnings were given before forced entry.
- Whether photographs were taken.
- Whether BWC was activated.
- Whether the property was secured afterward.
- Whether the citizen was given claims information.

IX. Conclusion

The expanded documentation shows that Akron has both an APD administrative review process and a Law Department claims process for property damage incidents involving police action. APD generally documents incidents through Blue Team or IAPro, and supervisors frequently explain whether the damage was justified, reasonable, unavoidable, or within policy. The Law Department separately evaluates claims and may approve, partially approve, deny, or resolve claims through release agreements.

The principal weakness identified by this audit is not the absence of documentation, but the lack of a fully integrated APD-Law Department tracking and accountability system. Without a unified log, it is difficult to determine whether every APD property damage incident resulted in a claim, whether every claim was matched to an APD administrative review, how long each claim took to resolve, and whether claim outcomes were consistent across similar facts.

The city should adopt a unified tracking system, standardize documentation requirements, improve evidence summaries, clarify terminology, and publish annual aggregate data. These reforms would improve transparency, consistency, accountability, and public confidence in the City's handling of APD-related property damage incidents.

CITIZENS' POLICE OVERSIGHT BOARD

Prepared by: Office of the Independent Police Auditor
Date: September 15, 2026
Action Requested: Board Approval to Proceed with Audit of the APD Flock` Safety/Automated License Plate Reader System.

Purpose

The Office of the Independent Police Auditor (OIPA) proposes conducting an independent audit of the Akron Police Department's use and administration of the Flock Safety Automated License Plate Reader (ALPR) system.

Flock technology provides law-enforcement agencies with the ability to capture and search vehicle and license-plate information and to receive alerts regarding vehicles associated with criminal investigations or other identified public-safety interests. The technology can provide significant investigative and public-safety benefits. At the same time, its ability to collect, search, retain, analyze, and share vehicle-location information creates important considerations regarding appropriate use, privacy, civil rights and civil liberties, information sharing, supervisory oversight, transparency, and accountability.

The proposed audit is not premised upon an allegation that APD has misused the Flock system. Rather, the purpose is to independently determine whether appropriate safeguards exist and whether those safeguards operate effectively in practice.

Proposed Audit Scope

OIPA has developed a comprehensive audit framework that will examine both APD's overall administration of the Flock program and actual system activity. The audit will include a high-level review of:

- Governance and Policy: APD policies, procedures, contracts, authorization, system configuration, and administrative responsibility.
- Authorized Use: Whether Flock searches are conducted for legitimate, documented law-enforcement or public-safety purposes.
- User Access and Training: Who has access to the system, the level of access provided, and whether personnel are appropriately trained before receiving access.
- Privacy, Civil Rights, and Civil Liberties: Safeguards against personal, discriminatory, unauthorized, or otherwise inappropriate use of vehicle-location information.

- Hot Lists and Alerts: How vehicles are added to watch/hot lists, how long entries remain active, and whether alerts are appropriately verified before enforcement action.
- Enforcement Activity: Whether Flock-generated information leading to traffic stops, detention, searches, arrests, or other enforcement actions is appropriately verified and documented.
- Data Sharing: Which outside agencies can access APD-generated Flock information, which external Flock networks APD can access, and whether appropriate controls govern those relationships.
- Retention and Security: How long information is retained, what occurs when Flock information is downloaded or transferred into another APD system, and whether appropriate security controls exist.
- Supervisory Oversight and Auditing: Whether APD routinely audits system activity and has mechanisms capable of detecting unauthorized or unusual use.
- Camera Deployment: Whether placement and continued deployment of Flock cameras are supported by identifiable public-safety objectives.
- Operational Effectiveness: Whether APD can demonstrate measurable investigative and public-safety benefits from the program relative to its cost and scope.
- Transparency and Accountability: Whether sufficient information concerning APD's Flock program is available to policymakers, oversight officials, and the public.

Audit Methodology

The audit will combine a system-level review with transaction-level testing.

OIPA will first review APD policies, contracts, training, camera deployment, user permissions, retention settings, information-sharing agreements, internal auditing practices, and other program controls.

OIPA will then obtain the complete available population of Flock search and audit-log activity for the established audit period. From that population, OIPA will conduct both a statistically selected random sample and a risk-based review of transactions presenting heightened compliance concerns.

For selected transactions, OIPA will independently compare Flock activity against APD records, where appropriate, to determine whether the search was connected to a legitimate investigation or public-safety purpose and whether subsequent police activity complied with applicable requirements.

This methodology will allow OIPA to evaluate not merely whether APD has policies governing Flock, but whether those safeguards are functioning in actual practice.

Information and Access Required from APD

OIPA has developed a detailed Comprehensive APD Flock Audit Document and Data Request identifying the information necessary to conduct the audit.

Among other records, OIPA will request:

- Flock policies, procedures, contracts, and training materials;
- complete camera/device inventory and deployment information;
- complete current and historical user/access records;
- complete available Flock search/query audit logs;
- hot-list/watch-list history;
- alert records;
- records connecting Flock alerts to enforcement activity;
- external-agency access and data-sharing information;
- APD access to external Flock networks;
- retention and system-configuration information;
- internal Flock audits and supervisory reviews;
- complaints or investigations involving potential misuse;
- program cost and effectiveness information; and
- other system records necessary to independently verify selected transactions.

Where information exists electronically, OIPA will request the complete underlying dataset in native or machine-readable format, rather than APD-selected samples, aggregate summaries, screenshots, or selected examples.

OIPA will also request appropriate cooperation and system/vendor assistance where necessary to understand Flock functionality, identify available audit records, validate data, and obtain information that may require assistance from Flock Safety.

Anticipated Audit Product

Upon completion, OIPA will prepare a written audit report addressing APD's:

- compliance
- governance
- authorized use
- privacy safeguards
- information sharing
- supervisory oversight
- accountability
- transparency
- operational effectiveness

The report will distinguish between legal requirements, APD policy requirements, identified control deficiencies, and national best-practice opportunities. Recommendations will include proposed corrective action, priority level, responsible component, implementation timeframe, and measures through which implementation can subsequently be verified.

The audit framework is also intended to establish a repeatable methodology for future independent review of APD's use of Flock and other law-enforcement technologies.

Action Requested of the CPOB

OIPA requests that the Citizens' Police Oversight Board approve the proposed APD Flock Safety/ALPR audit and authorize OIPA to move forward with the audit process.

Upon approval, OIPA will:

1. Formally notify APD that the audit is proceeding;
2. Transmit the Comprehensive APD Flock Audit Document and Data Request to APD;
3. Request the data, records, system information, technical assistance, and access reasonably necessary to conduct the independent audit;
4. Obtain and validate the underlying Flock audit populations;
5. Conduct statistical and risk-based transaction testing;
6. Request supplemental records or clarification where necessary;
7. Provide periodic progress updates to the CPOB; and
8. Present the completed audit, findings, and recommendations to the Board.

Proposed Board Action

Motion: *To approve the Office of the Independent Police Auditor's proposed audit of the Akron Police Department's Flock Safety/Automated License Plate Reader program and authorize OIPA to proceed with the audit, including transmitting the formal document and data request to APD and requesting the records, electronic data, system information, technical assistance, and access reasonably necessary to complete the independent audit.*

OIPA Recommendation

OIPA recommends approval.

Independent review of APD's Flock program will provide the Board, APD, City leadership, and the Akron community with an evidence-based assessment of whether this significant law-enforcement technology is being used lawfully, appropriately, effectively, proportionately, and with adequate safeguards for privacy, civil rights, accountability, and public trust.

The proposed audit will also establish a structured baseline against which APD's future use of Flock technology can be evaluated and, where appropriate, periodically reexamined.

Anthony Finnell



Independent Police Auditor