

Independent Police Auditor Use of Force Review

To: CPOB

From: Anthony Finnell

Date: April 16, 2025

Re: Independent Police Auditor Report – March 16, 2024-April 11, 2025

Use of Force Case Reviews

<u>Concur with APD Findings; IPA Concerns or Recommendations</u>	<u>Date Reviewed</u>	<u>Notes</u>	<u>45-Day Due Date</u>
2024-00068409	9/12/2024	Submitted IPA Recommendation Memo to Mayor, City Council on September 19, 2024	11/10/2024
24TR-0730	1/21/2025	Submitted IPA Recommendation Memo to Mayor, City Council on February 20, 2025	4/13/2025
25TR-0014	2/19/2025	Submitted IPA Recommendation Memo to Mayor, City Council on March 20, 2025	5/11/2025
2024-00136482	3/8/2025	Submitted IPA Recommendation Memo to Mayor, City Council on March 20, 2025	5/11/2025
2025-00005105	3/9/2025	Submitted IPA Recommendation Memo to Mayor, City Council on March 20, 2025	5/11/2025
2025-00008911	3/10/2025	Submitted IPA Recommendation Memo to Mayor, City Council on March 20, 2025	5/11/2025
2024-00144811	3/10/2025	Submitted IPA Recommendation Memo to Mayor, City Council on March 20, 2025	5/11/2025

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2025-00010011	3/15/2025	Submitted IPA Recommendation Memo to Mayor, City Council on April 17, 2025 (pending)	6/1/2025
2025-00021800	3/23/2025	Submitted IPA Recommendation Memo to Mayor, City Council on April 17, 2025 (pending)	6/1/2025
2025-00017987	3/27/2025	Submitted IPA Recommendation Memo to Mayor, City Council on April 17, 2025 (pending)	6/1/2025
2024-00124312	3/28/2025	Submitted IPA Recommendation Memo to Mayor, City Council on April 17, 2025 (pending)	6/1/2025
2025-00014926	2/9/2025	Submitted IPA Recommendation Memo to Mayor, City Council on April 17, 2025 (pending)	6/1/2025

<u>Concur with APD Findings</u>			
25TR-0048	-		
2025-00012687	2025-00008562		
2025-00019160	2025-00011526		
2025-00022843	2025-00014035		
2025-00016969	2025-00016557		
2025-00018054	2025-00015395		
2025-00018079	2025-00018079		
<u>Do Not Concur with APD Findings</u>	<u>Date Report Submitted</u>	<u>Notes</u>	<u>45-Day Due Date</u>
2024-00075623	10/23/2024	Submitted IPA Recommendation Memo to Mayor, City Council on October 24, 2024.	12/10/2024

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2024-00077110	1/22/2025	Submitted IPA Recommendation Memo to Mayor, City Council on February 20, 2025	4/13/2025
2025-00016602	3/24/2025	Submitted IPA Recommendation Memo to Mayor, City Council on April 17, 2025 (pending)	6/1/2025

Complaints received since last report		3	
To Date as of April 11, 2025			
Concur with Recommendations		12	12.63%
Concur		81	85.26%
<u>Do Not Concur</u>		<u>2</u>	2.11%
TOTAL		95	
March 25, 2024 - April 11, 2025			
	17	7.33%	
	211	90.95%	
	<u>4</u>	1.72%	
	232		

Current Projects

- **Database/Case Management Development** – I met with IT and purchasing. The process is underway to send out the RFP soon. We need to prepare an ordinance and resolution to complete the Uniform Council Report (UCR) to request the funding for the purchase.
- **Interns** – New intern started working with us on March 31, 2025.
- **Executive Assistant I and Data Analyst I** – I met with HR and have initiated the process to prepare the requisition to fill the Executive Assistant I position. During the same meeting we discussed the hiring process for Data Analyst I. I will provide an update on when both job announcements will open. Further information will be discussed during the Executive Session.
- **Jayland Walker** – I received access to all unredacted BWC footage, investigative reports and documentation, and have begun the task of processing the materials for review.
- **RFQ for Independent Legal Counsel** – We have a meeting scheduled with the law department to outline the process for utilizing the services of Bricker Graydon.

Training

- IPA Finnell and DIPA Myers attended the webinar titled “2025 Webinar Series - Addressing Key Issues in Law Enforcement-Youth Interactions” on March 28, 2025.

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- IPA Finnell attended the two-day virtual workshop titled "Active De-Escalation Strategies Certification", on April 1, 2025.
- IPA Finnell and DIPA Myers attended Sunshine Laws Training on April 2, 2025.

Community Activities/Presentations

CPOB Members and OIPA staff attended the following events:

- 3/15/2025 – Accountability Circle Cohort
- 3/17/2025 – Akron City Council Budget Presentation

Respectfully submitted,



Anthony Finnell, Independent Police Auditor

Independent Police Auditor

Use of Force Review

SUBJECT NAME: ██████████
CASE NUMBER: 2024-000124312
DATE OF REPORT: 03/28/2025

I. Overview of Incident

On October 16, 2024, Ofc McCormick was working his current assignment as a School Resource Officer assigned to Firestone CLC. Ofc Henry was working as a Police In The Schools officer at Firestone CLC as well. They were notified over school radio by school head Principal Loughry that the suspect ██████████ had bypassed the metal detector security checkpoint and was in the main hallways. It is a daily occurrence and a requirement for the students of Firestone CLC to comply with metal detector checkpoints.

Ofc McCormick went into the main hallways to try to locate ██████████. ██████████ was escorted back to the metal detector by the building principal Ms. Loughry. Ofc McCormick assisted her and walked with them to the metal detectors. ██████████ would not comply with the metal detector protocols. ██████████ went around Ms. Loughry and tried to go past the Officers into the school without satisfying the metal detector protocols. Ofc McCormick redirected ██████████ back to the metal detector. ██████████ tried to go around or bypass Ofc McCormick three different times. Each time he went through, the metal detector would alert, or he would not go through the metal detector properly for an accurate reading. He was instructed to return and be properly screened each time. On the fourth time that he was instructed to return, ██████████ attempted to charge through Ofc McCormick shoving him and trying to duck around Ofc McCormick into the school.

██████████ ran at Ofc McCormick and shoved him. ██████████ tried to force his way past Ofc McCormick and Ofc Henry into the school after failing to successfully pass a metal detector scan three times. Ofc Henry and Ofc McCormick tried to place ██████████ under arrest. ██████████ resisted arrest.

The suspect had a bloody nose briefly but stated that he was not injured. He was treated by EMS and seen by the school nurse.

Ofc Henry and Ofc McCormick were not injured.

██████████ was transported to Summit County Juvenile Detention Center and was charged with criminal trespass, resisting arrest, and obstructing official business.

This report evaluates the use of force incident involving Akron Police Department officers and student ██████████, through the lens of constitutional policing. The review assesses compliance with APD Use of Force Policy P-2021-0013, the Fourth and Fourteenth Amendments, evaluates the necessity and proportionality of force, and provides policy recommendations to enhance law enforcement practices in school settings.

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II. LEGAL ANALYSIS & CONSTITUTIONAL CONSIDERATIONS

A. Fourth Amendment – Reasonableness of Detention & Use of Force

The Fourth Amendment prohibits unreasonable searches and seizures and governs the use of force under *Graham v. Connor* (1989), which considers:

1. The severity of the offense – [REDACTED] initial conduct (bypassing the metal detector) was a policy violation, but his physical resistance escalated the situation.
2. Whether the suspect posed an immediate threat – Officers had reasonable concern that [REDACTED] might be concealing a weapon, given his refusal to comply with security screening.
3. Whether the suspect was actively resisting or attempting to evade arrest – [REDACTED] pushed officers, resisted verbal commands, and attempted to flee, justifying physical intervention.

Application to This Case

Justification for Stop and Detention

- [REDACTED] bypassing the metal detector created reasonable suspicion that he might be carrying a weapon, justifying the officers' attempt to detain him for further screening.
- The school's metal detector policy, known to students, reinforced a legitimate safety concern.

Use of Force Justification (*Graham v. Connor* Factors)

Severity of the Offense:

- [REDACTED] was not initially suspected of a violent crime, but failing to comply with school security screening was a legitimate concern.
- His physical resistance escalated the situation, making the officers' intervention reasonable.

Immediate Threat to Officers or Others:

- Officers and witnesses expressed concerns that [REDACTED] may have had a weapon, given the metal detector alerts and his attempts to bypass it.
- The officers' belief that [REDACTED] posed a safety risk was reasonable under the circumstances.

Active Resistance & Evasion:

- [REDACTED] physically resisted efforts to detain him.
- Officers attempted verbal de-escalation and physical restraint before resorting to strikes.
- The 25-40 second struggle before force was used aligned with Supreme Court precedent allowing officers to use reasonable force when faced with active resistance.

Potential Issue – Striking the Suspect:

- Officer McCormick's three closed fist strikes to the head are the most legally questionable aspect.
- While force is permitted to gain control of a resisting suspect, **the head is considered a high-risk target area.**

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- Tennessee v. Garner (1985) limits deadly force to cases where the suspect poses an immediate threat of serious harm.
- ██████ was resisting but had not displayed a weapon, raising the proportionality question: **Were head strikes necessary to control the situation, or could other techniques (e.g., joint locks, continued grappling) have sufficed?**
- Some witness statements suggest alternative restraint methods may have been viable.

Fourth Amendment Compliance

- The initial detention was justified under Terry v. Ohio.
- The decision to arrest was justified under probable cause, given ██████ active resistance and trespassing violation.
- The use of force was mostly reasonable under Graham v. Connor, **except for the head strikes delivered by Officer McCormick, which are "problematic and troubling" but not inherently unreasonable under the Fourth Amendment.**

B. Fifth and Fourteenth Amendment – Due Process & Equal Protection

These amendments prohibit arbitrary law enforcement actions and require fair treatment of all individuals.

Application to This Case

Due Process – Fair Warning & Procedural Compliance

- ██████ was given multiple clear warnings and opportunities to comply.
- Officers provided medical aid after the incident, fulfilling their duty of care.
- Juvenile procedures were followed, and ██████ was taken to a juvenile detention facility.

Equal Protection & Potential Bias Considerations

- The lack of body-worn camera footage raises concerns about transparency.
- Witnesses offered conflicting perspectives on whether officers escalated the situation unnecessarily.
- The student's race (Black male) and potential implicit biases in use-of-force decisions should be examined.
- While there is no direct evidence of racial profiling, data trends should be reviewed to determine whether similar force is used consistently across racial groups.

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C. School Policing & Community Trust

School Resource Officers (SROs) operate in a unique setting where they must balance law enforcement duties with student welfare. Over-policing in schools can negatively impact trust and school climate.

Proper Response to a Security Concern

- Schools have a duty to ensure weapons are not brought onto campus.
- Officers were right to enforce security screening protocols.

Concerns About Criminalization of School Discipline

- Should school officials have played a larger role in de-escalation before involving police?
- The situation escalated from a school policy violation to a criminal charge, raising concerns about the school-to-prison pipeline. De-escalation efforts could have been prioritized to prevent the use of force.

Steps to Improve Constitutional Policing in Schools

- Enhanced de-escalation training for SROs to avoid escalation to physical force.
- Use of body cameras for SROs to enhance transparency and accountability.
- Clearer guidelines on when law enforcement intervention is appropriate versus when school disciplinary measures should be prioritized.

III. OIPA RECOMMENDATIONS

1. Implement Mandatory Body-Worn Cameras for SROs

Rationale: The absence of body-worn camera (BWC) footage reduced transparency.

Action: Require all School Resource Officers to wear BWCs during school interactions.

Implementation: Policy revision mandating BWCs in school assignments.

2. Restrict Head Strikes in Use of Force Policy

Rationale: Striking a suspect in the head is a high-risk maneuver and should be reserved for situations involving imminent deadly threats.

Action: Amend use-of-force policies to prohibit head strikes unless lethal force is justified.

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Implementation: Train officers on alternative grappling and joint-control techniques.

3. Strengthen De-escalation & Adolescent Psychology Training for SROs

Rationale: Adolescents process authority and stress differently than adults. Training in non-violent intervention techniques can reduce unnecessary escalations.

Action: Mandate specialized de-escalation and adolescent psychology training for all school-based officers.

Implementation: Partner with mental health professionals and school counselors to develop training programs.

4. Establish a School-Based Arrest Review Board

Rationale: To prevent unnecessary criminalization of student behavior, a review board should assess whether arrests in schools are justified.

Action: Form a School Policing Oversight Committee with educators, law enforcement, community members, and legal experts.

Implementation: Require quarterly reviews of school-related arrests, focusing on racial equity and policy adherence.

5. Prioritize Restorative Justice & Diversion Programs

Rationale: Restorative justice programs reduce student arrests and recidivism by focusing on rehabilitation rather than punishment.

Action: Implement a diversion program for non-violent school infractions, emphasizing mediation and behavioral interventions.

Implementation: Work with juvenile justice agencies to expand alternative disciplinary responses.

IV. CONCLUSION

OIPA has completed its review of the use of force in this incident. The APD investigation into the use of force by the officers found their actions to be **Objectively Reasonable**, and the arrest to be legally justified. OIPA concurs with the findings of the APD investigation, however, the use of head strikes, and criminalization of a school policy violation raise constitutional and policy concerns. By implementing these recommendations, Akron Police Department and Firestone CLC can enhance constitutional policing, reduce unnecessary force, and build trust between officers and students.

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These reforms will ensure that law enforcement interventions in schools prioritize safety, fairness, and legal compliance.

Anthony Finnell

A handwritten signature in blue ink that reads "Anthony Finnell". The signature is written in a cursive, flowing style.

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Use of Force Review

SUBJECT NAME: ██████████
CASE NUMBER: 2025-00010011
DATE OF REPORT: 03/15/2025

I. Overview of Incident

On January 28, 2025, Officer James Leadbetter and Officer Jeremy Sosenko responded to a domestic incident at ██████████, involving a juvenile suspect, ██████████. The situation escalated when ██████████ barricaded herself in a room, resisted officers' attempts to detain her, and engaged in physical resistance, including clawing at Officer Leadbetter's wrist. During the altercation, Officer Leadbetter used the phrase "fucking bitch" while ██████████ was scratching his hand. The encounter resulted in ██████████ being handcuffed and transported for detention.

II. Objective Reasonableness of Use of Force

Standard for Use of Force

The Akron Police Department's Use of Force Policy (P13-2021) aligns with the standard set in *Graham v. Connor (1989)*, requiring that force be:

1. Proportional to the severity of the crime at issue.
2. Used when the suspect poses an immediate threat to officers or others.
3. Necessary when the suspect is actively resisting arrest.

Force Applied in This Incident

1. Initial Resistance: ██████████ refused to comply, barricaded the door, and physically resisted officers' entry.
2. Physical Struggle: She pushed against the door, engaged in a struggle, and attempted to claw Leadbetter's wrist while in handcuffs.
3. Officer Response: Leadbetter used body weight to restrain her and delivered a single elbow strike to ██████████ shoulder to free himself.
4. Supervisory Review Findings: Sgt. Gupta's investigation concluded that the use of force was objectively reasonable, as ██████████ was actively resisting arrest, attempting to injure an officer, and the applied force ceased once compliance was achieved.

Compliance with APD's Use of Force Policy

According to **P13-2021**:

- Officers may use force to protect themselves from immediate harm.
- Force should cease once a suspect is under control.
- Striking a suspect to prevent further injury is permissible when actively resisting.

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The applied force was consistent with these provisions, and the supervisory investigation found the use of force to be **Objectively Reasonable**.

However, during the OIPA body worn camera (BWC) review, a potential APD policy violation was discovered, that was not documented by Sgt. Gupta's investigation of the use of force incident. While struggling to gain control of [REDACTED] and apply the handcuffs, [REDACTED] used her fingernails to claw into the hand of Officer Leadbetter. Officer Leadbetter can be heard on BWC calling [REDACTED] a "fucking bitch" once she was secured in the handcuffs.¹

The Akron Police Department's **Rules and Regulations Manual, Section 200.01** explicitly 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."

Officer Leadbetter's statement calling [REDACTED] a "fucking bitch" violates this policy, as it constitutes the use of profane and harsh language directed at a member of the public. While the context shows that Leadbetter was reacting to [REDACTED] physical resistance, the policy does not provide exceptions for emotional or reactive language during tense situations.

According to the **Disciplinary Procedures (Section 700)**, violations of department rules, including inappropriate language toward the public, are considered a **minor offense of the third degree**. The prescribed penalties for a first offense range from a written reprimand to a five-day suspension.

III. Conclusion and Recommendations

OIPA has completed its review of the use of force in this incident. While OIPA concurs with the findings of the APD investigation as to the use of force, OIPA does have the following recommendations regarding the potential policy violation:

1. The CPOB requests the APD Office of Professional Standards and Accountability (OPSA) to initiate an investigation into the use of profane language by Officer Leadbetter, pursuant to the potential violation as outlined in the APD Rules and Regulations Manual, Section 200.01.
2. The CPOB requests the APD Office of Professional Standards and Accountability (OPSA) to initiate an investigation into the failure to document the use of profane language by Officer Leadbetter and to take appropriate disciplinary action by Sgt. Gupta.

Anthony Finnell



Independent Police Auditor

¹ BWC (Extraction_1.1)_1289_Leadbetter_JamesDomestic_Fight_559_Evans_Ave, at the 10:22 mark; (Extraction_1.1)_1369_Sosenko_Jeremy559_Evans, at the 6:23 mark.

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SUBJECT NAME: ██████████
CASE NUMBER: 2025-00014926
DATE OF REPORT: 02/09/2025

Overview of the Incident

On February 9, 2025, Akron Police Officer Warrick encountered a juvenile, ██████████, who was suspected of concealing a firearm. The encounter began when Officer Warrick observed ██████████ walking on Newton St. and noted behaviors that raised suspicion—such as ██████████ adjusting his waistband and attempting to conceal something in his bag. Based on these actions, Officer Warrick initiated a stop, suspecting that ██████████ was armed. ██████████ fled the scene, leading to a foot pursuit and several uses of force, including the deployment of a Taser. The incident ended with ██████████ being apprehended and arrested for Obstructing Official Business and Resisting Arrest.

Constitutional Policing Considerations

1. Reasonable Suspicion and Probable Cause

Under constitutional policing, law enforcement officers are required to establish reasonable suspicion before initiating a stop or search. In this case, Officer Warrick noted several factors that led to his suspicion, including ██████████ actions of adjusting his waistband and covering it with a bag, along with his frequent glances at the officer. Based on these observations, Officer Warrick had reasonable suspicion to stop and question ██████████, particularly because carrying a concealed firearm by someone of ██████████ age would be unlawful. The officer's actions appear consistent with the requirement to act on reasonable suspicion when encountering a potentially armed individual, thus adhering to constitutional standards for investigative stops.

2. Use of Force

The **Graham v. Connor** standard, which governs the use of force by police officers, stipulates that the force used must be objectively reasonable considering the circumstances confronting the officer at the time of the arrest. Officer Warrick used multiple tactics to apprehend ██████████, including verbal commands, the use of a Taser, and physical control techniques like side control and body weight.

- **Taser Use:** The deployment of the Taser was reasonable under the circumstances, as ██████████ was fleeing from the officer, and there was a potential threat if he was armed. Although the initial Taser deployments were unsuccessful, Officer Warrick's decision to use a drive stun when ██████████ resisted on the ground aligns with an effort to subdue an actively resisting suspect.

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- **Physical Control:** After [REDACTED] continued resisting, Officer Warrick used his body weight to maintain control, which is typically considered a reasonable tactic in a situation involving resistance. The officer's actions aimed to prevent further flight and ensure that [REDACTED] did not escape or access a weapon.

3. Juvenile Considerations

[REDACTED] age (16) is a critical factor in evaluating the constitutional appropriateness of the police response. Juvenile encounters require additional consideration due to their developmental stage, which may affect decision-making and compliance with law enforcement. Although the officer did not appear to specifically address [REDACTED] s age during the interaction, constitutional policing encourages officers to adjust their tactics when interacting with minors to prevent undue harm or trauma. In this case, the officer's use of force, while reasonable under the circumstances, may have been more intense than necessary given [REDACTED] youth.

4. Allegations of Excessive Force

[REDACTED] claimed that he was subjected to excessive force, including a chokehold and being punched. However, after reviewing the body-worn camera footage and conducting interviews, no evidence supported these claims. The investigation found no violations of use-of-force protocols by Officer Warrick.

Conclusion

The officer's conduct in this case largely aligns with constitutional principles of policing, including the use of reasonable suspicion to initiate the stop, the use of force in response to [REDACTED] active resistance, and the application of de-escalation when feasible. The thorough investigation, supervisor review, and adherence to departmental policies further support the constitutionality of the officer's actions. However, the age of the suspect and the potential for a more nuanced approach to juvenile encounters suggest areas for ongoing officer training in handling young individuals in high-stress situations.

This case underscores the importance of balancing effective law enforcement with constitutional protections, particularly when juveniles are involved.

OIPA concurs with the finding by APD that the force used in this incident was **Objectively Reasonable**.

Recommendation:

1. **Revised Training:** Provide officers with training specific to ways to approach and deal

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with juveniles in high stress situations with the understanding that the teen brain is still developing, teens may respond to stress differently than adults².

Implementing the above recommendation will help balance officer safety, public trust, and lawful apprehension techniques.

Keysha Myers



Deputy Independent Police Auditor

Reviewed and approved by



² [The Teen Brain: 7 Things to Know - National Institute of Mental Health \(NIMH\)](#)

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SUBJECT NAME: Darshawn Thomas
CASE NUMBER: 2025-00016602
DATE OF REPORT: 03/23/2025

I. PURPOSE

This report provides an integrated review of the arrest and use of force involving Mr. Darshawn Thomas on February 13, 2025. It draws upon APD body-worn camera (BWC) footage, internal reports, legal standards, Ohio Revised Code, and the APD's Resisting Arrest/Use of Force Procedure (P-2021-013). The review assesses the incident in the context of constitutional policing principles.

II. Overview of Incident³

On February 13, 2025, at approximately 17:02 hours, Officers Sulek (#1573) and Idov (#1569) in Car 10, along with Officers Held (#1612) and McFeaters (#1613) in Car 28, responded to 1063 Frederick Blvd. in reference to a reported domestic disturbance. Prior to this call, Car 10 had been engaged in a traffic stop nearby. During that stop, the suspect, later identified as Darshawn Thomas, was captured on Ofc. Sulek's body-worn camera (BWC) at approximately the 3-minute, 10-second mark, shouting toward officers from a distance, stating, "Y'all better call for back-up!"

Car 28 was first to contact Mr. Thomas at the front door of the residence. Upon opening the door, Mr. Thomas instructed officers to "hold on," then closed the storm door. When Ofc. McFeaters attempted to reinitiate contact and inquired who was inside, Mr. Thomas responded, "my kids," before slamming the main door. Shortly thereafter, Car 10 arrived and confirmed through dispatch that the original caller was Tiana Thomas, Mr. Thomas's wife.

Ofc. Idov knocked on the door and explained the nature of the call, indicating that officers needed to speak with Ms. Thomas. Mr. Thomas appeared visibly agitated and responded with verbal defiance, telling officers they were not needed and accusing Ofc. Idov of lying. Despite repeated explanations that the call concerned a possible domestic incident and that officers were required to check on the well-being of the complainant, Mr. Thomas continued to obstruct their efforts, refusing entry and verbally escalating the encounter.

Mr. Thomas began waving his hands near Ofc. Idov's face during the exchange. Ofc. Idov pushed Mr. Thomas's left arm away and warned him that continued behavior could result in arrest. Mr. Thomas persisted in refusing commands and physically blocked access to Ms. Thomas. At that point, officers determined that Mr. Thomas's obstruction warranted physical intervention. Officers Idov, Sulek, Held, and McFeaters entered the residence, gained control of Mr. Thomas by securing his extremities, and conducted a takedown. Mr. Thomas was brought to the ground and placed in handcuffs without reported injury.

³ Summarization of the Akron Police Department Use of Force Investigation, completed by APD Sergeant Adam Smith #1490, under case number 2025-00016602, dated 02/13/2025.

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Following the arrest, officers requested EMS and supervisory response. Mr. Thomas was assisted to his feet and escorted to the rear of marked cruiser 8A for medical evaluation. Upon arrival, I, Sgt. Adam Smith (#1490), conducted a use-of-force investigation beginning with interviews with both Mr. Thomas and his wife, Tiana Thomas. Mr. Thomas was later transported by EMS to Akron General Medical Center for evaluation and monitoring of low blood sugar. Once medically cleared, he was transported by Car 28 to the Summit County Jail and booked on three charges: Obstructing Official Business, Resisting Arrest, and Disorderly Conduct.

III. FACTUAL SYNTHESIS (BASED ON BWC AND OFFICER REPORTS)

- Officers responded to a domestic dispute initiated by Mr. Thomas's wife, Tiana, who later stated she requested a police escort—not enforcement, when she called 911.
 - Tiana was visible, calm, and walking freely throughout the home when officers arrived.
 - Mr. Thomas refused entry and requested the officers leave; although he spoke in loud, animated tones he did not appear aggressive.
 - Tiana put on her coat and prepared to come outside to speak with the officers on her own accord.
 - Officers engaged Mr. Thomas in a verbal exchange, which escalated when Officer Idov asked Mr. Thomas, “Why are you still talking”?! Mr. Thomas replied in a very loud voice, “Because I can”⁴, just before the officers entered the home without consent or warrant and physically took down Mr. Thomas.
 - Reports claimed Mr. Thomas assumed a "bladed stance" and showed "pre-attack indicators," but BWC disputes this statement. BWC shows Mr. Thomas’ hands at his sides and stepping backward when the officers begin to enter his residence.⁵
 - The takedown occurred almost simultaneously with the verbal exchange escalating.
-

IV. LEGAL ANALYSIS

A. Fourth Amendment – Unlawful Warrantless Entry

Under *Payton v. New York*, 445 U.S. 573 (1980), warrantless home entries are per se unreasonable unless justified by exigent circumstances. In this case:

- There was no immediate threat or visible violence.
- Tiana Thomas, the caller, denied a physical altercation.

⁴ BWC (Extraction_1.1)_1612_Held_BenjaminDomestic_Fight_1063_Frederick_Blvd-2, @ 2:26 mark, and BWC (Extraction_1.1)_1569_Idov_MichaelDomestic_Fight_1063_Frederick_Blvd, @2:11-2:13 mark.

⁵ BWC (Extraction_1.1)_1569_Idov_MichaelDomestic_Fight_1063_Frederick_Blvd, @2:13 mark.

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- No warrant was obtained, nor was entry consented to.

Conclusion: The forced entry Violated Mr. Thomas's Fourth Amendment rights.

B. Excessive Force – Graham v. Connor Standards

Force must be objectively reasonable, considering:

1. Severity of the crime.
2. Immediate threat to officers or others.
3. Active resistance or flight.

Mr. Thomas:

- Was inside his home.
- Displayed verbal defiance but no physical aggression.
- Was not attempting to flee or attack.

Conclusion: Use of force was Not Objectively Reasonable under *Graham v. Connor*, 490 U.S. 386 (1989).

C. First Amendment – Protected Speech and Retaliatory Policing

The First Amendment prohibits government actors—including police officers—from retaliating against individuals for expressing their views, including criticism of government actors, unless such speech incites imminent violence (*City of Houston v. Hill*, 482 U.S. 451 (1987)).

Application to Incident:

- Mr. Thomas verbally objected to officers' entry and called Ofc. Idov a "liar."
- He expressed frustration with police presence and raised his voice.
- BWC shows force was initiated immediately following a statement by Mr. Thomas: "Because I can!"

This pattern indicates officers escalated in response to protected verbal expression—not criminal conduct. According to APD Policy P-2021-013 and Rule 700.07, force may not be used "as retaliation for physical or verbal abuse."

Conclusion: Mr. Thomas's speech—though confrontational—was protected under the First Amendment. The subsequent takedown and arrest strongly suggest retaliatory action for constitutionally protected expression, constituting a potential First Amendment violation.

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V. STATE LAW ANALYSIS – OHIO REVISED CODE

A. Obstructing Official Business (§2921.31)

- Requires a purposeful act that impedes a lawful duty.
- Mr. Thomas’s refusal to allow warrantless entry was constitutionally protected.
- No deception, misdirection, or physical interference was documented.

Conclusion: No Probable Cause existed for this charge.

B. Resisting Arrest (§2921.33)

- Requires resistance of a *lawful* arrest.
- The arrest originated from an unlawful entry and lacked legal foundation.

Conclusion: Because the arrest was Unconstitutional, any resistance cannot constitute criminal conduct under ORC §2921.33 (*Sansalone* precedent).

VI. POLICY COMPLIANCE ANALYSIS (P-2021-013)

A. Use of Force

- APD policy mandates de-escalation and objective reasonableness.
- BWC shows force initiated following verbal noncompliance, not a physical threat.
- Force appears retaliatory (initiated after Mr. Thomas said “Because I can”).

Finding: Policy P-2021-013 likely violated.

B. Domestic Violence Policy (P-2020-011)

- Requires identifying a primary aggressor and confirming a crime occurred.
- Tiana denied any violence.
- Officers did not conduct an evidence-based domestic violence investigation.

Conclusion: Policy P-2020-011 was not followed.

C. Rules and Regulations

- **Rule 200.05:** Force restricted to lawful circumstances.
- **Rule 700.07(a):** Prohibits unwarranted violence.
- **Rule 700.03(d):** Prohibits false or misleading reports.

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Use of Force Review

Conclusion: Officer statements mischaracterized Mr. Thomas’s behavior, conflicting with video evidence.

VII. SUPERVISORY AND INVESTIGATIVE DEFICIENCIES

- Sgt. Smith’s investigation concluded that the force was “objectively reasonable,” relying heavily on officer narratives.
- Review did not reconcile BWC discrepancies or assess the lawfulness of entry.
- APD policy requires critical review of all videos, audio, and witness testimony for force investigations.

Conclusion: Investigative conclusions were procedurally and substantively insufficient.

VIII. Conclusion

OIPA has determined, based on APD policies and procedures, constitutional policing principles, and Ohio Revised Code, that the officer’s actions in this incident are **Not Objectively Reasonable** and procedurally justified.

OIPA’s decision is based on the following:

Issue	Finding
Constitutional Compliance	✗ Warrantless entry and use of force unconstitutional
Probable Cause	✗ No lawful basis for arrest under ORC statutes
Use of Force Policy	✗ Takedown was excessive and retaliatory
Domestic Violence Procedure	✗ No investigation of primary aggressor
Officer Reporting Integrity	✗ Reports inconsistent with BWC
Supervisory Review	✗ Failed to critically assess conflicting evidence

RECOMMENDATIONS

1. **Administrative Review:**

Reopen the internal investigation into the use of force actions by APD Officers Sulek (#1573), Idov (#1569), Held (#1612), and McFeaters (#1613) under the Office of Professional Standards.
2. **Policy Revisions and Training:**
 - Reinforce Fourth Amendment doctrine.
 - Mandate training on force proportionality and report accuracy.

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3. **Supervisory Accountability:**
Require supervisors to integrate BWC review before concluding reasonableness.

4. **Transparency and Public Trust:**
Prepare a community-facing summary reaffirming commitment to lawful policing.

5. **Corrective Action Considerations:**
Evaluate disciplinary measures for policy violations and misreporting.

Anthony Finnell



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Use of Force Review

SUBJECT NAME: ██████████
CASE NUMBER: 2025-00017987
DATE OF OIPA REPORT: 3/27/2025

Overview of the Incident

On February 17, 2025, Akron Police officers were involved in a vehicle pursuit of a stolen vehicle that ended at 395 Baird St. Upon the vehicle's collision with a fence post, a passenger, ██████████ fled on foot. Officer Hight deployed her K-9 partner, Jaro, to apprehend ██████████¹. During the apprehension, ██████████ resisted by attempting to push the K-9 away and making physical contact with it². Officers Morgan, Sulek, and Burner assisted in restraining ██████████ and placing him in handcuffs³. EMS was called to the scene, and ██████████ was transported to Akron Children's Hospital before being taken to a juvenile detention facility.

Constitutional Policing Considerations

Under **Graham v. Connor (1989)**, the **objective reasonableness** standard evaluates use of force based on:

A. Severity of the Crime

- ██████████ was suspected of obstructing official business, resisting arrest, and assaulting a police dog.
- At the time of force application, officers believed he was the driver of a stolen vehicle, which later proved incorrect.
- Given the severity of the suspected crime (felony auto theft), force was justifiable under policy.

B. Immediate Threat to Officers or Public

- ██████████ attempted to flee and physically resisted the K-9 unit.
- Officers reported ██████████ attempted to choke the K-9 and resisted arrest, prolonging the struggle.
- Video evidence does not confirm knee strikes to the K-9 but supports physical resistance.

¹ (Extraction_1.1)1549_MORGAN_DONALD_traffic_stop_Ira_and_lakeshore the .25 mark

² (Extraction_1.1)1549_MORGAN_DONALD_traffic_stop_Ira_and_lakeshore the .51 mark

³ (Extraction_1.1)1549_MORGAN_DONALD_traffic_stop_Ira_and_lakeshore the 1.06 mark

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Use of Force Review

- Officers took appropriate measures to neutralize the situation swiftly.

C. Active Resistance or Flight

- ██████ actively resisted during the K-9 apprehension and was non-compliant with commands.
- His actions extended the time the K-9 remained latched onto him, escalating force necessity.

Officers used progressive force techniques, transitioning from K-9 use to physical

Use of Force

1. **Use of Force Justification:** The deployment of a K-9 was based on the perception that ██████ was the driver of the stolen vehicle and was attempting to flee. While flight from law enforcement can justify certain levels of force, the *Graham v. Connor* (1989) standard requires that force be proportional to the threat posed.
2. **Warnings Prior to K-9 Deployment:** There is no documented evidence that a verbal warning was given to ██████ prior to K-9 deployment. *Tennessee v. Garner* (1985) established that deadly force (including significant use of force measures) should be preceded by warnings when feasible.
3. **Duration of K-9 Apprehension:** Body-worn camera (BWC) footage indicates that K-9 Jaro latched onto ██████ arm for approximately 51 seconds before being released using a breaker bar. While prolonged K-9 engagements may be necessary for officer safety, extended applications can present concerns regarding excessive force.
4. **Perceived Threat vs. Reality:** ██████ was later confirmed to be a passenger and not the driver of the stolen vehicle. His attempt to flee contributed to the escalation, but his role in the vehicle pursuit was misjudged. This misidentification highlights the importance of immediate reassessment of situational facts when applying force.
5. **Supervisory Review & Body-Worn Camera Evidence:** The investigating supervisor concluded that the use of force was objectively reasonable, citing ██████ resistance and the perceived immediate threat. However, BWC footage did not corroborate all aspects of officers' perceptions, particularly the claim that ██████ was actively knee-striking the K-9. This raises concerns about perceptual distortion during high-stress encounters.



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Conclusion

While officers operated within the scope of their duties and followed procedural steps post-incident, certain elements of the use of force could be refined to enhance constitutional policing practices. The use of force during the apprehension of [REDACTED] was deemed **Objectively Reasonable** under the Graham standard and in accordance with Akron Police Department policies. OIPA has completed its review of the use of force in this incident. OIPA concurs with the findings of the APD investigation, however, improvements in verbal warnings, K-9 deployment review, and officer training could enhance procedural justice and community confidence.

Final Recommendations:

2. **K-9 Deployment Review Procedures:** Introduce automatic supervisory reviews for K-9 deployments lasting over 30 seconds, assessing whether prolonged engagements align with department policies.
3. **Implicit Bias & Threat Perception Training:** Expand training on threat perception biases to minimize misidentifications and improve real-time decision-making. This would include scenario-based training simulating high-stress apprehensions.
4. **Revised Use of Force Reporting & Documentation:** Officers should provide detailed post-incident justification when suspects are later found to have a different role than initially presumed (e.g., passenger vs. driver).

Implementing the above recommendations will help balance officer safety, public trust, and lawful apprehension techniques.

Keysha Myers

Keysha Myers

Deputy Independent Police Auditor

Reviewed and approved by

A. Finel





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SUBJECT NAME: [REDACTED]
CASE NUMBER: 2025-00021800
DATE OF REPORT: 03/23/2025

I. Overview of Incident

On February 27th, 2025, Officers Kalain 1633 and Jubara 1668 responded to [REDACTED] reference a domestic fight. Once on scene, the officers spoke with [REDACTED] in the parking lot who stated she was involved in a verbal fight with her live-in boyfriend, [REDACTED]. [REDACTED] stated during the verbal altercation, [REDACTED] became upset, ran downstairs, picked up a knife and held the knife up to his face while threatening to harm himself.

As Officers Kalain and Jubara were speaking to [REDACTED] in the parking lot, Sgt. Smith 1490 and Officer Jaramillo 1643 arrived on scene as back up. After speaking with [REDACTED], the officers made the decision to pink slip [REDACTED] for the suicidal statements he made towards [REDACTED] and believed that [REDACTED] would benefit from a psychological evaluation.

The officers and Sgt. Smith then proceeded up the stairs to [REDACTED] apartment to contact [REDACTED]. [REDACTED] came to the door once officers knocked on the door. As [REDACTED] began to exit his apartment, the officers grabbed [REDACTED] by his arms to secure him into handcuffs for their safety since the officers were still unsure if [REDACTED] still had a knife. There was also a dog inside the apartment that became agitated and excited. [REDACTED] immediately began to pull away, thrash around and drop his body weight towards the ground. Once on the ground, the officers and Sgt. Smith used grappling, joint locks and knee strikes to apprehend [REDACTED], who continued to resist.

After [REDACTED] was placed into handcuffs, he was transported by Akron Fire Med 11 to Cleveland Clinic AGMC where he was pink slipped for a psychological evaluation.





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II. Relevant Constitutional Standards

- **Fourth Amendment:** Prohibits unreasonable searches and seizures; governs the use of force under the "objective reasonableness" standard as articulated in *Graham v. Connor*, 490 U.S. 386 (1989).
- **Fourteenth Amendment:** Provides due process protection, particularly concerning the treatment of individuals in custody or state-imposed mental health holds.
- **Hill v. Miracle** (6th Cir. 2017): Acknowledges that force may be used during mental health emergencies when an individual poses an immediate threat to self or others.

III. Constitutional Policing Analysis

Initial Encounter and Attempt to Detain

- The officers' decision to detain ██████ at the doorway was **constitutionally justified** given:
 - Prior credible statements from a witness about suicidal threats with a knife.
 - ██████ erratic behavior (refusing commands, agitated responses).
 - Officer safety concerns related to the unsecured dog and unknown location of the knife.
- However, officers might have **missed an opportunity for de-escalation**, such as:
 - Further dialogue from a distance before attempting physical control.
 - Utilizing Crisis Intervention Team (CIT)-trained officers, if available.

Use of Force

- The progression of force aligns with Akron PD policy and *Graham* factors:
 1. **Severity of crime:** Though no crime had occurred, suicidal ideation with a weapon posed significant danger.
 2. **Threat to officers or others:** Officers reasonably believed ██████ might still be armed and could become violent.





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3. **Active resistance:** [REDACTED] physically resisted, attempted to flee officers' grasp, and pushed one officer.

The knee strikes delivered were proportional and targeted, with clear verbal commands given before and during their use, which fits the department's P13-2021 Use of Force Policy and meets *Hill v. Miracle* standards for force during mental health crises.

Mental Health Considerations

- Officers did acknowledge [REDACTED] suicidal ideation and facilitated transport for psychiatric care.
- The pink slip was appropriately applied, but ideally, mental health professionals should have been engaged prior to or during the encounter.
- Use of force in medical/mental health emergencies is constitutionally permissible if:
 - There is an immediate threat.
 - Force is necessary and proportionate.
 - Less restrictive alternatives are either unavailable or unsuccessful (Hill standard).

Post-Incident Treatment and Documentation

- Officers promptly called EMS, ensured [REDACTED] received medical attention, and thoroughly documented the incident, including BWC and witness statements.

V. Conclusions & Recommendations

Constitutional Compliance:

- Yes, the officers' actions were consistent with constitutional policing standards, particularly the Fourth Amendment's "objective reasonableness" test.
- Use of force was necessary and proportionate in response to active resistance by a subject experiencing a mental health crisis.





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The internal review by Lt. Tersigni found the use of force **Objectively Reasonable**. OIPA concurs with the findings by APD, however OIPA has the following recommendations:

OIPA Recommendations:

1. **Enhanced De-escalation:** Utilize distance, time, and mental health consultation before physical contact when feasible.
2. **Mental Health Response Protocols:** Integration of behavioral health crisis teams or use of CIT-trained officers in such encounters.
3. **Dog Containment:** Consider developing a protocol for animal control in emotionally volatile situations to minimize risk and confusion.

With future enhancements in mental health response coordination and de-escalation strategies, similar incidents can be resolved with reduced risk and force.

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