



Response to Resistance and Aggression Report



This report must be completed in compliance with Departmental Policy Chapter 4 "Use of Force".

General Information

Case Number: 21-01481 Date: 07/26/2021 Time of Incident: 5:15 PM AM PM

Incident Type: SUBJECT WITH A GUN Incident Location: 741 COLLETON ST

Type of Response Used: ☒ Empty Hand Control ☐ O.C. Spray ☐ TASER
(Check All That Apply.) ☐ Deadly Force ☐ Impact ☐ Other (Explain)

Other: _____

Total Number of Officer's on Scene: 3 Total Number of Officer's Responding 5

List all Officer's Involved in Response: Name: A. POLIDORE Badge #: 726

Name: L. DUKES Badge #: 1059 Name: _____ Badge #: _____

Name: B. SMITH Badge #: 1042 Name: _____ Badge #: _____

Primary Officer Information

Primary Officer Involved in Response: Name: L. DUKES Badge #: 1059

Race: W Sex: M Age: 38 Height: 6-0 Weight: 155 Years of L/E Experience: 8

Injured: ☐ YES ☒ NO Treated: ☐ YES ☒ NO

Nature of Injury: _____

Subject Information

Subject Name: GAILYARD CLARENCE Race: B Sex: M Age: 58 DOB: 02/12/1963
LAST First Middle

Street Address: 1200 JASPER ST City: ORANGEBURG State: SC Zip: 29115

Height: 5-07 Weight: 160 Social Security Number: _____

Was the subject under the influence of alcohol? ☒ YES ☐ NO ☐ UNK.

Was the subject under the influence of drugs? ☐ YES ☐ NO ☒ UNK.

Was the subject armed? ☒ YES ☐ NO If armed, what type of weapon? "DOG STICK"



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How was the weapon used? (displayed, discharged, thrown, etc...) WEAPON WAS HIDDEN UNDER A
VEHICLE WHEN OFFICERS ARRIVED ON SCENE.

Subject actions resulting in use of force: ☐ Flight to Avoid Arrest ☐ Resisting Arrest
☐ Assaulted an Officer ☒ Other (Explain)

Other: SUBJECT WAS NOT COMPLYING.

Was the subject injured? ☒ YES ☐ NO If yes, explain injury and treatment: ABRASION ON THE CENTER
OF HIS FOREHEAD. SUBJECT WAS TRANSPORTED BY EMS.

Method of Control

(Check All That Apply)

Empty Hand Control: ☒ YES ☐ NO Type: FORCED TO THE GROUND
Chemical Agent Control: ☐ YES ☒ NO Type: _____
Impact Weapon ☐ YES ☒ NO Type: _____
TASER: ☐ YES ☒ NO Type: _____
Firearm: ☐ YES ☒ NO Type: _____

Application Data

Empty Hand Control

1) Soft Technique ☒ YES ☐ NO Was the application effective? ☒ YES ☐ NO
2) Hard Technique ☐ YES ☐ NO Was the application effective? ☐ YES ☐ NO
3) Was the subject injured? ☒ YES ☐ NO explain: ABRASION ON CENTER OF FOREHEAD.
4) Did the subject receive medical attention? ☒ YES ☐ NO
(all that apply) ☐ First Aid ☒ EMS ☒ Emergency Room ☐ Refused Treatment

Chemical Agents

1) Was the application of a chemical agent effective? ☐ YES ☐ NO
2) Was anyone other than the subject affected? ☐ YES ☐ NO
If YES, who? _____
3) Was the subject decontaminated at the scene? ☐ YES ☐ NO
If NO, explain why. _____
4) Did the subject receive medical attention? ☐ YES ☐ NO
(all that apply) ☐ First Aid ☐ EMS ☐ Emergency Room ☐ Refused Treatment



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Impact Weapon

- 1) Number of strikes applied: _____
- 2) Part of the body affected: _____
- 3) Was it effective? ☐ YES ☐ NO
- 4) Was the subject injured? ☐ YES ☐ NO explain: _____
- 5) Did the subject receive medical attention? ☐ YES ☐ NO
(all that apply) ☐ First Aid ☐ EMS ☐ Emergency Room ☐ Refused Treatment

TASER

- 1) Number of cartridges fired: _____
- 2) Approx. distance of probe launch: _____
- 3) Number of probe contacts: _____
- 4) Number of Drive Stun contacts: _____
- 5) Number of probes penetrating the skin: _____
- 6) Distance between probes: _____
- 7) Probe locations: _____
- 8) How many cycles were used? _____
- 9) Drive Stun location: _____
- 10) Length of Drive Stun: _____ seconds
- 11) Was the subject injured? ☐ YES ☐ NO explain: _____
- 12) Did the subject receive medical attention? ☐ YES ☐ NO
(all that apply) ☐ First Aid ☐ EMS ☐ Emergency Room ☐ Refused Treatment
- 13) Did more than one officer deploy a CEW? ☐ YES ☐ NO If yes, explain: _____

Firearm

- 1) Type: ☐ Handgun ☐ Shotgun ☐ Rifle ☐ Back-Up weapon
- 2) Number of Shots Fired: _____
- 3) Number of Hits: _____
- 4) Distance from subject: _____ feet
- 5) Was the subject injured? ☐ YES ☐ NO explain: _____
- 6) Did the subject receive medical attention? ☐ YES ☐ NO
(all that apply) ☐ First Aid ☐ EMS ☐ Emergency Room ☐ Refused Treatment
- 7) Was anyone other than the subject injured? ☐ YES ☐ NO
If yes, who? _____
Explain: _____
- Did they receive medical attention? ☐ YES ☐ NO
(all that apply) ☐ First Aid ☐ EMS ☐ Emergency Room ☐ Refused Treatment



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Officer's Comments

ON 07/26/2021 AT APPROXIMATELY 5:30 PM I PSO. II L. DUKES RESPONDED TO A CALL FOR SERVICE AT 741 COLLETON STREET ORANGEBURG S.C. 29115, IN REFERENCE TO A MAN WITH A GUN. WHEN I ARRIVED ON SCENE I COULD SEE A MAN THAT WAS MATCHING THE DESCRIPTION NEAR THE CALLER FRONT DOOR. THE MAN WAS WALKING AWAY FROM MY DIRECTION AS I WAS ARRIVING ON SCENE IN A FAST MANNER. WHEN I EXITED MY VEHICLE I COULD SEE A GRAY OBJECT IN THE SUBJECT HAND THAT APPEARED TO BE A GUN. I DREW MY DUTY WEAPON AND GAVE THE SUBJECT VERBAL COMMANDS TO LET ME SEE HIS HANDS. THE SUBJECT WAS NOT COMPLYING, THE SUBJECT CONTINUED TO WALK AWAY. THE SUBJECT STOPPED BEHIND THE FRONT OF A VEHICLE AND APPEARED TO BE BENDING DOWN NEAR THE VEHICLE FRONT TIRE DOING SOMTHING. I GAVE VERBAL COMMANDS TO LET ME SEE YOUR HANDS. THE SUBJECT THEN CAME FROM BEHIND THE VEHICLE AND PUT HIS HAND INSIDE HIS FRONT POCKETS AS HE WAS ATTEMPTING TO RETRIEVE SOMTHING. THE SUBJECT HANDS THEN CAME OUT HIS POCKETS AND I GAVE VERBAL COMMANDS TO GET ON THE GROUND, AT THIS TIME I WAS WITHIN TOUCHING DISTANCE OF THE SUBJECT. I TOOK MY RIGHT FOOT AND PUSHED THE SUBJECT TO THE GROUND. I THEN WAS ABLE TO HANDCUFF THE SUBJECT TO THE REAR. I THEN SEARCHED THE SUBJECT, THE SUBJECT HAD ONE OPEN BOTTLE OF VODKA, A PHONE, AND SOME CHANGE. I THEN LOOKED BEHIND THE VEHICLE WHERE THE SUBJECT WAS AND RETRIEVE SOME TYPE OF GRAY OBJECT BEHIND THE TIRE.

Report completed and submitted to Supervisor 07/26/2021 and 8:15pm
Date Time

By: L. Dukes
Officer Badge # 1059



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Officer's Comments

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Report completed and submitted to Supervisor 07/26/2021 and 8:15pm
Date Time
By: L. Dukes 1059
Officer Badge #



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Supervisor's Comments

OFFICERS RESPONDED TO 741 COLLETON ST IN REFERENCE TO A SUBJECT WITH A GUN ON HIS SIDE STANDING IN FRONT OF THE RESIDENCE. DISPATCH THEN ADVISED THAT THE SUBJECT WAS NOW BEATING ON THE DOOR AND WINDOW. PSOII DUKES WAS THE FIRST OFFICER ON SCENE FOLLOWED BY CPL. SMITH, AND SGT. POLIDORE AND MYSELF, SGT. MAIER. WHEN I GOT ON SCENE SUBJECT GAILYARD WAS ON THE GROUND AND IN HANDCUFFS. AS I APPROACHED I OBSERVED AN ABRASION ON THE CENTER OF HIS FOREHEAD AND HE WAS STATING THAT PSOII DUKES HAD PUSHED HIS HEAD INTO THE GROUND. MULTIPLE OTHER SUBJECTS ON SCENE ALSO STATED THAT EXCESSIVE FORCE WAS USED ON SUBJECT GAILYARD.

AFTER REVIEWING ALL BODY CAMERAS OF OFFICERS ON SCENE I SAW PSOII DUKES ARRIVE ON SCENE FIRST. AS PSOII DUKES EXITS HIS PATROL CAR HE IMMEDIATELY GIVE A LOUD VERBAL COMMAND OF "LET ME SEE YOUR HANDS". HE IS THEN SEEN DRAWING HIS SERVICE WEAPON AND ORDERING TWO SUBJECTS TO "GET ON THE GROUND". ONE SUBJECT WEARING A WHITE T-SHIRT AND JEAN SHORTS THEN COMPLYS AND LAYS ON THE GROUND. PSOII DUKES THE TURNS HIS ATTENTION TO SUBJECT GAILYARD WHO IS WEARING A BURGUNDY SHIRT AND JEAN SHORTS. SUBJECT CAN BE SEEN BEHIND A WHITE SUV PARKED IN FRONT OF APT#741 AND HE THEN WALKS OUT WITH HIS HANDS UP TOWARDS PSOII DUKES WHO IS STILL GIVING LOUD VERBAL COMMANDS FOR SUBJECT TO "GET ON THE GROUND". PSOII DUKES IS THEN SEEN APPROACHING SUBJECT GAILYARD AS SUBJECT BEGINS TO GET ON THE GROUND. SUBJECT GETS AS FAR AS ON HIS KNEES AND HAD BOTH HANDS ON THE GROUND IN FRONT OF HIM WHEN PSOII DUKES IS SEEN STOMPING ON THE BACK OF SUBJECTS NECK CAUSING HIS FOREHEAD TO STRIKE THE CONCRETE. PSOII DUKES THEN HANDCUFFS SUBJECT TO THE REAR OF HIS PERSON AND SEARCHES HIM FOR WEAPONS, WITH NEGATIVE RESULTS. A MAKESHIFT BLUNT OBJECT WAS LOCATED UNDER THE WHITE SUV WHERE SUBJECT WAS STANDING WHEN PSOII DUKES ARRIVED ON SCENE. THE OBJECT WAS SOME SORT OF STICK WITH DUCK TAPE WRAPPED AROUND IT.

AFTER VIEWING ALL BODY CAMERA FOOTAGE I DO BELIEVE THAT PSOII DUKES WAS IN VIOLATION OF DEPARTMENT POLICY AND EXCESSIVE FORCE WAS USED WHEN PSOII DUKES STOMPED ON THE BACK OF SUBJECT GAILYARDS NECK.

Were all associated video recordings (BWC and/or Mobile Vision) reviewed by the Supervisor? ☒ YES ☐ NO

If NO, explain: _____

Report received 07/26/2021 and 2015 HOURS
Date Time

Supervisor's Review completed and submitted to Duty Captain 07/27/2021 and 0800 HOURS
Date Time

By: [Signature] 984
Supervisor Badge #



USE OF FORCE REPORT

Administrative Review Board

Comments:

During this incident Officer Dukes arrives on scene and encounters two male subjects. Officer Dukes can be seen exiting his patrol vehicle and began giving commands of "show me your hands" to the two subjects. The first subject wearing a white shirt puts his hands up and is walking towards Dukes, Dukes gives commands of "get on the ground", the subject in the white shirt then gets on the ground in the prone position. Dukes then directs commands of "show me your hands" to the other subject wearing a red shirt, the subject is at this time walking in front of a white SUV towards Dukes. The second subject was moving slowly towards dukes and his hands can be seen by his side and then go up to show that his hands were empty. Dukes then begins giving the command to "get on the ground" the subject moving slowly was getting down on the ground, he had made it to his knees and his hands were on the ground. Dukes can then be seen walking up on the subjects left side a deliver a kick with his right foot to the back of the subjects neck, causing the subjects head to hit the ground. The subject sustained injuries from the kick.

The Primary Force that was used by Officer Dukes is inconsistent with Department policy which states ". In no instance, will employees use primary force in excess of that which is reasonable and necessary to lawfully and properly neutralize an unlawful assault or overcome resistance by a person being taken into custody."

Officer Dukes did use excessive force when kicking the subject in the back of the neck.

Recommendations:

The recommendation is a complete IA investigation into this incident.

Were all associated video recordings (BWC and/or Mobile Vision) reviewed by the Committee Members? ☒ YES ☐ NO
If NO, explain: _____

Report received 07/27/2021 and 1530
Date Time

Administrative Review completed and submitted to Duty Captain 07/28/2021 and 0857
Date Time

	893	<u>07/28/2021</u>	Use of Force is consistent with training & policy:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Committee Member	Badge#	Date			
	1030	<u>07/28/2021</u>	Use of Force is consistent with training & policy:	<input type="checkbox"/> YES	<input checked="" type="checkbox"/> NO
Committee Member	Badge#	Date			
_____	_____	_____	Use of Force is consistent with training & policy:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Committee Member	Badge#	Date			
_____	_____	_____	Use of Force is consistent with training & policy:	<input type="checkbox"/> YES	<input type="checkbox"/> NO
Committee Member	Badge#	Date			



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Duty Captain's Comments

IN REVIEWING BODY WORN CAMERAS AS WELL AS AVAILABLE IN CAR CAMERA VIDEO, PSO II DUKES ACCOUNT OF WHAT OCCURRED IN THE REPORT AND AS TOLD TO SGT MAIER WAS INCONSISTENT TO THE ACTUAL EVENT AS CAPTURED ON VIDEO. UP TO THE POINT OF BEFORE PHYSICAL CONTACT THERE WAS NO ISSUE IN MY OPINION AS TO PSO II DEALING WITH THE INCIDENT. IT WAS NOT UNTIL PSO II DUKES USES HIS FOOT IN A STOMPING MOTION TO SUBDUCE THE SUBJECT IS WHERE IN MY OPINION WHETHER IT WAS THE NECK OR BACK TO PUSH THE SUBJECT WITH SUCH FORCE TO CAUSE HIS HEAD TO BOUNCE OFF THE GROUND WAS EXCESSIVE AND CLEARLY NOTHING THAT HAS TAUGHT OR INSTRUCTED IN THE AGENCY TO GAIN CONTROL OF A SUBJECT.

Recommendations:

I HIGHLY RECOMMEND TO INCIDENT IS ~~BE~~ INVESTIGATED BY AN OUTSIDE AGENCY. BASED ON THE POSSIBL OF A CRIMINAL ACT BEING COMMITTED.

Were all associated video recordings (BWC and/or Mobile Vision) reviewed by the Duty Captain? ☒ YES ☐ NO

If NO, explain: _____

Report received 9/28/2021 and 0857
Date Time

Duty Captain's Review completed and submitted to Director 9/28/2021 and 1417
Date Time

V. Casanova 742
Duty Captain Badge#



Response to Resistance and Aggression Report



Director's Conclusion

It is my opinion that the Use of Force was not justified and was a clear violation of our Use of Force policy. This incident has been turned over to the South Carolina Law Enforcement Division for investigation.

Report received 7-28-21 and 1430
Date Time

Director's Review completed 7-28-21
Date

Michael L. Lee
Director