

Urbana Police Department Memorandum

To: Chief Bryant Seraphin
CC: Lt. David Smysor
From: Sgt. Tim McNaught
Re: Use of Force Review Board Findings Reference U20-01555
Date: April 27, 2020

The Use of Force Review Board was tasked with reviewing U20-01555 to evaluate the use of force used in this incident, specifically the arrest of Aleyah Lewis. The members of the Use of Force Review Board reviewed all the officers' reports, body-worn camera videos, squad car videos and even the publicly available Facebook video of this incident.

The Use of Force Review Board considered numerous aspects of department policy and procedure before arriving to a conclusion. The relevant policies are listed at the end of this memorandum.

The first key point to consider is that the reasonableness of force is based upon the facts that were reasonably believed or known to the officer applying force at the time of the incident as dictated by *Graham v. Connor*. Facts later discovered can neither justify nor question the officer's decision to use force, such as Sergeant Cervantes did not know Lewis was not armed when he employed a leg trip nor did Officer Ruff when he used multiple techniques to effect the arrest of Lewis.

The second key point is the factors used to determine the reasonableness of force. When evaluating the list of 17 factors listed below (page 3-4) in Urbana Police Department Policy 300.3.2, officers were faced with the majority of this list, to include but are not limited to:

- Officers were responding to an armed subject with the report of at least one gunshot being heard.
- Lewis disobeyed Sgt. Cervantes' command and began to walk away. When Sgt. Cervantes approached her and attempted to detain her, she struck him with an uppercut punch. It was at this point that Sgt. Cervantes employed a leg trip.
- Sgt. Cervantes, who had just been struck by Lewis and broken his right thumb, was severely hindered in his ability to assist in arresting Lewis.
- Officer Ruff, who was at the time the only officer able to assist Sgt. Cervantes, was essentially dealing with Lewis with only his right hand due to needing to maintain control of his rifle with his left hand.
- Lewis' actions seemed consistent with someone who was intoxicated/under the influence or someone with an altered mental state/capacity.
- Lewis was actively resisting officers' attempts to secure Lewis in handcuffs and thus far officers had been unsuccessful in securing Lewis in handcuffs.

The last key point pertains to Officer Ruff's use of a strike to Lewis' brachial plexus and a knee strike to the right side of Lewis. As stated below in Urbana Police Department Policy 300.3,

“Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised

device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.”

Officer Ruff utilized the strike to Lewis’ brachial plexus as a distraction or stunning technique in order to distract Lewis to provide an opportunity to secure Lewis’ arms behind her back. This strike was administered along with verbal commands; however, it had no impact on Lewis’ and Lewis continued to actively resist.

Officer Ruff also tried a pressure point technique on Lewis by applying pressure to her clavicle notch while instructing her to stop resisting. This pressure point had an effect on Lewis as Lewis yelled while Officer Ruff applied the pressure. However, it did not impact her efforts to actively resist the officers, and Officer Ruff stopped applying pressure to her clavicle notch after approximately 2 to 3 seconds.

Officer Ruff then used a knee strike to the right side of Lewis again as a distraction or stunning technique. This strike did have an effect on Lewis and officers were able to move Lewis’ arms to behind her back and secure her in handcuffs.

Once secured in handcuffs, Lewis continued to resist officers and remained combative as officers attempted to secure Lewis in a squad car. Officers appropriately applied a spit hood on Lewis after she spat at officers.

Once in the back of the squad car, Lewis kicked Officer Rich in the chest twice and attempted to kick other officers. Officer Ruff retrieved a hobble device, which restrains a person’s feet to prevent them from kicking, and officers attempted to secure Lewis’ feet with the hobble. Lewis resisted their efforts by pulling her feet away, Officer Ruff and Officer Rich crossed Lewis’ ankles and Officer Ruff applied downward pressure to her left foot causing pressure/pain to her ankle joint while calmly telling Lewis to “Relax please.” Officer Ruff and Officer Rich were then able to secure Lewis’ feet with the hobble and Officer Ruff released the pressure on Lewis’ ankle.

Neither Officer Ruff, nor any other officer, repeatedly struck Lewis or applied pain compliance techniques without a purpose, rather Officer Ruff used a pressure point and two separate strikes as distraction or stunning techniques coupled with clear verbal commands for Lewis to stop resisting and to move her hands to behind her back. Officer Ruff also used a pressure-counter pressure technique on Lewis’ ankle along with verbal commands in order to secure her feet with a hobble.

In conclusion, the Use of Force Review Board determined:

- The officers’ actions were within department policy and procedure.

Relevant policies, to include but not limited to:

Urbana Police Department Policy 300.3 Use of Force

Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose.

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that

reasonably appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

Urbana Police Department Policy 300.3.1 Use of Force to Effect an Arrest

An officer may use any force which he/she reasonably believes to be necessary to effect an arrest and may use any force which he/she reasonably believes to be necessary to defend him/herself or another from bodily harm while making an arrest (720 ILCS 5/7-5).

Urbana Police Department Policy 300.3.2 Factors Used to Determine the Reasonableness of Force

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include, but are not limited to:

- (a) Immediacy and severity of the threat to officers or others.*
- (b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.*
- (c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).*
- (d) The effects of drugs or alcohol.*
- (e) Subject's mental state or capacity.*
- (f) Proximity of weapons or dangerous improvised devices.*
- (g) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.*
- (h) The availability of other options and their possible effectiveness.*
- (i) Seriousness of the suspected offense or reason for contact with the individual.*
- (j) Training and experience of the officer.*
- (k) Potential for injury to officers, suspects and others.*
- (l) Whether the person appears to be resisting, attempting to evade arrest by flight or is attacking the officer.*

- (m) The risk and reasonably foreseeable consequences of escape.*
- (n) The apparent need for immediate control of the subject or a prompt resolution of the situation.*
- (o) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.*
- (p) Prior contacts with the subject or awareness of any propensity for violence.*
- (q) Any other exigent circumstances.*