

State of Connecticut
OFFICE OF INSPECTOR GENERAL



Report Concerning
Use of Deadly Force by the Willimantic Police Department on May 30, 2022

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TABLE OF CONTENTS

INTRODUCTION	4
INVESTIGATION.....	4
WILLIMANTIC INCIDENT	4
OTERO’S CHARGES	6
HOSPITAL RECORDS.....	6
OTERO INTERVIEW	6
VIDEO EVIDENCE	7
FINDINGS	7
LEGAL STANDARD	7
ANALYSIS.....	9
CONCLUSION	10

Acknowledgments

The Office of Inspector General acknowledges the assistance provided to this investigation by the Windham State's Attorney's Office and the Willimantic Police Department.

INTRODUCTION

This case concerns the use of a chokehold by a member of the Willimantic Police Department on May 30, 2022. Because a chokehold is considered deadly force under Connecticut law, the use of force in question falls under the investigatory purview of the Office of Inspector General.¹

INVESTIGATION

Willimantic Incident

The events of the early morning of May 30, 2022 in Willimantic are summarized here, as captured in police reports filed by the three officers at the scene: Brandon LaChappelle, Kienan Giller, and Joshua Charron. LaChappelle's report is duplicated as a sworn statement, submitted to the court as a probable cause affidavit to support the arrest of Raul Otero.²

On May 30, 2022, at about 1:40 a.m., Willimantic Police Officer Brandon LaChappelle was on patrol traveling on Spring Street in his marked police vehicle when he recognized a person he thought to be Raul Otero, whom he knew to have an active arrest warrant. LaChappelle recognized Otero from previous encounters with him, even though that morning Otero was wearing a face covering and a baseball cap. LaChappelle stopped his vehicle, exited, and called out "Danny" to Otero, who responded by stating, "I'm not Danny" and pulled down his face covering. Undeterred, LaChappelle then stated, "Raul you have a warrant; you're under arrest."

At that point, according to the report written by Officer LaChappelle, Otero turned around and ran onto the porch of 30 Pearl Street, where LaChappelle was able to briefly grab onto him before he broke free of the officer's grip. Otero then ran to the front door of 39 Pearl Street, opened the door, entered the residence, which was not his, and tried to slam the door shut behind him.

¹ As relevant here, General Statutes § 51-277a(a)(1), provides, "Whenever a peace officer, in the performance of such officer's duties uses ... deadly force ... upon another person, the Inspector General shall investigate and determine whether the use of physical force ... was justifiable under section 53a-22."

Further, General Statutes § 53a-3 defines "deadly physical force" as "physical force which can be reasonably expected to cause death or serious physical injury."

Finally, General Statutes § 53a-22 describes the limited justification by a peace officer for using "a chokehold or other method of restraint applied to the neck area or that otherwise impedes the ability to breathe or restricts blood circulation to the brain of another person."

² On May 30, 2022, Raul Otero was a 40-year-old Hispanic Caucasian male.

LaChappelle managed to place his knee in the door frame, preventing it from closing. Otero kept trying to shut the door, repeatedly banging it into the officer's knee in the process. LaChappelle then called over his portable police radio for other officers to respond to the location. The officer again told Otero there was a warrant for his arrest but Otero refused to leave the residence or release his grip from the door. LaChappelle then heard a female voice from within the residence scream, "Get out of my house now!" LaChappelle announced himself as a police officer. He then heard a different female voice yell, "Let the cops in! Let them in! Get out of my house now!"

At this point a second officer, Kienan Giller, arrived on scene. Giller ran into the door, forcing it open. Otero then ran into the living room, which was dark, and became combative with Officer LaChappelle and Officer Giller as they tried to place him in custody. Otero began swinging his arms around him with closed fists, striking Officer LaChappelle in the chest. LaChappelle gave several verbal commands to Otero telling him to stop resisting. Otero yelled, "No!" Giller grabbed Otero's right arm and moved it toward his back in an attempt to gain control of him. In the struggle that ensued, Giller's radio and flashlight become dislodged from his uniform.

At about this point, a third officer, Corporal Joshua Charron arrived on the scene to assist.³ The three officers managed to bring Otero to the ground where he continued to physically resist. While all were on the floor, Giller saw Otero reach for Corporal Charron's holstered duty pistol. Charron told him not to grab his gun. Officer LaChappelle decided to go back to his police vehicle and retrieve his K9 partner Jax. Otero continued to swing his arms and began kicking his legs off the ground in an attempt to get up. He scratched at Officer Giller causing his wrist to bleed. Giller heard Charron again tell Otero to stop reaching for his duty pistol. Alarmed at the prospect of Otero becoming armed, Giller mounted Otero's legs by putting Otero's legs between his legs. Eventually Giller and Charron were able to place Otero's arms behind his back and handcuff him. By the time Officer LaChappelle returned with Jax, Otero was already handcuffed and in custody. Neither LaChappelle nor Giller reported seeing Corporal Charron apply any force to Otero.

According to Charron's report, he punched Otero in the head with a closed fist when he saw Otero struggle with the other two officers while still standing. Otero then covered his face with his hands. Charron says in his report that as the other officers struggled with bringing Otero to the ground, Charron struck him in the rib area with his knee. He then pulled Otero away from the other officers. He said he felt Otero grab his duty gun. He told him to stop and pulled Otero to the ground where he continued to grab at his gun holster. He knew Officer LaChappelle had left to get Jax and he did not see Officer Giller and was unsure if he was hurt

³ On May 30, 2022, Joshua Charron was a 32-year-old Caucasian male. He had been a police officer for six years and had no disciplinary history.

and incapable of assisting. For a third time, Otero attempted to grab his gun. Charron tried to cover the pistol with his arm and attempted to shift his body away from Otero but he was unable to stop him from grabbing at the gun. Otero was still resisting, acting erratically, and was not following commands. Charron was beginning to get tired. His report states he feared that if Otero gained access to his gun, his life would be in danger as well as the lives of the other officers assisting him. He stated that in an effort to defend himself and other officers he wrapped his arm around Otero's neck and squeezed until Otero lost consciousness. Once he lost consciousness and stopped fighting, Charron released his grip and helped Officer Giller place Otero in handcuffs. In addition to his written incident report, Corporal Charron also wrote a "Use of Force Report" where he provided the same justification for his decision to use deadly force.

Charron stated that Otero was unconscious for five to ten seconds and when he awoke, he was placed in a recovery position. He was searched and officers found a crack pipe in his pocket that had been shattered in the scuffle. Otero was transported by Willimantic Fire Department Emergency Medical Services personnel to Windham Hospital for evaluation.

Otero's Charges

As a result of this incident, Otero was charged with burglary in the first degree, assault on a public safety officer, resisting arrest, breach of peace second degree, and criminal mischief third degree. He faces other charges including sale of narcotics, failure to appear, and robbery in the first degree. He is currently held on bond pending resolution of these charges in the Judicial District of Windham.

Hospital Records

Mr. Otero consented to the release of his medical records to police. The records show that when Otero was brought to the Emergency Department, he complained of neck pain and shortness of breath. His final diagnosis was an unspecified head injury and a muscle strain in the neck. He was discharged back into police custody after about an hour.

Otero Interview

On August 30, 2022, inspectors from the Office of Inspector General interviewed Otero, who at the time was a prisoner at Corrigan Correctional Center in Montville, Connecticut. The interview was recorded. Otero's version of the encounter differs from the officers. He claimed he entered the residence (at 1:40 a.m.) in order to charge his cell phone. He said he went into the hallway and was tackled from behind by police officers. He says he was not resisting arrest, never grabbed at the officer's weapon, and he does not recall being rendered unconscious. He said he did recall being struck in the face.

Video Evidence

There is no video evidence of the encounter between Otero and the Willimantic Police officers. On the date of the incident, May 30, 2022, the Willimantic Police Department did not require its officers to wear body worn cameras or equip its police vehicles with cameras. There is a booking video of Otero being processed at the department following his release from the hospital. That video is unremarkable in that there is no sound, and no indication of recent injuries to Otero.

FINDINGS

1. On May 30, 2022 at 1:40 a.m., Raul Otero was walking along Spring Street in Willimantic. He had an active arrest warrant at the time. Officer Brandon LaChappelle knew of the warrant, was on patrol and spotted Otero.
2. Otero ran into a nearby house in an attempt to avoid being arrested. Officers followed him into the home, where he did not have permission to be. Officers tried to place Otero into custody but he violently resisted, flailing his arms attempting to strike the officers. One officer left the home to retrieve his police K9 to assist, briefly leaving the other two officers struggling to subdue Otero and place him in handcuffs.
3. Three times during the struggle Otero grabbed at or attempted to grab Corporal Charron's duty pistol, which was in its holster. Charron was becoming fatigued and was unsure how long he could prevent Otero from gaining control of his gun. He placed his arms around Otero's neck until Otero lost consciousness, after which he and Officer Giller secured handcuffs on Otero. Once he regained consciousness, he was placed into a recovery position and medical personnel were summoned.
4. Otero sustained no injuries as a result of the application of chokehold.

LEGAL STANDARD

The use of force by a police officer is governed by General Statutes §53a-22. The version of that statute in effect on May 30, 2022, in relevant part, provides:

“(a)(1) For purposes of this section, a reasonable belief that a person has committed an offense means a reasonable belief in facts or circumstances which if true would in law constitute an offense. If the believed facts or circumstances would not in law constitute an offense, an erroneous though not unreasonable belief that the law is otherwise does not render justifiable the use of force to make an arrest or prevent an escape from custody.

(2) A peace officer ... who is effecting an arrest pursuant to a warrant or preventing an escape from custody is justified in using the physical force prescribed in subsections (b), (c), and (d) of this section unless such warrant is invalid and known by such officer to be invalid.

(d) A peace officer ... is justified in using a chokehold or other method of restraint applied to the neck area or that otherwise impedes the ability to breathe or restricts blood circulation to the brain of another person for the purposes specified in subsection (b) of this section only when he or she reasonably believes such use to be necessary to defend himself or herself from the use of or imminent use of deadly physical force.

Accordingly, a police officer is justified in using a chokehold upon another person only when the officer reasonably believes such force to be necessary to defend the officer from the use or imminent use of deadly physical force. “Deadly physical force” means “physical force that can be reasonably expected to cause death or serious physical injury.” General Statutes § 53a-3(5). “Serious physical injury” means “physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ.” General Statutes §53a-3(4).

The reasonableness of a police officer’s belief under § 53a-22 is evaluated pursuant to a subjective-objective formulation. *State v. Smith*, 73 Conn. App. 173, 185, 807 A.2d 500, cert. denied 262 Conn. 923, 812 A.2d 865 (2002). Under this test, the first question is whether, on the basis of all of the evidence, the police officer in fact honestly believed that deadly force was necessary to defend himself/herself or a third person. *Id.* If it is determined that the police officer honestly believed that deadly force was necessary, the second part of the test asks whether the police officer’s honest belief was reasonable from the perspective of a reasonable police officer in the officer’s circumstances. *Id.* at 198.

The United States Supreme Court has explained this test in a civil rights case: “The ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on scene rather than with the 20/20 vision of hindsight. ... [T]he calculus of reasonableness must embody allowance of the fact that police officers are often forced to make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation.” *Graham v. Connor*, 490 U.S. 386, 396-97, 109 S. Ct. 1865, 104 L. Ed. 2d 443 (1989).

ANALYSIS

Under Connecticut law as applicable here, a determination as to whether a police officer's use of a chokehold was objectively reasonable requires, in part, consideration of four questions:

1. Did the officer, as a matter of fact, actually – that is honestly and sincerely – believe that he or she was facing either the actual or imminent use of deadly force when the officer used deadly force?

2. Was that actual belief reasonable in the sense that a reasonable police officer in the officer's circumstances at the time of the officer's actions, viewing those circumstances from the officer's point of view, would have shared that belief?

3. Did the officer, as a matter of fact, actually – that is honestly and sincerely – believe that the use of deadly force was necessary to defend himself or herself from such threat?

4. Was that actual belief reasonable, in the sense that a reasonable police officer in the officer's circumstances at the time of the officer's actions, viewing those circumstances from the officer's point of view, would share the belief that deadly force was necessary?

In this case, Corporal Charron was attempting to execute a lawful arrest. Two other officers were assisting in an attempt to take Otero into custody, without success. Otero violently resisted, assaulted another officer, and remained combative even when taken to the ground. On three occasions Otero attempted to grab Corporal's Charron's firearm. If Otero had been successful in taking possession of the firearm, a reasonable police officer would conclude that he might discharge that firearm. Knowing that this would place his life in jeopardy, Charron's use of deadly force in this instance is therefore justified.

CONCLUSION

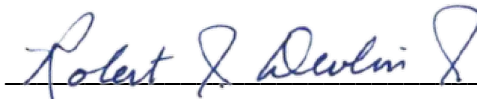
The investigation establishes that Corporal Joshua Charron used deadly force against Raul Otero to stop Otero from accessing his firearm and possibly shooting him. I therefore conclude that his use of force was justified under Connecticut law. The Office of Inspector General will take no further action on this matter.

Submitted, this 24th day of May 2023.



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SUPERVISORY ASSISTANT STATE'S ATTORNEY



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INSPECTOR GENERAL