

Incident Report for **A100/2020-00059850**

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:49 PM
Unit	Port Norris - Squad 1		

Stop Information

Location	Main/Newport		
Stop Start	January 19, 2020 1:36 AM	Duration(Minutes)	39
Stop End	January 19, 2020 2:15 AM	Video Review Used	Yes
Reason for Stop	Moving Violation	State(Plate)	NJ
Stop Statute	39:4-88b Unsafe Lane Change		
Participating Troopers	Sgt. Charles Ciaurelli #7179 Tpr. Il Luis Rivera Guzman #7534 Tpr. Theodore Heim #7871 Tpr. Ashley Davis #8138 Tpr. Daniel Hartman #8174 Tpr. Scott Anacker #8266		

Driver Information

Race	White	Date of Birth	September 16, 1965
Gender	Male	Age	54

Outcome Information

Outcome	Statute	Statute Name	Action ID
SUMMONS - Non-Moving Violation	39:3-29	License, Registration Certificate And Insurance Identification Card	
SUMMONS - Non-Moving Violation	39:3-29C	Fail To Poss Driv Ins Card	
SUMMONS - Non-Moving Violation	39:3-29C	Fail To Poss Driv Ins Card	
SUMMONS - Non-Moving Violation	39:3-33	Requirements Concerning Markers	
SUMMONS - Non-Moving Violation	39:3-33	Requirements Concerning Markers	
SUMMONS - Non-Moving Violation	39:3-33	Requirements Concerning Markers	
SUMMONS - Non-Moving Violation	39:3-76.2F	Required Wearing Of Seat Belts	
SUMMONS - Non-Moving Violation	39:3-76.2F	Required Wearing Of Seat Belts	
SUMMONS - Non-Moving Violation	39:3-76.2F	Required Wearing Of Seat Belts	
SUMMONS - Moving Violation	39:4-126	Appropriate Signals	
SUMMONS - Moving Violation	39:4-126	Appropriate Signals	

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SUMMONS - Moving Violation	39:4-126	Appropriate Signals	
SUMMONS - Moving Violation	39:4-144	Stopping Or Yielding - Right Of Way	
SUMMONS - Moving Violation	39:4-144	Stopping Or Yielding - Right Of Way	
SUMMONS - Moving Violation	39:4-144	Stopping Or Yielding - Right Of Way	
SUMMONS - Moving Violation	39:4-50	Operating Motor Vehicles While Under The Influence Of Intoxicants	
SUMMONS - Moving Violation	39:4-88B	Unsafe Lane Change	
SUMMONS - Moving Violation	39:4-88B	Unsafe Lane Change	
SUMMONS - Moving Violation	39:4-88B	Unsafe Lane Change	
SUMMONS - Moving Violation	39:4-96	Reckless Driving	
SUMMONS - Moving Violation	39:4-96	Reckless Driving	
SUMMONS - Moving Violation	39:4-96	Reckless Driving	
SUMMONS - Moving Violation	39:4-97	Careless Driving	
SUMMONS - Moving Violation	39:4-97	Careless Driving	
SUMMONS - Moving Violation	39:4-97	Careless Driving	
SUMMONS - Moving Violation	39:4-97.1	Blocking Traffic By Slow Driving	
SUMMONS - Moving Violation	39:4-97.1	Blocking Traffic By Slow Driving	
SUMMONS - Moving Violation	39:4-97.1	Blocking Traffic By Slow Driving	
SUMMONS - Moving Violation	39:4-97A	Destruction Of Agricultural Or Recreational Property	
SUMMONS - Moving Violation	39:4-97A	Destruction Of Agricultural Or Recreational Property	

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Post Stop Information(RMS)

Post Stop Activity	Driver	Passengers	Vehicle	
Exit	Yes	No	Frisk	No
Frisk	No	No	Search-Consent Requested	No
Search-Consent Requested	No	No	Search - Consent Granted	No
Search	Yes - No Find	No	Search - Probable Cause	Yes - Find
Arrest	Yes	No	Search - Other Legal Basis	No
Discretionary Charge	Yes	No	K9 Used	No
Arrest Charge Code	2C:17-3 2C:29-2 39:4-50			

Video Review (Standard)

Date of Review	February 11, 2020	Creation Type	ICV - Incident Specific
Video Number (ICV)	A100-2020-DIVR-756A (Viewed)	Purpose	Regular
Video Number (BWC)	PORT18 (Viewed)	Action Taken	No Further Action
Reviewer	SSgt. Luis Rodriguez #6332		

Questions Answered - No	Questions Answered - N/A	Questions Answered - Unknown
Supervisor on scene? Miranda warning provided?	Member ID, credentials requested, reason? Frisk properly documented? Consent Request protocols followed? Canine Request protocols followed? Medical marijuana policy followed? ICV malfunction? ICV pre-operational tests conducted? Right to submit a compliment/complaint?	

Narrative

CRITICAL REVIEW / USE OF FORCE

CAD#: A100/2020-00059850

PRIMARY TROOPER: TPR. R. VARGA #8376 (DIVR: 756A, BWC: PORT18)

ASSISTING TROOPERS: {DUAL PATROL, DIVR: 650A} TPR. I C. CIAURELLI #7179 (BWC: PORT19) & TPR. T. HEIM #7871(BWC: PORT25); {DUAL PATROL, DIVR: 584A} TPR. D. HARTMAN #8174 (BWC: PORT28) & TPR. A. DAVIS #8138 (BWC: PORT30); TPR. S. ANACKER #8266 (DIVR: 512A, BWC: PORT21)

REVIEWER: SSGT. L. RODRIGUEZ #6332

CAD TIME: 01:36

CASES: A100-2020-00063 & A100-2020-00016D

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Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

SUMMARY:

****** It should be noted that this critical review was generated as a result of a motor vehicle pursuit which involved a Use of Force, therefore my review will only encompass the Use of Force. The policies and procedures and everything else, more specifically, pursuit guidelines, safety and tactics, and all other procedural issues will be addressed in the Station Commander Pursuit Review prepared by Lt. J. Repetti #5637******

While enroute to Port Norris Station to double up for the midnight shift Tpr. R. Varga #8376 observed a black Dodge pickup failing to maintain its lane of travel on Main St. @ Newport Rd in Lawrence Twp., Cumberland County. Tpr. R. Varga activated his overhead lights and siren however the vehicle failed to stop and a pursuit was initiated that lasted approximately thirty-three (33) minutes and ended with the vehicle coming to a stop at the Mauricetown Marina in Commercial Twp. Cumberland County, where the vehicle became stuck on a bulk head, feet short of entering the Maurice River. As Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli made their approach to the vehicle the driver was ordered to exit the vehicle by all four Troopers and refused to exit the vehicle. The driver was still attempting to get away and revving the engine causing the wheels to spin on the truck. At this time Tpr. Heim entered the passenger side of the truck and put the vehicle into park. Tpr. Varga, Tpr. Anacker & Tpr. Heim utilized force, specifically close fist strikes on the driver in order to remove him from the vehicle. The following is documented by Tpr. Varga in Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, **"Port Norris Troopers approached the vehicle requesting the driver, later identified as Michael Carpenter to get out of the car. Carpenter refused and attempted to drive the vehicle even though the vehicle was stuck on a bulkhead. At this time, I observed Carpenter not wearing his seatbelt, and the vehicle was still in drive. At this time, Tpr. Heim #7871 entered the vehicle from the passenger side and put the vehicle in park. Carpenter refused to get out of the vehicle. Therefore I attempted to physically remove Carpenter from the vehicle. Carpenter continued to resist, therefore I struck Carpenter in the face with a closed fist in an attempt to gain compliance and effect the arrest. Tpr. Heim and Tpr. Anacker #8266 also struck the driver in the face with a closed fist to gain compliance and to effect the arrest. At this time, Port Norris Troopers were able to remove Carpenter from the vehicle and escort him to the ground. During a brief struggle on the ground Tpr. Anacker and I were then able to gain control of Carpenter's arms and effect the arrest. Carpenter was then handcuffed, searched with negative results, and placed in the rear of Troop Car 584A."** The following is documented by Tpr. Anacker in his Supplemental Report to Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, **"At this time, I approached the vehicle as Port Norris Troopers were requesting the driver, later identified as Michael Carpenter to get out of the car. Carpenter refused and attempted to drive the vehicle even though the vehicle was stuck on the bulkhead. I then joined Port Norris Troopers attempted to physically remove Carpenter who refused to get out of the vehicle. Carpenter refused to get of out the vehicle when given the commands by the Port Norris Troopers. I was able to position myself in the driver side door striking the driver in the face with a closed fist to gain compliance and to effect the arrest. At this time, Port Norris Troopers and I were able to remove Carpenter from the vehicle and escort him to the ground. During a brief struggle on the ground, Trooper Varga and I were able to gain control of Carpenter's arms and effect the arrest."** The following is documented by Tpr. Heim in his Supplemental Report to Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, **" At this time, Tpr. I Ciaurelli, Tpr. Varga, and myself approached the vehicle and attempted to instruct the driver to shut off and exit the vehicle. Michael Carpenter refused to obliged to our verbal instructions, in an attempt to get his attention I then struck the rear driver's side quarter panel with my foot two times. These attempts were met with negative results. I then proceeded to the passenger side of the vehicle in order to gain entry into the passenger cabin of the vehicle. I then entered the vehicle, removed the keys from the ignition, and attempted to take control of Michael Carpenter. Michael Carpenter then resisted arrest by refusing to comply with Troopers orders and refusing to exit the vehicle. I then struck Michael Carpenter in the face two times in order to gain control of him and effect an arrest. At this time, we were able to physically remove Michael Carpenter from his vehicle. Once out of the vehicle and on the ground Michael Carpenter continued to resist arrest by staying on his hands and knees and refusing to place his hands behind his back. I then delivered two more strikes to Michael Carpenter's head. I then gained physical control of Michael Carpenter's head, while Tpr. Varga and Trooper S. Anacker #8266 attempted to gain control of his hands. Michael Carpenter was then placed in handcuffs, and the use of force stopped. While escorting Michael Carpenter to Tpr. Varga's Troop Car, his muscles tensed and he attempted to pull to the left. In order to prevent Michael Carpenter from pulling away from my control he was placed on the hood of Tpr. Varga's Troop Car. Tpr. Varga then searched Michael Carpenter, which was met with negative results."**

DISCREPANCIES:

1) Did the trooper provide Miranda Warning as required by law and protocols set forth in the division's policy? S.O.P. F-55-NO

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While Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli were placing the driver under arrest one of them is overheard asking the driver "why didn't you stop?" Tpr. Heim is then heard asking the driver while he is being searched "why didn't you stop?" Depending on the driver's response this can be viewed as an incriminating question and should have been asked post Miranda.

2) There is only 1 minute of video of BWC PORT19 assigned to Tpr. I Ciaurelli.

3) BWC PORT25 assigned to Tpr. Heim does not capture the entire incident and does not stay on to capture the incident when it is on.

4) Tpr. Anacker does not capture him putting himself out with dispatch as a backup Trooper on BWC PORT21.

5) **{DUAL PATROL, DIVR: 584A}** Tpr. D. Hartman #8174 (BWC: PORT28) & Tpr. A. Davis #8138 (BWC: PORT28) do not put themselves out with dispatch at the scene of the stop.

ACTIONS:

1) I spoke with Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli regarding the Miranda issue observed. The Trooper's stated they understood the issue however neither of them could remember making those statements due to the fact this was an intense stressful situation. No further action.

2) This appears to have been an equipment malfunction. Tpr. I Ciaurelli makes a CAD entry that his battery had died on his BWC and conducts a proper BWC PreOp check prior to shift.

3) This appears to have been an equipment malfunction. Tpr. Heim conducted a proper BWC PreOp check prior to shift. I spoke to Tpr. Heim in reference to his BWC and he advised me that his BWC battery was dead. I advised him to document BWC issues in the CAD and to review O.I. 19-39.

4) Tpr. Anacker was advised to make sure he captures him putting himself out at an incident with dispatch on his BWC and to review O.I. 19-39.

5) Tpr. Hartman and Tpr. Davis were advised to make sure they put themselves out with dispatch upon arrival at the location of an incident. They were also advised to review SOP F7.

USE OF FORCE:

As per S.O.P. B-22 (Use of Force) and the N.J. Attorney General's guidelines governing the Use of Force, Tpr. Varga, Tpr. Anacker & Tpr. Heim's justification in using non-deadly force was two-fold. **S.O.P. B-22.III.A** spells out the requirements for the use of non-deadly force: "Members are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to [Section #1] "protect themselves or others against the use of unlawful force by another person." and [Section #5] states, "Members are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to "effect an arrest for any offense or crime under the laws of the state of New Jersey. Tpr. Varga, Tpr. Anacker & Tpr. Heim acted properly and had no other option but to use the amount of force they used with a resistant, non-compliant subject. Tpr. Varga, Tpr. Anacker & Tpr. Heim used the minimal and appropriate amount of force to effect this arrest. This use of force was deployed with the utmost professionalism which was evident by the following factors: 1) Tpr. Packen attempted to remove the driver from the vehicle and place him under arrest without further incident however the driver escalated the situation by continuing to attempt to flee and resisting and refusing to get out of the vehicle when Tpr. Varga, Tpr. Anacker, Tpr. I Ciaurelli & Tpr. Heim attempt to place him under arrest. 2) Once the driver was able to be taken to the ground by the Troopers and placed under arrest the forced ceased and no additional force was utilized.

Tpr. Varga, Tpr. Anacker & Tpr. Heim met the requirements of S.O.P. B-22,III,B,1, which states, "Members make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known or cannot reasonably be made known to the person to be arrested."

S.O.P. B-22,I,B which states, "It is the policy of the Division of State Police that its members employ force in the performance of their duties only when necessary, and to the extent or degree necessary to accomplish a lawful objective, and, the policy of the Division that its members employ force in a manner consistent with the provisions of the Attorney General's "Use of Force Policy" and the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1, where in short, members may use force only when it is necessary, only to the extent it is necessary, and only when its use is lawful and reasonable in relation to the harm the members seek to prevent." were each determined satisfied.

S.O.P. B-22,I,C, which states, "Members, when justified in using force, are not obliged to desist because resistance is encountered or threatened. They may not only stand their ground, but may press forward to achieve a lawful objective, overcoming force with force, to the extent

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necessary and reasonable in relation to the harm they seek to prevent." was determined satisfied.

S.O.P. B-22,II,I, which states, "The reasonableness of a belief or decision (to use force) must be viewed from the perspective of the member, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable, and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight." was determined satisfied.

S.O.P. B-22,I,H, which states, "Members shall provide or obtain appropriate medical aid/assistance for persons who are injured as a result of the use of deadly force, non-deadly force, or other uses of force by the member. This medical aid/assistance shall be provided or obtained once a member determines that the injured person has ceased to resist the accomplishment of a lawful objective by a member, once the risk of serious bodily injury or death to a member(s), or others, has subsided, and once the imminent danger/threat has been eliminated." was determined not to apply. The driver reported no injuries and no injuries were observed as documented in the CAD abstract and the Use Of Force Forms.

S.O.P. B-22,I,I, which states, "Appropriate medical aid/assistance is that aid/assistance which a member would reasonably believe is necessary to minimize the severity of both visible injuries and non-visible trauma to a person once the aforementioned risks have subsided or been eliminated. Depending upon the circumstances, appropriate medical aid/assistance may include, but is not limited to, increased observation to detect obvious changes in condition, flushing chemical agents from the eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening injuries, immediate aid by medical professionals." was determined not to apply. The driver reported no injuries and no injuries were observed as documented in the CAD abstract and the Use Of Force Forms.

S.O.P. B-22,V,A, which states, "Any member who utilizes force, non-deadly or deadly, whether while on duty or acting in an official capacity, shall complete a Reportable Use of Force form." was determined satisfied.

There was no information uncovered to suggest Tpr. Varga, Tpr. Anacker & Tpr. Heim violated the Attorney General's guidelines, Division Policies, Directives, S.O.P.'s, or any statute or Constitutional law. The Trooper's decision to use the level of force applied was found appropriate and justified. Their actions in this incident were dictated by the circumstances as they unfolded before them. It was the patterns and poor decisions of the subject that led to his contact with the Trooper's and ultimately the employment of force against him. As such, no further action was required concerning this review.

Video Review (Management)

Date of Review	April 15, 2020	Creation Type	ICV - Incident Specific
Video Number (ICV)	756A (Viewed)	Purpose	Regular
Video Number (BWC)		Action Taken	No Further Action
Reviewer	Lt. Joseph Repetti #5637		

Questions Answered Differently	Management Review Answers

Narrative

Ssgt. L. Rodriguez #6332 conducted a very thorough standard review of the MV pursuit and use of force. I did not observe any additional issues and/or concerns with this incident, specifically with regards to any excessive force. All deficiencies were identified by the Standard Reviewer.

Video Review (QARAU)

There is currently no information available in the section of the report

Commendation PN

There is currently no information available in the section of the report

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Counselling PN

There is currently no information available in the section of the report

PIDR

There is currently no information available in the section of the report

Compliment

There is currently no information available in the section of the report

Intervention

Subject	Tpr. Daniel Hartman #8174	Date Entered	November 30, 2020
Author	Lt. Robert Babitz #5332	OPS Case #	
Reason	Pursuit Policy Violation	Source	Intervention
Related to	Other		
Type of Intervention	Verbal Counseling		
Training Category			
Task Recipient	Completed	Completed By	
Lt. Joseph Repetti #5637	Yes	Lt. Joseph Repetti #5637	

Narrative

After a comprehensive review of pursuit A100202000001P, conducted by the Motor Vehicle Crash and Vehicular Pursuit Review Board on November 13, 2020, you were found to have violated the following subsections of Standing Operating Procedure F15: Section IV (D) which states that all state police personnel actively involved in a pursuit will advise the pursuit supervisor of their participation via state police radio and Section IV (B), which states that upon the commencement of a pursuit, the pursuing member will immediately activate emergency lights, audible device, headlights, Digital In-Vehicle Recorder (DIVR) and microphone(s). The emergency lights, audible device, headlights, DIVR unit and microphone(s) will remain activated for the duration of the pursuit.

You became involved in a pursuit as a secondary unit assisting Port Norris Station personnel and failed to notify the pursuit supervisor of your involvement. In addition you failed to leave the DIVR unit activated for the duration of the pursuit.

The board determined that these violations had not been previously identified during the Station Commander's review.

Adherence to the pursuit policy is critical in ensuring the safety of the pursuing member and the public. Ensure that you review SOP F15 with Lt. J. Repetti #5637, and follow it in the future.

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Intervention

Subject	Tpr. Ashley Davis #8138	Date Entered	November 30, 2020
Author	Lt. Robert Babitz #5332	OPS Case #	
Reason	Pursuit Policy Violation	Source	Intervention
Related to	Other		
Type of Intervention	Verbal Counseling		
Training Category			
Task Recipient	Completed	Completed By	
Lt. Joseph Repetti #5637	Yes	Lt. Joseph Repetti #5637	

Narrative

After a comprehensive review of pursuit A100202000001P, conducted by the Motor Vehicle Crash and Vehicular Pursuit Review Board on November 13, 2020, you were found to have violated the following subsections of Standing Operating Procedure F15: Section IV (D) which states that all state police personnel actively involved in a pursuit will advise the pursuit supervisor of their participation via state police radio and Section IV (B), which states that upon the commencement of a pursuit, the pursuing member will immediately activate emergency lights, audible device, headlights, Digital In-Vehicle Recorder (DIVR) and microphone(s). The emergency lights, audible device, headlights, DIVR unit and microphone(s) will remain activated for the duration of the pursuit.

You became involved in a pursuit as a secondary unit assisting Port Norris Station personnel and failed to notify the pursuit supervisor of your involvement. In addition you failed to leave the DIVR unit activated for the duration of the pursuit.

The board determined that these violations had not been previously identified during the Station Commander's review.

Adherence to the pursuit policy is critical in ensuring the safety of the pursuing member and the public. Ensure that you review SOP F15 with Lt. J. Repetti #5637, and follow it in the future.

Misconduct

There is currently no information available in the section of the report

Journal

There is currently no information available in the section of the report

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UOF History

Subject	Tpr. Robert Varga #8376	Published Date	January 19, 2020
Incident Type	Under Influence Alc/Drugs	Div Case #	A100/2020-00063
Injury		In Uniform	Yes
Treatment	Not Applicable	MV Stop	Yes
Type of Location	Residence	Municipal Code	0068
Location	Main Street @ Newport Road, Lawrence Twp., Nj		

Person	Race	Gender	Age	Injury	Treatment	Reason	Force Used
Michael Carpenter	White, Non-Hispanic	Male	54	No Apparent Injury	Not Applicable	Effect An Arrest	Physical

UOF History

Subject	Tpr. Theodore Heim #7871	Published Date	January 19, 2020
Incident Type	Under Influence Alc/Drugs	Div Case #	A100/2020-00063
Injury		In Uniform	Yes
Treatment	Not Applicable	MV Stop	Yes
Type of Location	Residence	Municipal Code	0068
Location	Main Street @ Newport Road, Lawrence Twp., Nj		

Person	Race	Gender	Age	Injury	Treatment	Reason	Force Used
Michael Carpenter	White, Non-Hispanic	Male	54	No Apparent Injury	Not Applicable	Effect An Arrest	Physical

UOF History

Subject	Tpr. Scott Anacker #8266	Published Date	January 19, 2020
Incident Type	Under Influence Alc/Drugs	Div Case #	A100/2020-00063
Injury		In Uniform	Yes
Treatment	Not Applicable	MV Stop	Yes
Type of Location	Residence	Municipal Code	0068
Location	Main Street @ Newport Road, Lawrence Twp., Nj		

Person	Race	Gender	Age	Injury	Treatment	Reason	Force Used
Michael Carpenter	White, Non-Hispanic	Male	54	No Apparent Injury	Not Applicable	Effect An Arrest	Physical

UOF Review

Subject	Tpr. Scott Anacker #8266	Date of Review	2/11/2020 12:00:00 AM
Author	SSgt. Luis Rodriguez #6332	OPS Case #	UF20200011

Analysis

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Introduction:

A review of Tpr. R. Anacker's Use of Force revealed that he was involved in two (2) incidents involving a Reportable Use of Force report in a 12 month period.

1) 01/19/2020 CAD# A100/2020-00059850 UF2020-0011 IR# A100-2020-00063

2) 01/09/2020 CAD# A100/2020-00027015 UF2020-0006 IR# A100-2020-00024

As a result, this Supervisory Use of Force Review was initiated. The information contained herein was gleaned (where applicable) from a review of DIVR clips, BWC clips and available associated reports including, but not limited to, patrol logs, computer aided dispatch (CAD) abstract reports, Report Management System (RMS) reports (Investigation, Operation, Arrest, Use of Force and Motor vehicle stop reports), and Operational Dispatch (ODU) radio transmission records. Where applicable, the involved member's performance historical data, as documented in the Management Awareness Personnel Performance System (MAPPS), was examined and considered for the purpose of aiding in the determination of the outcome of the review. In some cases, an in-person meeting with the Trooper may have been necessary to glean information and discuss circumstances which may not have been available, or clear, in the reports. In addition, the applicable and appropriate Standard Operating procedures (SOP's), Attorney General's Guidelines and NJSP policies and procedures were utilized as the set standard and benchmarks for the member's expected performance.

SOP B22 requires FOS to identify "misconduct and/or performance issues which may become evident in light of multiple use of force incidents by the member." The assigned supervisor will review the totality of the member's MAPPS history while conducting this review. FOS seeks to change this requirement as a totality of a member's MAPPS history does not provide true totality of a member's risk history as:

*OPS does not publish all cases to MAPPS. All misconduct history is needed in order to conduct a complete and thorough risk analysis,

*OPS only publishes an initial case synopsis to MAPPS which many times is not updated. Furthermore and too often, this synopsis does not reflect the actual events or final outcomes of the case,

*OPS does not publish "administratively closed" cases to MAPPS. These cases are also needed to conduct a complete and thorough risk analysis.

*Many case adjudications are not published to MAPPS.

For this review, the MAPPS inquiry of Tpr. Anacker's historical data revealed that he had no prior reportable Use of Force recorded in his employment history prior to the use of force in the incidents listed above. The Use of Force incidents listed above have been reviewed by myself, SSGT. L. Rodriguez #6332 as part of this Supervisory Use of Force review. In both incidents I found that Tpr. Anacker was justified in using force and did so in a proper manner. There was no evidence found to suggest Tpr. Anacker's Use of Force history that had necessitated any intervention or discipline. During the time span of the first and second use of force, Tpr. Anacker received no interventions in the MAPPS system.

All of the associated records and documentation in both of these incidents were sufficient in providing for a clear understanding of the circumstances as they unfolded before the involved member. The submitted reports appeared accurate, concise and well written. Each coincided factually and chronologically with the other associated documentation. As such, no face to face meeting with Tpr. Anacker was determined necessary.

Incident Summaries:

*The first incident was reviewed by SSGT. L. Rodriguez #6332 on February 11, 2020 as part of this Supervisory Use of Force Review. This review was conducted by reviewing Body Worn Cameras: PORT18, PORT19, PORT25, PORT28, PORT30 and PORT21 and DIVR's 756A, 650A, 584A and 512A, and all associated reports documenting the incident.

In the first incident, while enroute to Port Norris Station to double up for the midnight shift Tpr. R. Varga #8376 observed a black Dodge pickup failing to maintain its lane of travel on Main St. @ Newport Rd in Lawrence Twp., Cumberland County. Tpr. R. Varga activated his overhead lights and siren however the vehicle failed to stop and a pursuit was initiated that lasted approximately thirty-three (33) minutes and ended with the vehicle coming to a stop at the Mauricetown Marina, where the vehicle became stuck on a bulk head, feet short of entering the Maurice River. As Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli made their approach to the vehicle the driver was ordered to exit the vehicle by all four Troopers and refused to exit the vehicle. The driver was still attempting to get away and revving the engine causing the wheels to spin on the truck. At this time Tpr. Heim entered the passenger side of the truck and put the vehicle into park. Tpr. Varga, Tpr. Anacker & Tpr. Heim utilized force, specifically close fist strikes on the driver in order to remove him from the vehicle. The following is documented by Tpr. Anacker in his Supplemental Report to Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, **"At this time, I approached the vehicle as Port Norris Troopers were requesting the driver, later identified as Michael Carpenter to get out of the car.**

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Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

Carpenter refused and attempted to drive the vehicle even though the vehicle was stuck on the bulkhead. I then joined Port Norris Troopers attempted to physically remove Carpenter who refused to get out of the vehicle. Carpenter refused to get out of the vehicle when given the commands by the Port Norris Troopers. I was able to position myself in the driver side door striking the driver in the face with a closed fist to gain compliance and to effect the arrest. At this time, Port Norris Troopers and I were able to remove Carpenter from the vehicle and escort him to the ground. During a brief struggle on the ground, Trooper Varga and I were able to gain control of Carpenter's arms and effect the arrest.". The subject was then transported to Port Norris Station for processing.

*The second incident was reviewed by myself on February 11, 2020 as part of this Supervisory Use of Force Review. This review was conducted by reviewing Body Worn Camera: PORT14 & PORT06 and all associated reports documenting the incident.

The second incident Tpr. D. Hartman and Tpr. S. Anacker were detailed to a burglary in progress complaint at 454 Sandalwood Rd. in Commercial Twp., Cumberland County. Upon arrival they spoke to the complainants who advised them that there were two suspects and one had fled on foot and the other was inside of the residence. Tpr. D. Hartman and Tpr. S. Anacker attempted to make contact with the suspect inside of the residence and could hear him inside of the residence. The suspect was yelling incoherently, highly agitated, and appeared to be under the influence of an intoxicating substance. The suspect began to barricade the door so Tpr. D. Hartman and Tpr. S. Anacker could not enter the residence to effect the arrest of him. Tpr. D. Hartman and Tpr. S. Anacker eventually gained entry through the rear door of the residence and immediately made contact with the suspect where a struggle ensued. The Use of Force utilized by Tpr. D. Hartman and Tpr. S. Anacker was not captured on video due to their body worn cameras falling off upon their contact with the suspect. However based on all accounts was justified and necessary in order to gain compliance, prevent the suspect from assaulting Tpr. D. Hartman and Tpr. S. Anacker, and effect the arrest of the suspect. The following was documented by Tpr. Hartman in IR # A100-2020-00024: **"The subject then advanced on Tpr. Anacker and myself in an attempt to prevent us from gaining entry into the house. Tpr. Anacker grabbed the subject by his clothing and the subject was forced to the ground. The subject resisted being placed under arrest and would not place his hands behind his back to be handcuffed. I then struck the subject multiple times with a closed fist to gain compliance. After the subject began to comply, I was able to gain control of both of the subject's wrists and place him in handcuffs.**

The subject was then escorted to off the property and to my Troop Car. The subject was searched incidental to arrest which yielded positive results for two (2) homemade knives. After being searched, the subject began to lose consciousness and become unresponsive. I retrieved and administered one dose (4mgs) of Narcan to the subject based on symptoms of a suspected opioid overdose. The subject did not respond. Once a pulse was no longer present, CPR was administered. Laurel Lake EMS arrived on scene and then assumed medical treatment. The subject was transported by EMS from the scene and later air lifted by helicopter to Cooper University Hospital." The following was documented by Tpr. Anacker's supplemental report to IR # A100-2020-00024: **"Trooper Hartman was able to push the door open while I was able to make entry into the residence. I was able to grab the subject by his clothing while forcing him to the ground. The subject continued to disobey my commands and resisted being placed under arrest and would not place his hands behind his back to be handcuffed. I then struck the subject multiple times with a closed fist to gain compliance. Trooper Hartman and I were able to gain control of the subject's arms and placed him in handcuffs.**

Trooper Hartman and I began to escort the subject off the property to be placed in the rear of a Troop Car. The subject was searched (positive) results for two (2) homemade knives. After being searched, the subject began to lose consciousness and became unresponsive. Trooper Hartman retrieved and administered one dose (4mgs) of Narcan to the subject based from the symptoms of suspected opioid overdose. The subject did not respond to the Narcan. CPR was administered once a pulse was no longer present. Laurel Lake EMS arrived on scene and began giving medical treatment to the subject. The subject was then transported by EMS from the scene and later air lifted by helicopter to Cooper University Hospital. See Investigation Report (A100-2020-00024) for further details."

EMS was contacted to provide first aid for an abrasion of the head of the suspect. While awaiting EMS the suspect began to lose consciousness and administered Narcan for a possible overdose. The Narcan had no effect on the suspect and was found not to be breathing and no distinguishable pulse. Troopers on scene began CPR. Troopers on scene and members of the Laurel Lake EMS were able to regain a pulse and breathing and the suspect was transported EMS to a landing zone and the suspect was flown to Cooper Medical Center for treatment.

**It is unknown what caused the suspect to lose consciousness during this incident due to this reviewer not having access to the suspect's medical records from Cooper Medical Center in regards to his treatment. However it appears the suspect was under the influence of an intoxicating substance.

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

Actions and Recommendations

Determinations:

As a result of the review of all the available documentation associated with these incidents, it was determined that Tpr. Anacker was justified in applying the levels of force utilized during the arrests of the suspect in the first incident and restraining the suspect in the second incident for his safety. **S.O.P. B-22.III.A** spells out the requirements for the use of non-deadly force: "Members are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to [Section #1] "protect themselves or others against the use of unlawful force by another person.", [Section #3] "Thwart the commission of a crime involving or threatening bodily injury, damage to or loss of property, or a breach of the peace", and [Section #5] which states, "Members are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to "effect an arrest for any offense or crime under the laws of the state of New Jersey." Tpr. Anacker was justified in the first and second incident in using force for these listed reasons.

S.O.P. B-22, I, B which states, "It is the policy of the Division of State Police that its members employ force in the performance of their duties only when necessary and only to the extent or degree necessary to accomplish a lawful objective, and the policy of the Division that its members employ force in a manner consistent with the provisions of the Attorney General's "Use of Force Policy" and the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1, where in short, members may use force only when it is necessary and only when its use is lawful and reasonable in relation to the harm the members seek to prevent." were each determined satisfied.

S.O.P. B-22, III, B1, which states, "Members make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person being arrested" was determined satisfied.

S.O.P. B-22, I, C, which states, "Members, when justified in using force are not obliged to desist because resistance is encountered or threatened. They may not only stand their ground, but may press forward to achieve a lawful objective, overcoming force with force to the extent necessary and reasonable in relation to the harm they seek to prevent." was determined satisfied.

S.O.P. B-22, II, I, which states, "The reasonableness of a belief or decision (to use force) must be viewed from the perspective of the member, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight." was determined satisfied.

S.O.P. B-22, I, H, which states, "Members shall provide or obtain appropriate medical aid/assistance for persons who are injured as a result of the use of deadly force, non-deadly force, or other uses of force by the member. This medical aid/assistance shall be provided or obtained once a member determines that the injured person has ceased to resist the accomplishment of a lawful objective by a member, once the risk of serious bodily injury or death to a member(s), or others, has subsided, and once an imminent danger/threat has been eliminated." was determined satisfied.

S.O.P. B-22, I, I, which states, "Appropriate medical aid/assistance is that aid/assistance which a member would reasonably believe is necessary to minimize the severity of both visible injuries and non-visible trauma to a person once the aforementioned risks have subsided or been eliminated. Depending upon the circumstances, appropriate medical aid/assistance may include, but is not limited to, increased observation to detect obvious changes in condition, flushing chemical agents from eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening injuries, immediate aid by medical professionals" was determined satisfied.

S.O.P. B-22, V, A, which states, "Any member who utilizes force, non-deadly or deadly, whether on duty or while acting in an official capacity, shall complete a Reportable Use of Force form" was determined satisfied.

Conclusion:

There was no information uncovered during this inquiry to suggest Tpr. Anacker violated the Attorney General's guidelines, Division Policies, Directives, S.O.P.'s, or any statute or constitutional law. Tpr. Anacker's decision to use the levels of force applied, were found appropriate and justified. His actions in these incidents were dictated by the circumstances as they unfolded before him. In these incidents, it was the patterns and poor decisions of the subjects that led to their contact with the Troopers and ultimately the employment of force against them. As such, no further action was required concerning this Supervisory Use of Force Review.

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

UOF Review

Subject	Tpr. Robert Varga #8376	Date of Review	2/11/2020 12:00:00 AM
Author	SSgt. Luis Rodriguez #6332	OPS Case #	UF20200011

Analysis

Introduction:

A review of Tpr. A. Varga's Use of Force revealed that he was involved in three (3) incidents involving a Reportable Use of Force report in a 12 month period.

- 1) 09/27/2019 CAD# A100/2019-00864005 UF2019-0118 IR# A100-2019-00951
- 2) 12/20/2019 CAD# A100/2019-01099557 UF2019-0158 IR# A100-2019-01223
- 3) 01/19/2020 CAD# A100/2020-00059850 **UF2020-0011 IR #A100-2020-00063**

As a result, this Supervisory Use of Force Review was initiated. The information contained herein was gleaned (where applicable) from a review of DIVR clips, BWC clips and available associated reports including, but not limited to, patrol logs, computer aided dispatch (CAD) abstract reports, Report Management System (RMS) reports (Investigation, Operation, Arrest, Use of Force and Motor vehicle stop reports), and Operational Dispatch (ODU) radio transmission records. Where applicable, the involved member's performance historical data, as documented in the Management Awareness Personnel Performance System (MAPPS), was examined and considered for the purpose of aiding in the determination of the outcome of the review. In some cases, an in-person meeting with the Trooper may have been necessary to glean information and discuss circumstances which may not have been available, or clear, in the reports. In addition, the applicable and appropriate Standard Operating procedures (SOP's), Attorney General's Guidelines and NJSP policies and procedures were utilized as the set standard and benchmarks for the member's expected performance.

SOP B22 requires FOS to identify "misconduct and/or performance issues which may become evident in light of multiple use of force incidents by the member." The assigned supervisor will review the totality of the member's MAPPS history while conducting this review. FOS seeks to change this requirement as a totality of a member's MAPPS history does not provide true totality of a member's risk history as:

- *OPS does not publish all cases to MAPPS. All misconduct history is needed in order to conduct a complete and thorough risk analysis,
- *OPS only publishes an initial case synopsis to MAPPS which many times is not updated. Furthermore and too often, this synopsis does not reflect the actual events or final outcomes of the case,
- *OPS does not publish "administratively closed" cases to MAPPS. These cases are also needed to conduct a complete and thorough risk analysis.
- *Many case adjudications are not published to MAPPS.

For this review, the MAPPS inquiry of Tpr. Vargas's historical data revealed that he had no prior reportable Use of Force recorded in his employment history prior to the use of force in the incidents listed above. The Use of Force incidents listed above have been reviewed by myself, SSGT. L. Rodriguez #6332 as part of this Supervisory Use of Force review. In all three incidents I found that Tpr. Varga was justified in using force and did so in a proper manner. There was no evidence found to suggest Tpr. Varga's Use of Force history had necessitated any intervention or discipline. During the time span between the first and third use of force, Tpr. Varga received no interventions in the MAPPS system.

All of the associated records and documentation in these three incidents were sufficient in providing for a clear understanding of the circumstances as they unfolded before the involved member. The submitted reports appeared accurate, concise and well written. Each coincided factually and chronologically with the other associated documentation. As such, no face meeting with Tpr. Maruca was determined necessary.

Incident Summaries:

*The first incident was reviewed by SSGT. L. Rodriguez #6332 on February 11, 2020 as part of this Supervisory Use of Force Review. This review was conducted by reviewing Body Worn Cameras: PORT18, PORT19, PORT25, PORT28, PORT30 and PORT21 and DIVR's 756A, 650A, 584A and 512A, and all associated reports documenting the incident.

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

In the first incident, while enroute to Port Norris Station to double up for the midnight shift Tpr. R. Varga #8376 observed a black Dodge pickup failing to maintain its lane of travel on Main St. @ Newport Rd in Lawrence Twp., Cumberland County. Tpr. R. Varga activated his overhead lights and siren however the vehicle failed to stop and a pursuit was initiated that lasted approximately thirty-three (33) minutes and ended with the vehicle coming to a stop at the Mauricetown Marina, where the vehicle became stuck on a bulk head, feet short of entering the Maurice River. As Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli made their approach to the vehicle the driver was ordered to exit the vehicle by all four Troopers and refused to exit the vehicle. The driver was still attempting to get away and revving the engine causing the wheels to spin on the truck. At this time Tpr. Heim entered the passenger side of the truck and put the vehicle into park. Tpr. Varga, Tpr. Anacker & Tpr. Heim utilized force, specifically close fist strikes on the driver in order to remove him from the vehicle. The following is documented by Tpr. Varga in Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, *"Port Norris Troopers approached the vehicle requesting the driver, later identified as Michael Carpenter to get out of the car. Carpenter refused and attempted to drive the vehicle even though the vehicle was stuck on a bulkhead. At this time, I observed Carpenter not wearing his seatbelt, and the vehicle was still in drive. At this time, Tpr. Heim #7871 entered the vehicle from the passenger side and put the vehicle in park. Carpenter refused to get out of the vehicle. Therefore I attempted to physically remove Carpenter from the vehicle. Carpenter continued to resist, therefore I struck Carpenter in the face with a closed fist in an attempt to gain compliance and effect the arrest. Tpr. Heim and Tpr. Anacker #8266 also struck the driver in the face with a closed fist to gain compliance and to effect the arrest. At this time, Port Norris Troopers were able to remove Carpenter from the vehicle and escort him to the ground. During a brief struggle on the ground Tpr. Anacker and I were then able to gain control of Carpenter's arms and effect the arrest. Carpenter was then handcuffed, searched with negative results, and placed in the rear of Troop Car 584A."* The subject was then transported to Port Norris Station for processing.

*The second incident was reviewed by myself on January 21, 2020 as part of this Supervisory Use of Force Review. This review was conducted by reviewing Body Worn Camera: PORT18 & PORT19 and DIVR 717A & 650A and all associated reports documenting the incident.

In the second incident, which occurred on 12/20/19. Tpr. R. Varga conducted a motor vehicle stop on a vehicle for a moving violation (39:4-126). Upon approaching the vehicle the rear occupant is observed to not have her seatbelt on and her identification is requested. The occupant refuses to provide her name or identification. The Troopers then open the side sliding door of the stopped vehicle and the occupant is told that she is under arrest and ordered to exit the vehicle. The occupant refuses to exit the vehicle and the Troopers had to physically remove the occupant by grabbing onto her and pulling her out of the open door. Tpr. R. Varga & Tpr. I Ciaurelli then successfully removed the occupant from the vehicle and onto the ground. Once on the ground, the occupant continued to resist arrest and stood up. Tpr. Ciaurelli utilized a leg sweep and she was taken to the ground again. The following is documented by Tpr. Varga in Investigation Report #A100-2020-01223 in regards to the force he utilized to effect the arrest the subject, *" At this time Tpr. I Ciaurelli #7179 arrived on scene, and I approached the passenger side of the vehicle to identify the female passenger in the back seat. At this time the female passenger refused to identify herself stating that she did not have to wear her seatbelt in the back seat of the vehicle. The female was later identified as Alyssa Curry. I advised Curry if she did not identify herself she would be placed under arrest. Curry again stated she would not identify herself. I then advised Curry she was under arrest and to exit the vehicle. Curry refused to exit the vehicle. I attempted to escort Curry from the vehicle, however she physically resisted and pulled herself back into the vehicle, and attempted to close the door. Tpr. Ciaurelli and I entered into the vehicle in order to restrain Curry, however she continued to resist and held onto the seats and other portions of the vehicle. Finally Curry was escorted out of the vehicle where she continued to resist being handcuffed and screaming for Burt to help her. At this time I grabbed Curry's left arm, tripped her with my right leg and escorted her to the ground, Curry then stated that she gave up. At this time, Curry was handcuffed, searched with negative results and placed in the rear of the Troop Car. Curry then stated that her name was Mykaela Burchfield."*

In summary, Tpr. R. Varga & Tpr. I Ciaurelli's uses of force were appropriate and professional in that, throughout the entire contact with the non-compliant and resisting occupant, they only used force when necessary and as a last resort; used the minimum amount of force needed; and immediately ceased the use of force once their lawful objective was accomplished.

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

*The third incident was reviewed by myself on October 18, 2019 as part of this Supervisory Use of Force Review. This review was conducted by reviewing Body Worn Camera: PORT18 & PORT19 and DIVR 717A and all associated reports documenting the incident.

The third incident occurred on 09/27/19. In this case, Tpr. J. Allen & Tpr. R. Varga conducted a motor vehicle stop on a vehicle following for speeding (39:4-98). Upon approaching the vehicle the rear occupant is observed to not have his seatbelt on and his identification is requested. The occupant refuses to provide his name or identification, by stating "I don't have to tell you that and I don't have an ID and I'm not telling you my name". Tpr. Allen then opens the side sliding door of the stopped vehicle and the occupant is told that he is under arrest and ordered to exit the vehicle. The occupant refuses to exit the vehicle and the Troopers entered the vehicle to effect the arrest. Tpr. Allen and Tpr. Varga attempted to physically remove the driver by grabbing onto him and pulling him towards the open door. The occupant grabbed Tpr. Varga's tie and pulled it off his Class A shirt while he was refusing to be removed from the vehicle. At this time physical force was utilized by both Troopers to remove the non-compliant and resistant occupant from the vehicle. Tpr. Allen reported delivering three closed-fist strikes to the head of the occupant and Tpr. Varga reported delivering two closed-fist strikes to the occupant's lower back in order to get him to release his grip on the seats. Tpr. J. Allen & Tpr. R. Varga then successfully removed the occupant from the vehicle and onto the ground. Once on the ground, the occupant continued to resist arrest and refused to place his arms behind his back. Finally, Tpr. J. Allen & Tpr. R. Varga were able to secure him in handcuffs. The driver of the vehicle at this point fled the location of the stop in the stopped vehicle. **The following is documented by Tpr. Varga in supplemental Investigation Report # A100-2019-00951 in regards to the force he utilized to effect the arrest the subject, " I observed an additional white male and child in the third row. I observed both adult males were not wearing their seatbelts and asked for their identification. The second row passenger provided a New Jersey ID and was identified as Henry J. Gavitt Jr. The rear passenger stated he had his seatbelt on but had taken it off. The rear passenger further stated he did not have identification and refused to identify himself. The rear passenger was later identified as Brian K. Burt. Tpr. Allen advised Burt if he did not identify himself he would be placed under arrest. Burt again stated he would not identify himself. Tpr. Allen then advised Burt he was under arrest and to exit the vehicle. Burt refused to exit the vehicle. I attempted to escort Burt from the rear seat however he physically resisted and pulled himself back into the vehicle. I advised Burt to stop resisting. Tpr. Allen and I entered into the vehicle in order to restrain Burt, however he continued to resist and hold onto the seats and other portions of the vehicle. During the altercation Burt grabbed my tie, which immediately fell off. Tpr. Allen then struck Burt in the face with a closed right hand. As Burt continued to resist, I struck Burt in the lower back with a closed fist two times. Shortly after, Burt stated he would exit the vehicle. Tpr. Allen and I escorted Burt out of the vehicle and onto the ground. Burt refused to be handcuffed, held his hands under his body, and continued to resist. After a brief struggle, Tpr. Allen and I were able to place Burt into handcuffs. During the altercation, Both Orsino and Gavitt had exited the vehicle to record the altercation on their cellphones. While attempting to place Burt into handcuffs, Orsino reentered the vehicle and fled the scene at a high rate of speed. Gavitt remained on scene. It should be noted during the altercation, Tpr. Allen and I had lost our Class A Caps and Body Cameras inside of the vehicle. "**

In summary, Tpr. J. Allen & Tpr. R. Varga's uses of force were appropriate and professional in that, throughout the entire contact with the occupant, they only used force when necessary and as a last resort; used the minimum amount of force needed; and immediately ceased the use of force once their lawful objective was accomplished.

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

Actions and Recommendations

Determinations:

As a result of the review of all the available documentation associated with these incidents, it was determined that Tpr. Varga was justified in applying the levels of force utilized during the arrests of the suspect in the incidents listed above. **S.O.P. B-22.III.A** spells out the requirements for the use of non-deadly force: "Members are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to [Section #1] "protect themselves or others against the use of unlawful force by another person.", [Section #3] "Thwart the commission of a crime involving or threatening bodily injury, damage to or loss of property, or a breach of the peace", and [Section #5] which states, "Members are justified in using non-deadly force in the performance of their duties when they reasonably believe it is immediately necessary to "effect an arrest for any offense or crime under the laws of the state of New Jersey." Tpr. Varga was justified in these incidents in using force for these listed reasons.

S.O.P. B-22, I, B which states, "It is the policy of the Division of State Police that its members employ force in the performance of their duties only when necessary and only to the extent or degree necessary to accomplish a lawful objective, and the policy of the Division that its members employ force in a manner consistent with the provisions of the Attorney General's "Use of Force Policy" and the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1, where in short, members may use force only when it is necessary and only when its use is lawful and reasonable in relation to the harm the members seek to prevent." were each determined satisfied.

S.O.P. B-22, III, B1, which states, "Members make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person being arrested" was determined satisfied.

S.O.P. B-22, I, C, which states, "Members, when justified in using force are not obliged to desist because resistance is encountered or threatened. They may not only stand their ground, but may press forward to achieve a lawful objective, overcoming force with force to the extent necessary and reasonable in relation to the harm they seek to prevent." was determined satisfied.

S.O.P. B-22, II, I, which states, "The reasonableness of a belief or decision (to use force) must be viewed from the perspective of the member, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight." was determined satisfied.

S.O.P. B-22, I, H, which states, "Members shall provide or obtain appropriate medical aid/assistance for persons who are injured as a result of the use of deadly force, non-deadly force, or other uses of force by the member. This medical aid/assistance shall be provided or obtained once a member determines that the injured person has ceased to resist the accomplishment of a lawful objective by a member, once the risk of serious bodily injury or death to a member(s), or others, has subsided, and once an imminent danger/threat has been eliminated." was determined satisfied.

S.O.P. B-22, I, I, which states, "Appropriate medical aid/assistance is that aid/assistance which a member would reasonably believe is necessary to minimize the severity of both visible injuries and non-visible trauma to a person once the aforementioned risks have subsided or been eliminated. Depending upon the circumstances, appropriate medical aid/assistance may include, but is not limited to, increased observation to detect obvious changes in condition, flushing chemical agents from eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening injuries, immediate aid by medical professionals" was determined satisfied.

S.O.P. B-22, V, A, which states, "Any member who utilizes force, non-deadly or deadly, whether on duty or while acting in an official capacity, shall complete a Reportable Use of Force form" was determined satisfied.

Conclusion:

There was no information uncovered during this inquiry to suggest Tpr. Varga violated the Attorney General's guidelines, Division Policies, Directives, S.O.P.'s, or any statute or constitutional law. Tpr. Varga's decision to use the levels of force applied, were found appropriate and justified. His actions in these incidents were dictated by the circumstances as they unfolded before him. In these three incidents, it was the patterns and poor decisions of the subjects that led to their contact with the Troopers and ultimately the employment of force against them. As such, no further action was required concerning this Supervisory Use of Force Review. These determinations have been discussed with Lt. J. Repetti #5637, Port Norris Station Commander.

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

UOF Review

Subject	Tpr. Theodore Heim #7871	Date of Review	8/19/2020 12:00:00 AM
Author	SSgt. Luis Rodriguez #6332	OPS Case #	UF20200011

Analysis

Introduction:

A review of Tpr. T. Heim #7871 Use of Force history revealed that he was involved in two (3) incidents involving a Reportable Use of Force report in a 12 month period.

1. 01/19/2020, CAD# A100/2020-00059850, UF2020-0011, I/R# A100-2020-00063
2. 0 8/13/2019 , CAD# T042/2019-00719951, UF2019-0090 , I/R# A160-2019-00255
3. 07/19/2020, CAD# A100/2020-00747188, UF2020-0058, IR # A100-2020-00638

As a result, this Supervisory Use of Force Review was initiated. The information contained herein was gleaned (where applicable) from review of DIVR clips and the available associated reports including, but not limited to, Patrol Logs, Computer Aided Dispatch (CAD) Abstract Reports, Report Management System (RMS) reports (Investigation, Operations, Arrest, Use of Force and Motor Vehicle Stop reports), and Operational Dispatch (ODU) radio transmission records. Where applicable, the involved member's performance historical data, as documented in the Management Awareness Personnel Performance System (MAPPS), was examined and considered for purposes of aiding in the determination of the outcome of the review. In some cases, an in person meeting with the trooper may have been necessary to glean information and discuss circumstances which may not have been available, or clear, in the reports. In addition, the applicable and appropriate Standard Operating Procedures (SOP's), Attorney General's Guidelines, and NJSP policies and procedures were utilized as the set standard and benchmarks for the member's expected performance.

SOP B22 requires FOS to identify "misconduct and/or performance issues which may become evident in light of multiple use of force incidents by the member. The assigned supervisor will review the totality of the member's MAPPS history while conducting this review. FOS seeks to change this requirement as a totality of a member's MAPPS history does not provide a true totality of a member's risk history as:

- * OPS does not publish all cases to MAPPS. All misconduct history is needed in order to conduct a complete and thorough risk analysis,
- * OPS only publishes an initial case synopsis to MAPPS which many times is not updated. Furthermore and too often, this synopsis does not reflect the actual events or final outcomes of the case.
- * OPS does not publish "administratively closed" cases to MAPPS. These cases are also needed to conduct a complete and thorough risk analysis,
- * Many case adjudications are not published to MAPPS.

For this review, the MAPPS inquiry of Tpr. J. Heim's historical data revealed these incidents make up three of the six Use of Force incidents recorded in his employment history. The first and third incident (CAD # A100/2020-00059850 & CAD # A100/2020-00747188) were reviewed by myself and the second incident (CAD # T042/2019-00719951) was reviewed by SSgt. J. Walters #6016 as they were critical incidents (Use of Force on a MV Stop). In all three incidents, Tpr. Heim was found to have been justified in using force, and did so in a proper manner. There was no evidence found to suggest Tpr. Heim's Use of Force history had necessitated any previous intervention or discipline. During the time span from the first Use of Force to the third, Tpr. Heim received 4 interventions, Two of them were commendations and one was a verbal counseling for MVR Procedures and the last one was a No Further Action Intervention for failure to seatbelt a prisoner.

All of the associated records and documentation in these three incidents were sufficient in providing for a clear understanding of the circumstances as they unfolded before the involved members. The submitted reports appeared accurate, concise, and well written.

Incident Summaries:

*The first incident was reviewed by SSGT. L. Rodriguez #6332 on February 11, 2020 as part of this Supervisory Use of Force Review. This review

Incident Report for A100/2020-00059850

Primary Trooper	Tpr. Robert Varga #8376	Created	May 9, 2023 12:50 PM
Unit	Port Norris - Squad 1		

was conducted by reviewing Body Worn Cameras: PORT18, PORT19, PORT25, PORT28, PORT30 and PORT21 and DIVR's 756A, 650A, 584A and 512A, and all associated reports documenting the incident.

In the first incident, while enroute to Port Norris Station to double up for the midnight shift Tpr. R. Varga #8376 observed a black Dodge pickup failing to maintain its lane of travel on Main St. @ Newport Rd in Lawrence Twp., Cumberland County. Tpr. R. Varga activated his overhead lights and siren however the vehicle failed to stop and a pursuit was initiated that lasted approximately thirty-three (33) minutes and ended with the vehicle coming to a stop at the Mauricetown Marina, where the vehicle became stuck on a bulk head, feet short of entering the Maurice River. As Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli made their approach to the vehicle the driver was ordered to exit the vehicle by all four Troopers and refused to exit the vehicle. The driver was still attempting to get away and revving the engine causing the wheels to spin on the truck. At this time Tpr. Heim entered the passenger side of the truck and put the vehicle into park. Tpr. Varga, Tpr. Anacker & Tpr. Heim utilized force, specifically close fist strikes on the driver in order to remove him from the vehicle and to place him under arrest. The following is documented by Tpr. Heim in his Supplemental Report to Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, " *At this time, Tpr. I Ciaurelli, Tpr. Varga, and myself approached the vehicle and attempted to instruct the driver to shut off and exit the vehicle. Michael Carpenter refused to obey our verbal instructions, in an attempt to get his attention I then struck the rear driver's side quarter panel with my foot two times. These attempts were met with negative results. I then proceeded to the passenger side of the vehicle in order to gain entry into the passenger cabin of the vehicle. I then entered the vehicle, removed the keys from the ignition, and attempted to take control of Michael Carpenter. Michael Carpenter then resisted arrest by refusing to comply with Troopers orders and refusing to exit the vehicle. I then struck Michael Carpenter in the face two times in order to gain control of him and effect an arrest. At this time, we were able to physically remove Michael Carpenter from his vehicle.*

Once out of the vehicle and on the ground Michael Carpenter continued to resist arrest by staying on his hands and knees and refusing to place his hands behind his back. I then delivered two more strikes to Michael Carpenter's head. I then gained physical control of Michael Carpenter's head, while Tpr. Varga and Trooper S. Anacker #8266 attempted to gain control of his hands. Michael Carpenter was then placed in handcuffs, and the use of force stopped. While escorting Michael Carpenter to Tpr. Varga's Troop Car, his muscles tensed and he attempted to pull to the left. In order to prevent Michael Carpenter from pulling away from my control he was placed on the hood of Tpr. Varga's Troop Car. Tpr. Varga then searched Michael Carpenter, which was met with negative results." The subject was then transported to Port Norris Station for processing.

The second incident was reviewed by SSgt. J. Walters #6016 on September 13, 2019 as it was a critical incident. Tpr. T. Heim #7871 conducted a motor vehicle stop in reference to a moving violation, failure to maintain lane. Upon the activation of the DIVR, the vehicle was followed for a short distance, the overhead lights were activated, and the stop was called out to dispatch. Once stopped, Tpr. Heim approached the driver side of the vehicle where he properly identified himself, requested credentials, and provided the reason for the stop. After a brief conversation, the driver was asked to exit the vehicle in order to complete a field sobriety examination in which he subsequently failed. Therefore, the driver was placed under arrest, more specifically, he was handcuffed, incidentally searched, and escorted towards the rear of the Troop car for transport. However, it was at this time, that the driver began to act in a disorderly manner and he refused to be placed in the Troop car, and, ultimately, force was utilized in order to gain compliance and physical control. Moreover and as documented in the narrative of the investigation report, Tpr. Heim wrote " *As I attempted to secure the driver in the rear of my Troop Car, the driver resisted arrest by refusing to get in the rear of my Troop Car, specifically by pulling away from my control. The driver was instructed to stop resisting and to enter the rear of my Troop Car. The driver continued to pull away from my control, and attempted to walk towards the lanes of travel. Due to safety concerns for myself and the driver force was utilized. Specifically the driver was tackled down to the ground in order to gain control of him and prevent him from walking into traffic, once I had physical control of the driver the use of force ceased. I was able to maintain physical control of the driver until backup arrived. Sgt. A. Sparacio #6821 arrived at my stop location, a second attempt was made to place the driver in my Troop Car, where the driver continued to resist arrest and would not comply with our orders to sit in the rear of the Troop Car. The driver continued to resist by physically pulling away from myself and Sgt. Sparacio, he further refused to be placed in the rear of the Troop Car, and attempted to spit on us. Force was utilized by myself and Sgt. Sparacio, to prevent the driver from spitting on us and to attempt to secure him in the Troop Car. Specifically, the driver's head and neck were grabbed and restrained in order to prevent him from spitting at both myself and Sgt. Sparacio. Sgt. Sparacio then entered the rear driver side of the Troop Car in an attempt to pull the driver into the Troop Car. While Sgt. Sparacio pulled on the driver's upper body, I picked up his legs. Every attempt to place the driver in the car was met with negative results. When I attempted to pick up the driver's legs, he would hook his feet behind my knees and hook his feet to parts of my leather gear belt. As the driver continued to resist arrest by continuing to spit at myself and Sgt. Sparacio and flailing his legs in an attempt to kick us, Sgt. Sparacio punched the the driver's face with a closed fist, in an attempt to get the driver to comply with our orders. The strikes to his face were met with negative results, as the driver continued to resist arrest. Tpr. G. Navarro #7419, then arrived on scene in order to assist with securing the driver in the rear of the Troop Car. The driver continued to resist by refusing to get into the Troop Car. I then struck the driver's abdomen with my fist in order to get him to comply with our orders. Sgt. Sparacio, Tpr. Navarro, and I were then able to secure the driver in the rear of my Troop Car. Once the driver was secured in the rear of my Troop Car, he began kicking the rear passenger side window of the Troop Car, and broke the window out of the door frame. Due to the driver's unruly and combative behavior, that besides causing further damage to the Troop Car, there was a strong possibility that the driver could cause injury to himself. Use of force was utilized again in order to gain control of the driver. Specifically, Tpr. Devecka #7987 deployed a short burst of his OC spray to the driver's face, which ultimately stopped the driver's unruly behavior. Tpr. Navarro remained on scene and conducted a Probable Cause search of the vehicle. The PC search was positive for open containers, specifically one empty*

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Ciroc Mango bottle. The vehicle was then removed from the scene by Court House Towing, and impounded reference John's Law. I then transported the driver to the Atlantic City Expressway Station to be processed. Upon our arrival to the station, the driver was secured to the station processing bench and Hamilton Township EMS arrived at the station to provide medical treatment. Specifically Hamilton Township EMS washed the OC irritant from the driver's eyes. Kevin Eldridge was then processed for driving while intoxicated, resisting arrest, obstruction of law enforcement, and criminal mischief. Complaint number 0112S2019000857 was prepared charging Kevin Eldridge with Resisting Arrest (2C:29-2A(1)) and Obstruction of Justice (2C:29-1A), also complaint number 0112S2019000858 was prepared charging Kevin Eldridge with Criminal Mischief (2C:17-3A(1)). It should be noted while Kevin Eldridge was being processed he continued to be combative and verbally abusive towards Troopers and the responding members of Hamilton Township EMS."

The third incident was reviewed by SSGT. L. Rodriguez #6332 on August 19, 2020. This review was conducted by reviewing Body Worn Cameras: PORT17, PORT16, PORT43 and PORT33. Also reviewed were DIVR's 3513, 563A, 530A and 847A, and all associated reports documenting the incident.

In the third incident. Tpr. T. Heim conducted a motor vehicle stop in reference to a moving violation, speeding. Upon the activation of the DIVR and closing the distance with the motorcycle. The motorcycle came to a stop and the operator got off the motorcycle and appeared to be contemplating eluding on foot. The operator then started the motorcycle and attempted to get on it and flee the scene. Tpr. Heim pulled him off the motorcycle and took him to the ground and attempted to place him in handcuffs. The operator continued to resist arrest and not follow commands.

Once Tpr. Heim gained control of the operator he was escorted to the Troop Car. Tpr. Heim attempted again to place the operator in handcuffs. The operator again began to resist arrest and attempted to elude on foot. Tpr. Heim utilized two closed handed strikes to the operators face and the operator eluded on foot. After a short foot chase. Tpr. Heim was able to apprehend the operator and place him in handcuffs. The following is as documented in the narrative of the Investigation Report, Tpr. Heim wrote, to the effect, " *As I approached the driver, I instructed him to stop and show me his hands. The driver then initially attempted to flee on foot, however he took a couple of steps and then turned around and returned to his motorcycle. The driver stated that his motorcycle was going to catch on fire, I then instructed him to shut it off, while I attempted to use my portable radio to advise Operational Dispatch Unit that I was on a motor vehicle stop, however my portable radio failed to operate. At this time the driver restarted his motorcycle and attempted to flee the stop. I then physically removed the driver from the motorcycle and tackled him to the ground. The driver was instructed that he was under arrest and to stop resisting. The driver resisted arrest by keeping his hands under his body while being instructed to place his hands behind his back. While the driver was on the ground he exclaimed that he "shit his pants". While I had physical control of the driver, I again attempted to update ODU and again my portable radio failed to work.*

I further instructed the driver to lay on the ground, remove his motorcycle helmet, and place his hands behind his back. The driver initially failed to comply with my orders, but he eventually removed his helmet. Once the driver removed his helmet, he was identified as Henry Gavitt. During the interaction with Henry Gavitt, it became apparent that he had defecated in his pants, and had got the feces on his hands. In order to safely place Henry Gavitt in handcuffs, I instructed him to walk to the Troop Car. I then placed Henry Gavitt on the hood of the Troop Car, when he pulled from my grasp and attempted to flee the stop on foot again. Henry Gavitt was struck in the face multiple times with my closed fist, however I was unable to gain physical control over him. After a short foot pursuit, Henry Gavitt was tackled to the ground, and placed in handcuffs. Once Henry Gavitt was placed in handcuffs the use of force stopped. " The operator was then transported to Port Norris Station for processing.

Actions and Recommendations

Determinations:

As a result of the review of all the available documentation associated with these incidents, it was determined that the Trooper involved was justified in applying the levels of force utilized during the arrest of these suspects. It was found that physical force was used against the first subject involved in the first incident due to him being non-complaint and resistant to prevent his arrest and being secured in handcuffs. In the second incident, the second subject was also non-compliant, as well as acting in a disorderly manner and he refused to be placed in the Troop car, and, ultimately, force

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was utilized in order to gain compliance and physical control. **It was found that the subject involved in the second incident was conducting himself in a non-compliant disorderly and aggressive manner.** As documented by SSgt. Walters in his review, the decision to utilize force by Tpr. Heim, Sgt. Sparacio, Tpr. Navarro, and Tpr. Devecka was clearly justified and the appropriate amount of force was utilized in order to gain physical control of the disorderly subject. Furthermore, I must mention that the Troopers involved with this incident encountered a unique situation because it is a lot more difficult than it looks to place an unruly individual into a Troop car when the suspect is doing everything he can to avoid being placed in the vehicle in the first place. Therefore, without being equipped with leg restraints, the Troopers did a good job of keeping the suspect contained in the rear area of the Troop car and eventually, they were able to secure him in the vehicle and shut the doors. However, the suspect, ultimately kicked out the passenger side window frame and continued to act in an out of control manner. Thereupon, in order to avoid causing more damage to the Troop car and most important, to avoid causing any injury to himself or to prevent his escape, the suspect was struck with a short burst of OC Spray in the facial area, which, was very effective because the suspect ceased his unruly behavior. In addition, once at the station, the suspect received treatment for the OC Spray, specifically as documented in the CAD abstract, the station supervisor, Sgt. Gallaudet, wrote that the Hamilton Twp. EMS treated the suspect by flushing his eyes with water and that a small scratch was observed next to his right eye, but, no bandage was necessary. For all of these reasons, the utilization of force in this incident should not be deemed an issue and no action will be taken.

No further force was used after the Trooper's objective, to stop the action and ensure his safety, was accomplished. In the third incident it was found that physical force was used against the subject involved due to him attempting to flee the scene on the motorcycle and resist arrest by failing to comply with orders, attempting to flee on foot and being non-compliant.

In all three instances, the Trooper utilized an appropriate and necessary amount of force to accomplish his goals and de-escalated his level of force once the suspects were handcuffed and under control, a prime component within the guidelines of the Trooper's duty.

S.O.P. B-22, III, A, 1-5 delineates when members are justified in using non-deadly force in the performance of their duties: Tpr. Heim was justified in these incidents to use force as [Section #1] states that "members may use non-deadly force when they reasonably believe it is immediately necessary to protect themselves or others against the use of unlawful force by another person" and [Section #5] states that "members may use non-deadly force when they reasonably believe it is immediately necessary to effect an arrest for any offense or crime under the laws of the State of New Jersey."

S.O.P. B-22, I, B, which states, "It is the policy of the Division of State Police that its members employ force in the performance of their duties only when necessary, and only to the extent or degree necessary to accomplish a lawful objective, and, the policy of the Division that its members employ force in a manner consistent with the provisions of the Attorney General's "Use of Force Policy" and the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1, where in short, members may use force only when it is necessary, only to the extent it is necessary, and only when its use is lawful and reasonable in relation to the harm the members seek to prevent" were determined satisfied.

S.O.P. B-22, III, B1, which states, "Members make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person being arrested" was determined satisfied.

S.O.P. B-22, I, C, which states, "Members, when justified in using force, are not obliged to desist because resistance is encountered or threatened. They may not only stand their ground, but may press forward to achieve a lawful objective, overcoming force with force, to the extent necessary and reasonable in relation to the harm they seek to prevent" was determined satisfied.

S.O.P. B-22, II, I, which states, "The reasonableness of a belief or decision (to use force) must be viewed from the perspective of the member, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable, and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight" was determined to apply to these incidents.

S.O.P. B-22, I, H, which states, "Members shall provide or obtain appropriate medical aid /assistance for persons who are injured as a result of the use of deadly force, non-deadly force, or other uses of force by the member. This medical aid /assistance shall be provided or obtained once a member determines that the injured person has ceased to resist the accomplishment of a lawful objective by a member, once the risk of serious bodily injury or death to a member(s), or others, has subsided, and once an imminent danger / threat has been eliminated" was determined to apply to these incidents.

S.O.P. B-22, I, I, which states, "Appropriate medical aid / assistance is that aid / assistance which a member would reasonably believe is necessary to minimize the severity of both visible injuries and non-visible trauma to a person once the aforementioned risks have subsided or been eliminated. Depending upon the circumstances, appropriate medical aid / assistance may include, but is not limited to increased observation to detect obvious changes in condition, flushing chemical agents from eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening injuries, immediate aid by medical professionals" was determined to apply to these incidents.

S.O.P. B-22, V, A, which states, "Any member who utilizes force, non-deadly or deadly, whether on duty or while acting in an official capacity, shall complete a Reportable Use of Force Form" was determined satisfied.

Conclusion:

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There was no information uncovered during this inquiry to suggest Trooper Heim violated any of the Attorney General's guidelines, Division's policies, Directives, S.O.P.'s, or any statute or constitutional law. Trooper Heim's decision to use levels of force applied, were found appropriate and justified. His actions in these incidents were dictated by the circumstances as they unfolded before him. In all three incidents it was the patterns and poor decisions of the subjects involved that led to their contact with Trooper and ultimately the employment of force against them. As such, no further action is required concerning this Supervisory Use of Force Review.

UOF Review

Subject	Tpr. Theodore Heim #7871	Date of Review	2/11/2020 12:00:00 AM
Author	SSgt. Luis Rodriguez #6332	OPS Case #	UF20200011

Analysis

Introduction:

A review of Tpr. T. Heim #7871 Use of Force history revealed that he was involved in two (2) incidents involving a Reportable Use of Force report in a 12 month period.

- 1) 01/19/2020, CAD# A100/2020-00059850, UF2020-0011, I/R# A100-2020-00063
- 2) 08/13/2019, CAD# T042/2019-00719951, UF2019-0090, I/R# A160-2019-00255

As a result, this Supervisory Use of Force Review was initiated. The information contained herein was gleaned (where applicable) from review of DIVR clips and the available associated reports including, but not limited to, Patrol Logs, Computer Aided Dispatch (CAD) Abstract Reports, Report Management System (RMS) reports (Investigation, Operations, Arrest, Use of Force and Motor Vehicle Stop reports), and Operational Dispatch (ODU) radio transmission records. Where applicable, the involved member's performance historical data, as documented in the Management Awareness Personnel Performance System (MAPPS), was examined and considered for purposes of aiding in the determination of the outcome of the review. In some cases, an in person meeting with the trooper may have been necessary to glean information and discuss circumstances which may not have been available, or clear, in the reports. In addition, the applicable and appropriate Standard Operating Procedures (SOP's), Attorney General's Guidelines, and NJSP policies and procedures were utilized as the set standard and benchmarks for the member's expected performance.

SOP B22 requires FOS to identify "misconduct and/or performance issues which may become evident in light of multiple use of force incidents by the member. The assigned supervisor will review the totality of the member's MAPPS history while conducting this review. FOS seeks to change this requirement as a totality of a member's MAPPS history does not provide a true totality of a member's risk history as:

- * OPS does not publish all cases to MAPPS. All misconduct history is needed in order to conduct a complete and thorough risk analysis,
- * OPS only publishes an initial case synopsis to MAPPS which many times is not updated. Furthermore and too often, this synopsis does not reflect the actual events or final outcomes of the case.
- * OPS does not publish "administratively closed" cases to MAPPS. These cases are also needed to conduct a complete and thorough risk analysis,
- * Many case adjudications are not published to MAPPS.

For this review, the MAPPS inquiry of Tpr. J. Heim's historical data revealed these incidents make up two of the five Use of Force incidents recorded in his employment history. The first incident was reviewed by myself and the second incident was reviewed by SSgt. J. Walters #6016 as they were critical incidents (Use of Force on a MV Stop). In both incidents, Tpr. Heim was found to have been justified in using force, and did so in a proper manner. There was no evidence found to suggest Tpr. Heim's Use of Force history had necessitated any previous intervention or discipline. During the time span from the first Use of Force to the second, Tpr. Heim received 2 interventions, both of which were commendatory.

All of the associated records and documentation in these two incidents were sufficient in providing for a clear understanding of the circumstances as they unfolded before the involved members. The submitted reports appeared accurate, concise, and well written.

Incident Summaries:

*The first incident was reviewed by SSGT. L. Rodriguez #6332 on February 11, 2020 as part of this Supervisory Use of Force Review. This review was conducted by reviewing Body Worn Cameras: PORT18, PORT19, PORT25, PORT28, PORT30 and PORT21 and DIVR's 756A,

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650A, 584A and 512A, and all associated reports documenting the incident.

In the first incident, while enroute to Port Norris Station to double up for the midnight shift Tpr. R. Varga #8376 observed a black Dodge pickup failing to maintain its lane of travel on Main St. @ Newport Rd in Lawrence Twp., Cumberland County. Tpr. R. Varga activated his overhead lights and siren however the vehicle failed to stop and a pursuit was initiated that lasted approximately thirty-three (33) minutes and ended with the vehicle coming to a stop at the Mauricetown Marina, where the vehicle became stuck on a bulk head, feet short of entering the Maurice River. As Tpr. R. Varga, Tpr. Anacker, Tpr. Heim and Tpr. I Ciaurelli made their approach to the vehicle the driver was ordered to exit the vehicle by all four Troopers and refused to exit the vehicle. The driver was still attempting to get away and revving the engine causing the wheels to spin on the truck. At this time Tpr. Heim entered the passenger side of the truck and put the vehicle into park. Tpr. Varga, Tpr. Anacker & Tpr. Heim utilized force, specifically close fist strikes on the driver in order to remove him from the vehicle and to place him under arrest. The following is documented by Tpr. Heim in his Supplemental Report to Investigation Report #A100-2020-00063 in regards to the force he utilized to effect the arrest the subject, ***" At this time, Tpr. I Ciaurelli, Tpr. Varga, and myself approached the vehicle and attempted to instruct the driver to shut off and exit the vehicle. Michael Carpenter refused to obliged to our verbal instructions, in an attempt to get his attention I then struck the rear driver's side quarter panel with my foot two times. These attempts were met with negative results. I then proceeded to the passenger side of the vehicle in order to gain entry into the passenger cabin of the vehicle. I then entered the vehicle, removed the keys from the ignition, and attempted to take control of Michael Carpenter. Michael Carpenter then resisted arrest by refusing to comply with Troopers orders and refusing to exit the vehicle. I then struck Michael Carpenter in the face two times in order to gain control of him and effect an arrest. At this time, we were able to physically remove Michael Carpenter from his vehicle.***

Once out of the vehicle and on the ground Michael Carpenter continued to resist arrest by staying on his hands and knees and refusing to place his hands behind his back. I then delivered two more strikes to Michael Carpenter's head. I then gained physical control of Michael Carpenter's head, while Tpr. Varga and Trooper S. Anacker #8266 attempted to gain control of his hands. Michael Carpenter was then placed in handcuffs, and the use of force stopped. While escorting Michael Carpenter to Tpr. Varga's Troop Car, his muscles tensed and he attempted to pull to the left. In order to prevent Michael Carpenter from pulling away from my control he was placed on the hood of Tpr. Varga's Troop Car. Tpr. Varga then searched Michael Carpenter, which was met with negative results." The subject was then transported to Port Norris Station for processing.

The second incident was reviewed by SSgt. J. Walters #6016 on September 13, 2019 as it was a critical incident. Tpr. T. Heim #7871 conducted a motor vehicle stop in reference to a moving violation, failure to maintain lane. Upon the activation of the DIVR, the vehicle was followed for a short distance, the overhead lights were activated, and the stop was called out to dispatch. Once stopped, Tpr. Heim approached the driver side of the vehicle where he properly identified himself, requested credentials, and provided the reason for the stop. After a brief conversation, the driver was asked to exit the vehicle in order to complete a field sobriety examination in which he subsequently failed. Therefore, the driver was placed under arrest, more specifically, he was handcuffed, incidentally searched, and escorted towards the rear of the Troop car for transport. However, it was at this time, that the driver began to act in a disorderly manner and he refused to be placed in the Troop car, and, ultimately, force was utilized in order to gain compliance and physical control. Moreover and as documented in the narrative of the investigation report, Tpr. Heim wrote ***"As I attempted to secure the driver in the rear of my Troop Car, the driver resisted arrest by refusing to get in the rear of my Troop Car, specifically by pulling away from my control. The driver was instructed to stop resisting and to enter the rear of my Troop Car. The driver continued to pull away from my control, and attempted to walk towards the lanes of travel. Due to safety concerns for myself and the driver force was utilized. Specifically the driver was tackled down to the ground in order to gain control of him and prevent him from walking into traffic, once I had physical control of the driver the use of force ceased. I was able to maintain physical control of the driver until backup arrived. Sgt. A. Sparacio #6821 arrived at my stop location, a second attempt was made to place the driver in my Troop Car, where the driver continued to resisted arrest and would not comply with our orders to sit in the rear of the Troop Car. The driver continued to resist by physically pulling away from myself and Sgt. Sparacio, he further refused to be placed in the rear of the Troop Car, and attempted to spit on us. Force was utilized by myself and Sgt. Sparacio, to prevent the driver from spitting on us and to attempt to secure him in the Troop Car. Specifically, the driver's head and neck were grabbed and restrained in order to prevent him from spitting at both myself and Sgt. Sparacio. Sgt. Sparacio then entered the rear driver side of the Troop Car in an attempt to pull the driver into the Troop Car. While Sgt. Sparacio pulled on the driver's upper body, I picked up his legs. Every attempt to place the driver in the car was met with negative results. When I attempted to pick up the driver's legs, he would hook his feet behind my knees and hook his feet to parts of my leather gear belt. As the driver continued to resist arrest by continuing to spit at myself and Sgt. Sparacio and flailing his legs in an attempt to kick us, Sgt. Sparacio punched the the driver's face with a closed fist, in an attempt to get the driver to comply with our orders. The strikes to his face were met with negative results, as the driver continued to resist arrest. Tpr. G. Navarro #7419, then arrived on scene in order to assist with securing the driver in the rear of the Troop Car. The driver continued to resist by refusing to get into the Troop Car. I then struck the driver's abdomen with my fist in order to get him to comply with our orders. Sgt. Sparacio, Tpr. Navarro, and I were then able to secure the driver in the rear of my Troop Car. Once the driver was secured in the rear of my Troop Car, he began kicking the rear passenger side window of the Troop Car, and broke the window out of the door frame. Due to the driver's unruly and combative behavior, that besides causing further damage to***

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the Troop Car, there was a strong possibility that the driver could cause injury to himself. Use of force was utilized again in order to gain control of the driver. Specifically, Tpr. Devecka #7987 deployed a short burst of his OC spray to the driver's face, which ultimately stopped the driver's unruly behavior. Tpr. Navarro remained on scene and conducted a Probable Cause search of the vehicle. The PC search was positive for open containers, specifically one empty Ciroc Mango bottle. The vehicle was then removed from the scene by Court House Towing, and impounded reference John's Law. I then transported the driver to the Atlantic City Expressway Station to be processed. Upon our arrival to the station, the driver was secured to the station processing bench and Hamilton Township EMS arrived at the station to provide medical treatment. Specifically Hamilton Township EMS washed the OC irritant from the driver's eyes. Kevin Eldridge was then processed for driving while intoxicated, resisting arrest, obstruction of law enforcement, and criminal mischief. Complaint number 0112S2019000857 was prepared charging Kevin Eldridge with Resisting Arrest (2C:29-2A(1)) and Obstruction of Justice (2C:29-1A), also complaint number 0112S2019000858 was prepared charging Kevin Eldridge with Criminal Mischief (2C:17-3A(1)). It should be noted while Kevin Eldridge was being processed he continued to be combative and verbally abusive towards Troopers and the responding members of Hamilton Township EMS."

Actions and Recommendations

Determinations:

As a result of the review of all the available documentation associated with these incidents, it was determined that the Trooper involved was justified in applying the levels of force utilized during the arrest of these suspects. It was found that physical force was used against the first subject involved in the first incident due to him being non-complaint and resistant to prevent his arrest and being secured in handcuffs. In the second incident, the second subject was also non-compliant, as well as acting in a disorderly manner and he refused to be placed in the Troop car, and, ultimately, force was utilized in order to gain compliance and physical control. It was found that the subject involved in the second incident was conducting himself in a non-compliant disorderly and aggressive manner. As documented by SSgt. Walters in his review, the decision to utilize force by Tpr. Heim, Sgt. Sparacio, Tpr. Navarro, and Tpr. Devecka was clearly justified and the appropriate amount of force was utilized in order to gain physical control of the disorderly subject. Furthermore, I must mention that the Troopers involved with this incident encountered a unique situation because it is a lot more difficult than it looks to place an unruly individual into a Troop car when the suspect is doing everything he can to avoid being placed in the vehicle in the first place. Therefore, without being equipped with leg restraints, the Troopers did a good job of keeping the suspect contained in the rear area of the Troop car and eventually, they were able to secure him in the vehicle and shut the doors. However, the suspect, ultimately kicked out the passenger side window frame and continued to act in an out of control manner. Thereupon, in order to avoid causing more damage to the Troop car and most important, to avoid causing any injury to himself or to prevent his escape, the suspect was struck with a short burst of OC Spray in the facial area, which, was very effective because the suspect ceased his unruly behavior. In addition, once at the station, the suspect received treatment for the OC Spray, specifically as documented in the CAD abstract, the station supervisor, Sgt. Gallaudet, wrote that the Hamilton Twp. EMS treated the suspect by flushing his eyes with water and that a small scratch was observed next to his right eye, but, no bandage was necessary. For all of these reasons, the utilization of force in this incident should not be deemed an issue and no action will be taken. No further force was used after the Trooper's objective, to stop the action and ensure his safety, was accomplished.

In both instances, the Trooper utilized an appropriate and necessary amount of force to accomplish his goals and de-escalated his level of force once the suspects were handcuffed and under control, a prime component within the guidelines of the Trooper's duty.

S.O.P. B-22, III, A. 1-5 delineates when members are justified in using non-deadly force in the performance of their duties: Tpr. Heim was justified in the both incidents to use force as **[Section #1]** states that "members may use non-deadly force when they reasonably believe it is immediately necessary to **protect themselves or others against the use of unlawful force by another person**" and **[Section #5]** states that "members may use non-deadly force when they reasonably believe it is immediately necessary to **effect an arrest for any offense or crime under the laws of the State of New Jersey.**"

S.O.P. B-22, I, B, which states, "It is the policy of the Division of State Police that its members employ force in the performance of their duties only when necessary, and only to the extent or degree necessary to accomplish a lawful objective, and, the policy of the Division that its members employ force in a manner consistent with the provisions of the Attorney General's "Use of Force Policy" and the New Jersey Code of Criminal Justice, N.J.S.A. 2C:1-1, where in short, members may use force only when it is necessary, only to the extent it is necessary, and only when its use is lawful and reasonable in relation to the harm the members seek to prevent" **were determined satisfied.**

S.O.P. B-22, III, B1, which states, "Members make known the purpose of the arrest or reasonably believe that their identity and purpose are otherwise known by or cannot reasonably be made known to the person being arrested" **was determined satisfied.**

S.O.P. B-22, I, C, which states, "Members, when justified in using force, are not obliged to desist because resistance is encountered or

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Primary Trooper

Tpr. Robert Varga #8376

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Port Norris - Squad 1

threatened. They may not only stand their ground, but may press forward to achieve a lawful objective, overcoming force with force, to the extent necessary and reasonable in relation to the harm they seek to prevent" **was determined satisfied.**

S.O.P. B-22, II, I, which states, "The reasonableness of a belief or decision (to use force) must be viewed from the perspective of the member, who may often be forced to make split-second decisions in circumstances that are tense, unpredictable, and rapidly evolving. Reasonableness is not to be viewed from the calm vantage point of hindsight" **was determined to apply to these incidents.**

S.O.P. B-22, I, H, which states, "Members shall provide or obtain appropriate medical aid /assistance for persons who are injured as a result of the use of deadly force, non-deadly force, or other uses of force by the member. This medical aid /assistance shall be provided or obtained once a member determines that the injured person has ceased to resist the accomplishment of a lawful objective by a member, once the risk of serious bodily injury or death to a member(s), or others, has subsided, and once an imminent danger / threat has been eliminated" **was determined to apply to these incidents.**

S.O.P. B-22, I, I, which states, "Appropriate medical aid / assistance is that aid / assistance which a member would reasonably believe is necessary to minimize the severity of both visible injuries and non-visible trauma to a person once the aforementioned risks have subsided or been eliminated. Depending upon the circumstances, appropriate medical aid / assistance may include, but is not limited to increased observation to detect obvious changes in condition, flushing chemical agents from eyes, applying first aid, evaluation by paramedics, or for more serious or life threatening injuries, immediate aid by medical professionals" **was determined to apply to these incidents.**

S.O.P. B-22, V, A, which states, "Any member who utilizes force, non-deadly or deadly, whether on duty or while acting in an official capacity, shall complete a Reportable Use of Force Form" was determined satisfied.

Conclusion:

There was no information uncovered during this inquiry to suggest Trooper Heim violated any of the Attorney General's guidelines, Division's policies, Directives, S.O.P.'s, or any statute or constitutional law. Trooper Heim's decision to use levels of force applied, were found appropriate and justified. His actions in these incidents were dictated by the circumstances as they unfolded before him. In both incidents it was the patterns and poor decisions of the subjects involved that led to their contact with Trooper and ultimately the employment of force against them. As such, no further action is required concerning this Supervisory Use of Force Review.