

USE OF FORCE SUMMARY

Analysis Information

DR	16-049243	# of Deputies Using Force	4	Division	Southwest Operations
Date	2/28/2016	# of Subjects	1	Sergeant	Todd Carpenter
Facility/Bureau	San Clemente Police Svcs.	# of Witnesses	1	Lieutenant	David Moodie (LT)
				Captain	James England
Off Duty?	No				
Type of Force	General				

Location

Address / Cross Streets	1750 Avenida Estacion (North Beach)		
City	San Clemente		
Initial Call/Event	Suspicious person		
Supervisor Present?	No	Converted?	No

Notification

Deputies were dispatched reference a male subject confronting people in the parking lot, jumping on train tracks, and possibly on drugs. Dep. S. Page #1127 and [REDACTED] found (S)MILES on a closed Lifeguard Tower and ordered him down. They attempted to handcuff him and he elbowed both Deputies and tried to pull away. "960 XRAY" broadcast on radio. Dep. Page applied the Carotid Control Hold and (S)MILES fought all the way to the ground. Deputies attempted to handcuff him while he was unconscious, started fighting again when he woke up. [REDACTED] assisted with body weight to apply handcuffs, and move (S) to patrol car. (S)MILES taken directly to San Clemente Hospital for medical treatment. Dep. J. Buraglia #7745 assisted at the hospital with leg restraints. (S)MILES was examined and cleared for booking.

Involved Employees

Employee Name	Injury / Details	Emergency Room?	Hospitalized	Blood borne pathogen/Needle Stick
SI PAGE	Complaint of Pain Complaint of Pain - Right Wrist	No	No	No
[REDACTED]	None	No	No	No
[REDACTED]	None	No	No	No
JEREMY BURAGLIA	None	No	No	No



Subjects

Subject Name Height Weight Gender Race DOB	Force Encountered Charges ID Type/#	Subject Injured? Admitted to Hospital Details of Injury & Treatment	Alcohol	Drugs	Mental	ADA	AB109	ICE	Parole	Pro Per	Probation
MILES, JOSHUA 0 Unknown [REDACTED]	PC 69 , PC 148(a)(1), PC241(c), PC 243(b) Booking Number 2927107	Minor (bumps, cuts, scrapes) No Abrasions on face, chest, elbows, dislodged toenail on big toe - right foot, complaint of pain possible broken toe - right foot. Wounds cleaned and bandaged at Hospital.	No	Yes	Yes	No	No	No	No	No	No

Force Used

Employee Reason for Force	Subject Force Used	Head/Face/Neck	Chest/Torso	Groin	Back/Buttocks	L Arm/Hand	L Leg/Foot	R Arm/Hand	R Leg/Foot
SI PAGE Overcome Resistance	MILES, JOSHUA Carotid control hold	Yes	-	-	-	Yes	-	-	-
[REDACTED] Overcome Resistance	MILES, JOSHUA Punch / Kick	-	Yes	-	-	-	-	Yes	-
[REDACTED] Overcome Resistance	MILES, JOSHUA Personal Body Weapon	-	-	-	Yes	-	-	-	-
JEREMY BURAGLIA Overcome Resistance	MILES, JOSHUA Other	-	-	-	-	-	Yes	-	Yes

Witnesses

Witness Name	Contact Information (if available)
[REDACTED]	[REDACTED]

Supervisor's Review

Deputy S. Page #1127 and Deputy [REDACTED] were dispatched to the North Beach area reference a suspicious male. Deputy Page speaks to (W) [REDACTED] who gives him a description of a male subject he claimed had assaulted him, and told him "the guy" he was looking for was on the Lifeguard tower. Deputy Page walked toward the tower near the bathroom building and saw the male subject matching the description given by the tower. Deputy Page recognized (S)MILES from previous contacts and at least one prior use of force incident involving Deputy D. Zill #5141 and Deputy G. Coffee #3605. Deputy Page asked (S)MILES to walk over to him and, after asking several times, (S)MILES complied. Due to (S)MILES reported behavior, the earlier assault, and prior knowledge of the use of force incident, Deputy Page decided to handcuff (S)MILES before talking to him or searching him. When (S)MILES heard the "click" of the handcuffs he said he was not going to be handcuffed and tried to run away. Deputy Page grabbed onto (S)MILES' left side and arm while Deputy [REDACTED] grabbed his right side and arm and tried to take (S)MILES to the ground. (S)MILES began using his elbows to strike the deputies and then pulled both arms underneath his upper body and started to kick at the Deputies. Both Deputies tried using body strikes to gain control of (S)MILES' hands but were unable to control them. Deputy Page applied the Carotid Control Hold and when (S)MILES lost consciousness he attempted to get both hands in handcuffs. (S)MILES regained consciousness and Deputy [REDACTED] arrived and used his bodyweight on top of (S)MILES to assist Deputy Page in gaining control of, and handcuffing, both hands.

(S)MILES continued to be uncooperative and kept kicking at the deputies until he was placed in the rear seat of the patrol car. Once inside he started kicking the windows and hitting his head on the center seat divider. I requested Deputy Page drive (S)MILES directly to San Clemente Hospital for treatment and observation due to the application of the Carotid Control Hold. He was followed by Deputy [REDACTED], Deputy [REDACTED], and Deputy J. Buraglia #7745. (S)MILES was still uncooperative at the hospital and after being placed in a bed in Room #8, deputies assisted in holding his legs and torso until soft restraints could be applied by the nursing staff. After (S)MILES received the necessary treatment he was transported to the IRC and booked for the listed charges.

During the altercation Deputy Page struck or smashed his right hand on the pavement of the walkway near the bathrooms at North Beach, and originally complained of pain and a minor bit of swelling. The next day he returned to San Clemente Hospital due to continuing pain and discomfort in his right hand. X-Rays at that time showed a fracture of a small bone in the back of his hand.

Audio / Video Review

I reviewed the PVS from the four deputies vehicles and found all deputies used the PVS properly and were within policy.

The following is some brief evidentiary items from each of the recordings:

#2725 - Deputy Page #1127:

19:11:45 -- Deputy Page arrives.

19:12:12 -- Deputy Page contacts (W) [REDACTED] (Mic On)

19:15:40 -- Deputy Page moves his patrol vehicle and the camera is aimed toward the bathroom building at North Beach. As he exits his vehicle (S)MILES can be heard yelling, "Jesus Christ....All Right"....

19:16:05 -- Deputy Page makes contact with (S)MILES. "What's up Josh? Can you come here please?"

19:16:25 -- Deputy Page walks with (S)MILES across the screen, from right to left, on the sidewalk near the bathroom building.

19:16:50 -- (S)MILES rambling, yelling...."My Constitution, My Freedom..." Deputy Page has a conversation with (S)MILES who says, "No I'm not tripping on anything..."

19:17:15 -- (S)MILES yells, sounds like "Bye guys, I'm getting handcuffed."

19:17:20 -- (S)MILES yells something else then the muffled sounds of grunts and groans and a struggle.
19:17:35 -- Deputy Page tells (S)MILES to put his hands behind his back.
19:17:48 -- Deputy [REDACTED] broadcasts, "472 960 X-Ray North Beach."
19:18:50 -- Deputy Jones arrives. Microphone reception is poor, cutting out, sounds of moaning, groaning, yelling.
19:20:15 -- More moaning and yelling.
19:20:28 -- "Code 4 Suspect in Custody."
19:26:40 -- (S)MILES is placed in the back seat of the patrol car.
19:43:50 -- Deputy Page arrives at the hospital with (S)MILES.
19:50:08 -- Deputy Page opens the door and asks if (S)MILES is going to cooperate.
19:52:15 -- (S)MILES is placed in a wheelchair and taken in to the hospital.

#2842 - Deputy [REDACTED]:

19:12:50 -- Deputy [REDACTED] arrives, out on foot, microphone on.
19:13:40 -- Visual of Deputy [REDACTED] walking the Train Station platform.
19:15:48 -- Deputy [REDACTED] moves the patrol car and the spotlight illuminates (S)MILES on the lifeguard tower.
19:17:07 -- (S)MILES says, "Don't cuff me dude."
19:17:16 -- (S)MILES yells, "Bye assholes I'm getting handcuffed." Muffled sounds of a struggle.
19:17:48 -- Deputy [REDACTED] broadcasts, "472 960 X-Ray North Beach."
19:18:55 -- Deputy [REDACTED] arrives.
19:24:10 -- Deputy Page and Deputy [REDACTED] escort (S)MILES up the sidewalk and to the front of Deputy [REDACTED] patrol vehicle.

#2773 - Deputy [REDACTED]:

19:24:25 -- Someone says, "He has a needle."
19:25:00 -- (S)MILES is being held down on the hood of the patrol car and searched.
19:25:30 -- (S)MILES is told several times by Deputy Buraglia to put his feet down.
19:27:20 -- I broadcast, "Cancel fire we are transporting suspect straight to San Clemente Hospital."

#2623 - Deputy Buraglia #7745:

Audio only, nothing different than above. No video due to the position of the vehicle and the direction of the camera.

Materials Collected

One disk containing hand held Video of (S)MILES.
One disk containing PVS recordings.

Subject Interview

I did not interview (S)MILES. He was uncooperative. I did video approximately 10 minutes at the hospital showing his behavior. He did admit using Methamphetamine.

Scene Documentation

Incident occurred on the beach near the Lifeguard Tower and continued to the area of walkway and sand near the bathrooms at North Beach (1750 Avenida Estacion), and also in Exam Room #8 at San Clemente Hospital.

Witness (es) Statement and Summary

See attached ICR and Follow-ups from each Deputy.

I did not speak with Witness XXX. For his brief statement see Deputy Page's report.

Supervisor Questions

- What were the actions that led to this Use of Force?

Suspect was ordered off the beach near the Lifeguard Tower and was going to be handcuffed due to his described behavior and past incidents with deputies. Suspect resisted, tried to flee, struck both deputies with elbows, started kicking at them.
- Were the force options or weapons in this incident effective? **Yes**
- Were the force options or weapons utilized in this incident reasonable under Policy 300? **Yes**
- Was relevant/necessary medical attention provided to department member(s) and the use of force subject(s)? **Yes**
- Was a supervisor notified of the use of force as required by department policy? **Yes**
- Was proper use of video and/or audio recording technology used in this force incident? **Yes**
- Were any training issues identified? (Examples include: officer safety, tactical communication, or de-escalation techniques) **No**
- Were any other policy violations identified (examples: professionalism, violation of pursuit policy, standard of contact, use of profanity, pvs)? **No**

Departmental Reviews

Involved Employees

Employee Name	Sgt. Recommendation	Lt. Recommendation	Cpt. Determination
SI PAGE	In Policy, No further action required	In Policy, No further action required	In Policy, No further action required
[REDACTED]	In Policy, No further action required	In Policy, No further action required	In Policy, No further action required
[REDACTED]	In Policy, No further action required	In Policy, No further action required	In Policy, No further action required
JEREMY BURAGLIA	In Policy, No further action required	In Policy, No further action required	In Policy, No further action required

Sergeant's Conclusions

After reviewing all reports and PVS of the incident, I believe all Deputies involved in the incident displayed restraint. All Use Of Force in this incident appears to be measured and appropriate to the amount and type of physical resistance and assaultive behavior displayed by (S)MILES. I find no violations of Department Policy and Procedure.

Sergeant's Recommendation

I recommend no further action.

Managerial Review

Were all witness statements memorialized in the Supervisory Analysis of this use of force incident? **Yes**

Was the use of force subject interviewed and the statements memorialized in the Supervisory Analysis of this use of force incident? **No**

Subject was too uncooperative and under the influence to question.

Are there any areas of training to be addressed? If yes, what are they? Corrected Actions taken? **No**

Are there any areas of liability or risk management concerns associated with this use of force event? If yes, what are they? **No**

This use of force was subject to automatic review due to one or more of the following reasons:

- Use of Force required admission to a hospital for medical treatment No
- Arrests for PC 148, with no additional charges No
- Use of carotid restraint Yes
- Ineffective use of ECD where additional force is necessary No
- Multiple deployments (drive stun, multiple cycles, more than one cartridge used) of the ECD No
- Use of less lethal munitions (40mm, 12 gauge super sock "bean bag") with no response from Homicide No
- Use of Force on subjects not involved in the original investigation (witnesses, passengers, etc.) No
- Use of Force on subjects released at the scene (includes cite and releases) No

Lt. Conclusions / Recommendations

Based upon the ICR and follow-up reports, PVS audio recordings, and the Sergeant's Analysis, I formed the opinion that use of force was reasonable and within department policy. The suspect was lawfully detained and resisted detention/arrest which lead to an assault on the deputies. Deputies used restrained and measured force to deal with a known, combative suspect. The

Carotid Control Hold was an effective and was used in accordance with the department Use of Force policy (below).

No further actions recommended.

300.3.4 CAROTID CONTROL HOLD

Standard for Deployment

The carotid control hold is a distinctive and more restricted controlling force option. As with other authorized holds (the use of which is governed by 300.3.3), the Department recognizes that proper application of the carotid control hold may be effective in safely restraining a subject. However, because of added risks associated with physically contacting the head and neck of a subject, the use of the carotid control hold shall be further limited by the following conditions:

a.

The deputy shall have successfully completed department-approved training in the use and application of the carotid control hold.

b.

The deputy is engaged in an altercation with a combative or assaultive subject who poses an immediate threat of injury to the deputy or others; and

c.

Other controlling techniques are unlikely to be effective in subduing or controlling the subject.