Sacramento Police Department
Use Of Force Report

Incident Entered By: Police Sergeant Adam Vassallo 1039
Assigned Investigator: [Incident pending assignment]

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
5/9/2018	5/9/2018	13:15
Record ID #	**Report Number**	**IA No**
19868	18 138490	UOF2018 036
Date/Time Entered		
5/22/2018 06:59		

Incident Summary

See attached reports. Based on a review of ICC and BWC footage along with the crime report, this incidents has been referred to Internal Affairs for further evaluation

Incident Location

- [redacted] Cal Valley Way, Sacramento, CA 95822 - Location of Occurrence: 1 - Northwest - Precinct: 4B

Categories

Use of Force Specific Information

Reason for Use of Force	Service Being Rendered	
Assaulting Officer	Calls For Service	
Weather Condition	**Lighting Condition**	**Distance to Citizen**
Clear		11 feet to 14 feet
Citizen Injured	**Citizen Taken to Hospital**	**Citizen Arrested**
Yes	Yes	Yes
More than 1 Citizen Involved		
No		
Citizen's Build	**Citizen's Height**	
Med	5'10'' to 6'0''	
Officer Assessment of Citizen Condition During Incident		
Drugs		
Officer(s) Injured	**Officer(s) Taken to Hospital**	
No	No	

Reporting/Involved Citizen Information

DOB: 1/3/1957 Race: Black Ethnicity: Gender: Male

Address
- [redacted]

Phone

- [redacted]

Role
- Arrested Person

Types of Resistance Citizen Used Against Officer(s)
- Other Weapon

Injuries sustained by this citizen

Injury	Regions	Injury Locations
Admitted to Hospital		
Visible Injury		

Charges against this Citizen
- Other Felony
- 148(a) PC Misdemeanor

Involved Officers

Police Officer John Harshbarger - ABRA Number: 390
Assignment at time of incident: Title: Police Officer OSS/METRO/TRAF/AIR OPS/K9

Video Footage: Worn/Activated

Role
-

Force used by this officer against the citizen
- BeanBag - Was force effective: Yes

Force Used	Effective?	Regions	Points of contact
BeanBag	Yes		

Police Officer Joshua Smith - ABRA Number: 4027
Assignment at time of incident: Title Police Officer OSS/METRO/TRAF/AIR OPS/K9

Video Footage Worn/Activated

Role
-

Force used by this officer against the citizen
- K 9 Was force effective: Yes

Force Used	Effective?	Regions	Points of contact
K 9	Yes		

Citizen Witnesses

Address

- [redacted]

Phone
- [redacted]

Role
-

Address
- [redacted]

Phone
- [redacted]

Role
-

Address
- [redacted]

Role
-

Officer Witnesses

Police Officer Kristen Beal - ABRA Number: 3528

Video Footage [No Response]

Role
-

Police Officer C Hughes - ABRA Number: 440

Video Footage: [No Response]

Role
-

Police Officer Kelli Streich - ABRA Number: 3866

Video Footage [No Response]

Role
-

Tasks

No tasks to show

Running Sheet Entries

No running sheet entries to show

Attachments

Date Attached	Attachment Description	Attachment Type
5/22/2018	General Order	pdf
5/22/2018	Cad Call	pdf
5/22/2018	Dispatch Audio	wav
5/22/2018	K9 Red Border	pdf

Assignment History

Sent Dt	From	To
8/17/2018	Ofcr. Mark Scurria #0526	(None Specified)
Assignment notes Field status changed in IAPro from To IA to Released		
Email sent to receiver No email sent		
8/17/2018	Ofcr. Mark Scurria #0526	(None Specified)
Assignment notes Released back to IAPro		
Email sent to receiver No email sent		

Chain of Command History

Routing #1	
Sent From:	Police Sergeant Adam Vassallo
Sent To:	Police Lieutenant-Exempt Stephen Moore
CC:	(none)
Sent Date/Time:	5/22/2018 7:47 AM
Instructions from Police Sergeant Adam Vassallo to Police Lieutenant-Exempt Stephen Moore:	
Cal Valley UOF	
Comments/Response from Police Lieutenant-Exempt Stephen Moore:	
Comments: Required files attached. Event previously referred to Internal Affairs for evaluation.	

Routing #2	
Sent From:	Police Lieutenant-Exempt Stephen Moore
Sent To:	Police Captain Alisa Buckley
CC:	(none)
Sent Date/Time:	5/25/2018 7:09 PM
Instructions from Police Lieutenant-Exempt Stephen Moore to Police Captain Alisa Buckley:	
Captain, this is for your review. Evaluation of justification and policy is being conducted by IA.	
Comments/Response from Police Captain Alisa Buckley:	
Comments: Policy evaluation and the use of force involved in this incident is under IAD investigation.	

Assigned Investigator Signature Line

_____

[Incident pending assignment]

Chain of Command Signature Lines

_____

Police Lieutenant-Exempt Stephen Moore

_____

Police Captain Alisa Buckley

Print

Sacramento Police Department
Departmental Report

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
05/10/2018	05/09/2018	12:47
Record ID Number	**Report Number**	**IA No**
19856	18-138490	IAD2018-157
Date/Time Entered	**Entered By**	
05/16/2018 15:06	[IAPro entry - PC III Betty Allison #6600]	
Sacramento PD Blue Team Assigned Investigator	**IAPro Assigned Investigator**	
[Pending assignment]	Lt. Ryan Bullard #4007	

Incident Summary

OPSA 2018-0104 - review. 2 binders. Allegations of excessive force and/or improper tactics by Ofcrs J Harshbarger, C Keith Hughes, and Josh Smith. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen. B

1/9/19 Binders to Lt. H for review. B

1/11/2019: LT Harrington finished reviewing the binders for this case and provided them to DC Peletta for watch level review. JH

2/4/19 Per Lt. Harrington, no dispo correspondence to be sent to victim Carl Ulmer. B

2/19/19 Re-assigned to Ryan Bullard. B

1-11-19 Per Sgt Bullard, investigation to DC Peletta for review. B

4/4/19, I provided a water-marked LABOR copy of this report to Mary Lota at Labor Division / City Hall. At the direction of IAD Lt. Harrington, I re-classed Ofc. Hughes as a "witness" to this case and later emailed Ofc. Hughes of this (email attached). RB

4/23/19, 1544 hrs submitted dispo notification to Ofc. Harshbarger via email (dispo / email attached). RB

4/25/19, approx. 1030 hrs, met w/Captain Greenlee at 300 Richards Blvd and provided LOR for Ofc. Smith to him. Advised time bar date of 5/10/19. RB

4/26/19, received email from Captain Greenlee advising Ofc. Smith had been served w/LOR (email attached). RB

4/30/19, LOR returned to IAD by Greenlee, scanned/attached. RB

4/30/19 Emailed stamped LOR (4/26/19) watermarked copy to Mary Lota @ Labor; copy is attached. B

5/13/19 Received OPSA's closing memo; binders filed. B

7/30/19 Per Lt. Harrington, binders to Capt. D Risley for review to determine what type of training to implement. B

9/27/19, attached email from Captain Risley regarding training debrief involving this incident. RB

9/30/19 Per Lt. Harrington, binders returned to IA; closed investigation; binders filed in file room. B

5/17/22: Flagged and held for SB16. -DNS

6/2/22: Pitchess granted for Ofc. Smith via Judge Chang in department 21. AM

Incident Location

Addresses

[redacted] Cal Valley Way, Sacramento
4B

- Location of Occurrence: 4 - Southwest

Reporting/Involved Citizen

Carl Ulmer

Date of Birth: 01/03/1957 **Race:** Black/African American (B) **Ethnicity:** African American (Race: B)
Gender: Male

Addresses

[redacted]

Phone Numbers

[redacted]

Role: Victim

Involved Officers

Police Officer Joshua Smith

Assignment at time of incident: Police Officer OSS/METRO/TRAF/AIR OPS/K9 [None Entered]
Role: [None Entered]
Policy Outcome: Not yet entered

Linked Allegations

• Improper Tactics - Sustained - 03/27/2019

• Excessive Force - Sustained - 03/27/2019

Police Officer John Harshbarger

Assignment at time of incident: Police Officer OSS/METRO/TRAF/AIR OPS/K9 [None Entered]
Role: [None Entered]
Policy Outcome: Not yet entered

Linked Allegations

• Improper Tactics - Exonerated - 03/27/2019

• Excessive Force - Exonerated - 03/27/2019

Citizen Witnesses

Tim Greenblatt, Firefigh

Date of Birth: Unknown **Race:** Unknown **Ethnicity:** Unknown **Gender:** Male
Role: [None Entered]
Addresses [None Entered]
Phone Numbers
[redacted]

Michael Walters

Date of Birth: Unknown **Race:** Unknown **Ethnicity:** Unknown **Gender:** Male
Role: [None Entered]
Addresses [None Entered]
Phone Numbers
[redacted]

Matt Kennard, Firefighter

Date of Birth: Unknown **Race:** Unknown **Ethnicity:** Unknown **Gender:** Male
Role: [None Entered]
Addresses [None Entered]
Phone Numbers
[redacted]

Eric Ramirez, Firefighter

Date of Birth: Unknown **Race:** Unknown **Ethnicity:** Unknown **Gender:** Male
Role: [None Entered]
Addresses [None Entered]
Phone Numbers
[redacted]

Brian Basurto, Firefighter

Date of Birth: Unknown **Race:** Unknown **Ethnicity:** Unknown **Gender:** Male
Role: [None Entered]
Addresses [None Entered]
Phone Numbers
[redacted]

Officer Witnesses

Police Officer [redacted]

Assignment at time of incident: Police Officer OSS/OUTREACH/YOUTH SERV/MAGNET
[None Entered]
Role: [None Entered]

Police Officer [redacted]

Assignment at time of incident: Police Officer OSS/OUTREACH/HIDTA/SCUSD SROS
[None Entered]
Role: [None Entered]

Police Officer Alyssa Littlefield

Assignment at time of incident: Police Officer OOO/Patrol/District 1
[None Entered]
Role: [None Entered]

Police Officer Kristen Beal

Assignment at time of incident: Police Officer OOO/DIST 2--NE/HIDTA/DIST POP
[None Entered]
Role: [None Entered]

Police Officer Kelli Streich

Assignment at time of incident: Police Officer OOO/DIST 4--SW/HIDTA/DIST POP
[None Entered]
Role: [None Entered]

Police Officer C Hughes

Assignment at time of incident: Police Officer OOO/Patrol/District 4
Worn/Activated

Role: [None Entered]

Police Sergeant Adam Vassallo

Assignment at time of incident: Police Sergeant OSS/METRO/TRAF/AIR OPS/HIT & RUN
[None Entered]
Role: [None Entered]

Tasks

Task Description	Date Due	Date Completed	Summary

Running Sheet Entries

No running sheet entries to show

Attachments

No Attachments

Assignment History

No assignment history

Chain of Command History

Sacramento Police Department
Internal Affairs Division

Summary

IAD2018-157

Allegations:	**Excessive Force** **Improper Tactics**
Complainant:	**Sacramento Police Department**
Report Prepared by:	**Sgt. Eric Forbeck**
Investigating Office:	**Internal Affairs Division**
Accused Employees:	**Police Officer K Hughes** **Police Officer J Harshbarger** **Police Officer J Smith**

On 5/9/2018, at approximately 1236 hours, Officer Hughes (1B49) and Officer Littlefield (1B47) were dispatched to the intersection of Hing Ave/Carnation Ave regarding a subject by the name of Carl Ulmer who was screaming at cars and neighbors and exposing himself. The caller gave the description of an MBA, 60, 5'8", red shirt, tan shorts who walked with a limp.

Officer Hughes was the first officer to arrive on scene locating Mr. Ulmer lying on the sidewalk next to a fence on Hing Ave. Believing it was now a medical call for service, Officer Hughes requested the Sacramento Fire Department (SFD) to respond and he cancelled Officer Littlefield (Code-4). Officer Littlefield returned to service and responded to JERPF for a meal break (Code-7).

Officer Hughes made contact with Mr. Ulmer at which time Officer Hughes was unable to understand what Mr. Ulmer was saying. Officer Hughes positioned his vehicle so that he could capture Mr. Ulmer on his vehicle's In Car Camera (ICC). Officer Hughes remained on scene in his vehicle running computer checks on Mr. Ulmer while waiting for SFD to arrive. As Officer Hughes was waiting for SFD to respond, a citizen approached Mr. Ulmer and offered him water. After the citizen left Mr. Ulmer got up off the ground, leaned against the fence, and defecated on the sidewalk. Officer Hughes continued to wait for SFD to respond, total time approximately 23 minutes.

As SFD Engine 16 arrived on scene, Officer Hughes exited his vehicle and began speaking with Mr. Ulmer. Immediately Mr. Ulmer began to walk away from Officer Hughes. Mr. Ulmer began to walk east on Hing Ave away from Officer Hughes as Officer Hughes followed him on foot. Officer Hughes continued to try and talk with Mr. Ulmer as he continued east on Hing Ave turning the corner south onto Cal Valley Way.

Officer Hughes continued to follow Mr. Ulmer on foot, attempting to communicate with him, but Mr. Ulmer was not compliant.

Mr. Ulmer walked to the front of [redacted] Cal Valley Way, stopped at a brick fence pillar at the sidewalk of [redacted] Cal Valley Way, turned and took a fighting stance toward Officer Hughes. Officer Hughes attempted to de-escalate the situation by continually talking with Mr. Ulmer. Mr. Ulmer reached up on the brick pillar, removed a loose brick, and aggressively held it in his hand. Officer Hughes immediately backed up, drew his service weapon, and requested additional units. Officer Hughes voiced his updated location incorrectly, advising dispatch that he was at [redacted] Carnation Ave. Officer Hughes also voiced over the radio that he needed a taser (CED) because he had left his in his vehicle. Officer Hughes immediately backed up across the street from Mr. Ulmer continually attempting to communicate with him in an attempt to de-escalate the situation. SFD personnel were also on scene.

Officers Beal and Streich (DT45) were the first cover officers to arrive on scene. Both Officers Beal and Streich attempted to communicate with Mr. Ulmer with negative results. Officer Hughes again voiced over the radio that he needed a taser (CED).

Officers [redacted] and [redacted] ([redacted]), Officer Smith (K913), and Officer Harshbarger (K97) arrived on scene taking up a position on the same side of the street as Officer Hughes. Officer Smith deployed his police service dog as Officer Harshbarger deployed a less lethal beanbag shotgun (voiced over the air by Officer Harshbarger). Mr. Ulmer began hitting the brick he was holding against the brick pillar. Officer Hughes believed Mr. Ulmer was attempting to break the brick into smaller pieces so that he could throw them at the officers. Officer Hughes directed Mr. Ulmer to drop the brick or that the less lethal beanbag shotgun would be used to detain him.

Mr. Ulmer did not comply with Officer Hughes' order to drop the brick. Officer Hughes directed Officer Harshbarger to deploy the less lethal beanbag shotgun. Officer Harshbarger fired two rounds in rapid succession striking Mr. Ulmer in the left shoulder and abdomen. Simultaneously, Officer Smith released his police service dog, Kai, directing him to apprehend Mr. Ulmer. Mr. Ulmer dropped the brick as he fell to the ground prior to Officer Smith's police service dog engaging Mr. Ulmer by biting his left leg and calf.

All of the officers approached Mr. Ulmer as Officer Smith grabbed a hold of Kai's collar removing him from the bite. Several officers struggled with Mr. Ulmer, who was still on the ground, as they attempted to handcuff him. Once detained, Mr. Ulmer was transported to Kaiser South for medical treatment.

Sacramento Police Department
Internal Affairs Division

Summary

IAD2018-157

On May 10, 2018, Officer [redacted] and Officer [redacted] authored separate emails to Lieutenant Harrington (Internal Affairs) alleging excessive force and improper tactics accusations toward Officer Hughes, Officer Harshbarger, and Officer Smith. Both emails alleged Officer Hughes was out of control: the deployment of the police service dog was excessive and unnecessary, Officer Hughes used excessive force while attempting to handcuff Mr. Ulmer, and that Officer Hughes stood on top of Mr. Ulmer's chest and abdomen area while waiting for fire personnel.

On May 16, 2018, Lieutenant Harrington assigned IAD2018-157 to me for investigation. After reading the crime report, and viewing the pertinent body worn camera (BWC) video, I conducted interviews of the following witnessing officers: Officer [redacted] Officer [redacted] Officer Beal, Officer Streich, Officer Littlefield, and Sergeant Vassallo. Additionally, I interviewed all SFD personnel who were on scene at the time of the incident: SFD Captain Walters, FF Greenblatt, FF Ramirez, FF Kennard, and FF Pfaffenbach.

During the interviews of Officer [redacted] and Officer [redacted] I gave each officer the opportunity to view Officer Hughes' BWC video to give them the opportunity to observe the incident from Officer Hughes' vantage point. After viewing Officer Hughes' BWC video, Officer [redacted] stated the video was a true account of what happened, but that it did not capture her perception or feelings of the incident. Officer [redacted] retracted her allegation that Officer Hughes was out of control but affirmed that she believed the use of force was excessive. After viewing Officer Hughes' video, Officer [redacted] retracted her allegation that Officer Hughes was out of control and stood on Mr. Ulmer's abdomen/chest and confirmed that the use of the less lethal beanbag shotgun was justified. Officer [redacted] maintained her affirmative accusation that the use of the police service dog was excessive and not reasonable.

Prior to interviewing the witnessing officers, I reviewed the US Supreme Court Decision in Graham v Connor on "reasonableness." In each of the witnessing officer interviews I asked if the use of the less lethal beanbag shotgun was "reasonable," and all, excluding Officer [redacted] gave an affirmative answer to the reasonableness. In each of the witnessing officers interviews I asked if the use of the police service dog was "reasonable," and all the officers replied in the negative, that the use of the police service dog was not reasonable.

I interviewed Sergeant Vassallo who was the district sergeant during the incident. Sergeant Vassallo monitored the incident via radio as he responded to the scene. Sergeant Vassallo stated he had not been contacted by Officer Harshbarger, a veteran SPD canine handler, nor by Officer Smith, a new SPD canine handler, requesting

permission to deploy either the less lethal beanbag shotgun or police service dog. Sergeant Vassallo stated that if asked, he would have authorized the deployment of the less lethal beanbag shotgun but would not have authorized the deployment of the police service dog. Additionally, Sergeant Vassallo affirmed that the use of the less lethal beanbag shotgun was "reasonable" but that the use of the police service dog was not "reasonable."

After interviewing all the witnessing parties, I interviewed the accused officers: Officer Hughes, Officer Harshbarger, and Officer Smith in respective order. Officer Hughes believed, upon initial contact with Mr. Ulmer, that the incident was medical in nature, which led him to cancel his cover officer. Prior to SFD personnel arriving on scene, Mr. Ulmer got up, defecated on the sidewalk, and began to walk away from Officer Hughes. At that time Officer Hughes still believed it was a medical call for service. Officer Hughes followed Mr. Ulmer to a brick pillar in front of [redacted] Cal Valley Way where Mr. Ulmer's demeanor became aggressive.

Once the situation escalated to a potential use of force incident, Officer Hughes agreed he was in violation of General Order 580.10 for failing to wear his Department issued CED on his duty belt thus not having immediate access to the equipment. Officer Hughes agreed that he was the officer in charge of the scene due to his seniority, and that once Mr. Ulmer attempted to break the brick into smaller pieces he directed Officer Harshbarger to deploy the less lethal beanbag shotgun to detain Mr. Ulmer. Officer Hughes stated he did not direct Officer Smith to deploy his police service dog. Officer Hughes denied standing on Mr. Ulmer nor preventing SFD personnel from providing first aid. Officer Beal's BWC video captured Officer Hughes' left foot on Mr. Ulmer's right arm. Officer Hughes affirmed that the deployment of the less lethal beanbag shotgun was "reasonable" but gave a vaguely affirmative answer to whether the deployment of the police service dog was "reasonable."

Officer Harshbarger stated that he and Officer Smith had just concluded a SWAT operation in the area of 25th Ave/Franklin Blvd when he heard the 'cover' request by Officer Hughes. Officer Harshbarger stated that he responded Code-3 (full lights and siren) from 25th Ave/Franklin Blvd to the scene. Officer Harshbarger advised that while he was en route to the call he directed Officer Smith to deploy his police service dog and that he would deploy the less lethal beanbag shotgun. Officer Harshbarger stated that he did not request authorization from Sergeant Vassallo while en route and prior to deploying the less lethal beanbag shotgun and police service dog.

Officer Harshbarger advised that once on scene Officer Hughes directed him to deploy the less lethal beanbag shotgun in an attempt to detain Mr. Ulmer. Officer Harshbarger

confirmed he fired two rounds of the less lethal beanbag shotgun at Mr. Ulmer striking him twice. Officer Harshbarger was aware that Officer Smith deployed his police service dog simultaneously but that they had not developed a use of force plan other than what was voiced over the radio. Officer Harshbarger affirmed the deployment of the less lethal beanbag shotgun was "reasonable" and that deployment of the police service dog was also "reasonable." Officer Harshbarger stated he did not receive authorization from a sergeant to deploy a less lethal beanbag shotgun but believed he had been directed to do so by a senior officer on scene (Officer Hughes).

Officer Smith stated that he and Officer Harshbarger had concluded a SWAT operation in the area of 22nd Ave/Franklin Blvd when he heard the 'cover' request by Officer Hughes. Officer Smith advised he responded Code-3 from 22nd Ave/Franklin Blvd to the scene, which took him approximately four minutes to respond. Officer Smith stated that he heard over the radio Officer Harshbarger's request for him to deploy his police service dog while Officer Harshbarger deployed the less lethal beanbag shotgun. Officer Smith stated that while en route he did not request authorization from Sergeant Vassallo to deploy his police service dog nor authorization for Officer Harshbarger to deploy the less lethal beanbag shotgun. Officer Smith advised that the passenger compartment of his vehicle was quiet enough for radio traffic but believed that Officer Hughes' incident was a rapidly evolving incident and that he did not need authorization to deploy his police service dog.

Officer Smith advised that he did not know if he was going to deploy his police service dog while he was en route, but that once on scene he deployed his police service dog believing Mr. Ulmer was a threat to officers. Officer Smith did not hear Officer Hughes' request not to deploy the police service dog and that he and Officer Harshbarger deployed "overwhelming less lethal weapons" to detain Mr. Ulmer. Officer Smith stated that the deployment of the less lethal beanbag shotgun and police service dog had been voiced over the radio which Sergeant Vassallo should have heard. Officer Smith stated he did not specifically receive authorization from Sergeant Vassallo to deploy a police service dog under General Order 580.14 (A)(1), but that he should have been aware of it. Officer Smith affirmed the deployment of the less lethal beanbag shotgun was "reasonable" in addition to the deployment of the police service dog being "reasonable."

Several officers involved in the incident have been trained in "Less Lethal Options and Tactics" by Sergeant Griffin and Sergeant McCoin. Officer Hughes and Officer Harshbarger both stated they have attended the "Less Lethal Options and Tactics" course. Officer Smith stated he has not attended the "Less Lethal Options and Tactics" course but stated he has been trained in the concept during joint canine and SWAT training days.

Sacramento Police Department
Citizen Complaint Form

REPORTED SOURCE: **Departmental**

IAD NUMBER: **IAD2018-157**

INJURY: YES **X** NO ____ PHOTOS: YES ____ NO ____ OPSA PD ____

DISTRICT **4 - South** BEAT **4B** ASSIGNMENT **Patrol** INCIDENT SUPERVISOR ____ MED. WAIVER: YES ____ NO ____

DATE REPORTED	TIME REPORTED	DATE OCCURRED	TIME OCCURRED	DAY
May 10, 2018	13:54	May 9, 2018	12:47	Wednesday

LOCATION: [redacted] Cal Valley Way - Sacramento

CITIZEN

NAME	AGE	D.O.B.	SEX	RACE
Sacramento Police Department				
RESIDENCE ADDRESS		RESIDENCE/CELL PHONE		
BUSINESS ADDRESS	ZIP CODE	BUSINESS/CELL PHONE		

NARRATIVE: Allegations of excessive force and improper tactics by Ofcr J Harshbarger. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME	BADGE #	SEX	RACE	DESCRIPTION	VEHICLE NUMBER
John Scott Harshbarger	0484	Male	White	Police Officer	

Person Accepting Inquiry: Sgt. Eric Forbeck, #3035

Per California Penal Code Section 148.6(b):

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood this statement.

Signature: ____

☐ Acknowledged via phone ☐ Refused to sign Initials: ____ Badge #: ____ Date: ____

Continued on other side.

Sacramento Police Department
Citizen Complaint Form

INCIDENT CLASSIFICATIONS:

■ Force	☐ Discrimination	☐ False Arrest	☐ Improper Search	☐ Missing Property
☐ Discourtesy	☐ Harassment	☐ Dishonesty	☐ Firearm Discharge	☐ Conduct Unbecoming
☐ Insubordination	☐ Intoxication	☐ Garnishment	☐ Traffic	☐ Neglect of Duty
☐ Service				■ Improper Tactics

DISPOSITION:

Approved By: _____ Date: _____

Chief of Police

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____ Date: _____

Chief of Police

Sacramento Police Department
Citizen Complaint Form

REPORTED SOURCE: **Departmental**

IAD NUMBER: **IAD2018-157**

INJURY: YES **X** NO ____ PHOTOS: YES ____ NO ____ OPSA PD ____

DISTRICT **4 - South** BEAT **4B** ASSIGNMENT **Patrol** INCIDENT SUPERVISOR ____ MED. WAIVER: YES ____ NO ____

DATE REPORTED	TIME REPORTED	DATE OCCURRED	TIME OCCURRED	DAY
May 10, 2018	13:54	May 9, 2018	12:47	Wednesday

LOCATION: [redacted] Cal Valley Way - Sacramento

CITIZEN

NAME	AGE	D.O.B.	SEX	RACE
Sacramento Police Department				
RESIDENCE ADDRESS		RESIDENCE/CELL PHONE		
BUSINESS ADDRESS	ZIP CODE	BUSINESS/CELL PHONE		

NARRATIVE: Allegations of excessive force and/or improper tactics by Ofcrs. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME	BADGE #	SEX	RACE	DESCRIPTION	VEHICLE NUMBER
Joshua C Smith	0650	Male	White	Police Officer	

Person Accepting Inquiry: Sgt. Eric Forbeck, #3035

Per California Penal Code Section 148.6(b):

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I have read and understood this statement.

Signature: _____

☐ Acknowledged via phone ☐ Refused to sign Initials: _____ Badge #: _____ Date: _____

Continued on other side.

Sacramento Police Department
Citizen Complaint Form

Ofcr Joshua Smith IAD2018-157

INCIDENT CLASSIFICATIONS:				
■ Force	☐ Discrimination	☐ False Arrest	☐ Improper Search	☐ Missing Property
☐ Discourtesy	☐ Harassment	☐ Dishonesty	☐ Firearm Discharge	☐ Conduct Unbecoming
☐ Insubordination	☐ Intoxication	☐ Garnishment	☐ Traffic	☐ Neglect of Duty
☐ Service				■ Improper Tactics

DISPOSITION:

Approved By: _____ Date: _____
Chief of Police

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____ Date: _____
Chief of Police

Sacramento Police Department
Citizen Complaint Form

REPORTED SOURCE: **Departmental**

IAD NUMBER: **IAD2018-157**

INJURY: YES **x** NO ____ PHOTOS: YES ____ NO ____ OPSA PD ____

DISTRICT **4 - South** BEAT **4B** ASSIGNMENT **Patrol** INCIDENT SUPERVISOR **Sgt. A. Vassallo** MED. WAIVER: YES ____ NO ____

DATE REPORTED	TIME REPORTED	DATE OCCURRED	TIME OCCURRED	DAY
May 10, 2018	13:54	May 9, 2018	12:47	Wednesday

LOCATION: [redacted] Cal Valley Way - Sacramento

CITIZEN

NAME	AGE	D.O.B.	SEX	RACE
Sacramento Police Department				
RESIDENCE ADDRESS		RESIDENCE/CELL PHONE		
BUSINESS ADDRESS	ZIP CODE	BUSINESS/CELL PHONE		

NARRATIVE: Allegations of excessive force and/or improper tactics by Ofcrs. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME	BADGE #	SEX	RACE	DESCRIPTION	VEHICLE NUMBER
C Keith Hughes	0718	Male	White	Police Officer	

Person Accepting Inquiry: Sgt. Eric Forbeck, #3035

Per California Penal Code Section 148.6(b):

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood this statement.

Signature: _____

☐ Acknowledged via phone ☐ Refused to sign Initials: _____ Badge #: _____ Date: _____

Continued on other side.

Sacramento Police Department
Citizen Complaint Form

C. Keith Hughes **IAD2018-157**

INCIDENT CLASSIFICATIONS:				
☐ Force	☐ Discrimination	☐ False Arrest	☐ Improper Search	☐ Missing Property
☐ Discourtesy	☐ Harassment	☐ Dishonesty	☐ Firearm Discharge	☐ Conduct Unbecoming
☐ Insubordination	☐ Intoxication	☐ Garnishment	☐ Traffic	☐ Neglect of Duty
☐ Service				■ Improper Tactics

DISPOSITION:

Approved By: _____ Date: _____
Chief of Police

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____ Date: _____
Chief of Police

Sacramento Police Department
Citizen Complaint Form

REPORTED SOURCE: Departmental

IAD NUMBER: IAD2018-157

INJURY: YES X NO PHOTOS: YES NO OPSA PD

DISTRICT 4 - South BEAT 4B ASSIGNMENT Patrol INCIDENT SUPERVISOR MED. WAIVER: YES NO

DATE REPORTED	TIME REPORTED	DATE OCCURRED	TIME OCCURRED	DAY
May 10, 2018	13:54	May 9, 2018	12:47	Wednesday

LOCATION: [redacted] Cal Valley Way - Sacramento

CITIZEN

NAME	AGE	D.O.B.	SEX	RACE
Sacramento Police Department				
RESIDENCE ADDRESS		RESIDENCE/CELL PHONE		
BUSINESS ADDRESS	ZIP CODE	BUSINESS/CELL PHONE		

NARRATIVE: Allegations of excessive force and improper tactics by Ofcr J Harshbarger. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME	BADGE #	SEX	RACE	DESCRIPTION	VEHICLE NUMBER
John Scott Harshbarger	0484	Male	White	Police Officer	

Person Accepting Inquiry: Sgt. Eric Forbeck, #3035

Per California Penal Code Section 148.6(b):

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood this statement.

Signature: _____

☐ Acknowledged via phone ☐ Refused to sign Initials: _____ Badge #: _____ Date: _____

Continued on other side.

Sacramento Police Department
Citizen Complaint Form

John Harshbarger **IAD2018-157**

INCIDENT CLASSIFICATIONS:

■ Force	☐ Discrimination	☐ False Arrest	☐ Improper Search	☐ Missing Property
☐ Discourtesy	☐ Harassment	☐ Dishonesty	☐ Firearm Discharge	☐ Conduct Unbecoming
☐ Insubordination	☐ Intoxication	☐ Garnishment	☐ Traffic	☐ Neglect of Duty
☐ Service				■ Improper Tactics

DISPOSITION:

FORCE - EXONERATED

TACTICS - EXONERATED

Approved By: _____ Date: 3/27/19
Chief of Police

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____ Date: _____
Chief of Police

City of SACRAMENTO Police Department

DANIEL HAHN
Chief of Police

5770 Freeport Blvd., Suite 100
Sacramento, CA 95822-3516

(916) 808-0800
Fax: (916) 808-0818
www.sacpd.org

To: Officer Scott Harshbarger, # 0484

From: James Harrington, Lieutenant
Internal Affairs Division

Date: 4/23/19

Subject: Internal Affairs Investigation IAD2018-157

An investigation in which you were an accused employee has recently been closed. The allegation(s) was/were Excessive Force and Improper Tactics.

Your Captain, with the concurrence of the Chief of Police, has determined the appropriate disposition to be **Exonerated**. The dispositions are defined below for your convenience.

> **Unfounded**: *The act(s) did not occur, or the employee(s) named was/were not involved in the act(s) which were alleged to have occurred. This also includes frivolous complaints, which are found to be totally and completely without merit or for the sole purpose of harassing an employee.*
>
> **Exonerated**: *The act(s) alleged occurred and were justified.*
>
> **Not Sustained**: *Insufficient evidence exists to clearly prove or disprove the allegation(s).*
>
> **Sustained**: *Sufficient evidence supports the allegations(s) against the employee.*

Certain information from this investigation may be discoverable pursuant to a *Pitchess* motion. **This is only a notification process; you do not need to respond to Internal Affairs.** If you have any questions, please contact your Division Captain or appropriate designee.

Sacramento Police Department
Citizen Complaint Form

REPORTED SOURCE: Departmental

IAD NUMBER: IAD2018-157

INJURY: YES X NO ____ PHOTOS: YES ____ NO ____ OPSA PD ____

DISTRICT 4 - South BEAT 4B ASSIGNMENT Patrol INCIDENT SUPERVISOR ____ MED. WAIVER: YES ____ NO ____

DATE REPORTED	TIME REPORTED	DATE OCCURRED	TIME OCCURRED	DAY
May 10, 2018	13:54	May 9, 2018	12:47	Wednesday

LOCATION: [redacted] Cal Valley Way - Sacramento

CITIZEN

NAME	AGE	D.O.B.	SEX	RACE
Sacramento Police Department				
RESIDENCE ADDRESS		RESIDENCE/CELL PHONE		
BUSINESS ADDRESS	ZIP CODE	BUSINESS/CELL PHONE		

NARRATIVE: Allegations of excessive force and/or improper tactics by Ofcrs. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME	BADGE #	SEX	RACE	DESCRIPTION	VEHICLE NUMBER
Joshua C Smith	0650	Male	White	Police Officer	

Person Accepting Inquiry: Sgt. Eric Forbeck, #3035

Per California Penal Code Section 148.6(b):

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood this statement.

Signature: _____

☐ Acknowledged via phone ☐ Refused to sign Initials: _____ Badge #: _____ Date: _____

Continued on other side.

Sacramento Police Department
Citizen Complaint Form

Ofcr Joshua Smith IAD2018-157

INCIDENT CLASSIFICATIONS:

■ Force	☐ Discrimination	☐ False Arrest	☐ Improper Search	☐ Missing Property
☐ Discourtesy	☐ Harassment	☐ Dishonesty	☐ Firearm Discharge	☐ Conduct Unbecoming
☐ Insubordination	☐ Intoxication	☐ Garnishment	☐ Traffic	☐ Neglect of Duty
☐ Service				■ Improper Tactics

DISPOSITION:

FORCE – SUSTAINED

TACTICS – SUSTAINED

LETTER OF REP & TRAINING

Approved By: _____ Chief of Police

Date: 3/27/19

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____ Chief of Police

Date: _____

City of
SACRAMENTO
Department of Human Resources

June 24, 2019

Sean D. Currin
1912 I Street
Sacramento, CA 95811

Dear Sean D. Currin:

The purpose of this letter is to advise you of my decision on your request for review of the letter of reprimand dated April 23, 2019.

A meeting was held on June 19, 2019, in response to the request for review in accordance with Article 21, Section 21.2(a) of the Agreement between the City of Sacramento and the Sacramento Police Officers Association. At that meeting you appeared along with Officer Josh Smith as his representative. Officer Josh Smith was also present.

After carefully reviewing this matter, I have concluded that the Police Department was justified in issuing a written reprimand to Officer Josh Smith.

Sincerely,

Dawud Brewer
Labor Relations Officer

cc: Police Personnel
Internal Affairs
Human Resources, Labor Relations

Labor Relations Division
Main: (916) 808-5424; Fax: (916) 307-6163
915 I Street, Historic City Hall, Suite 106
Sacramento, CA 95814-2604

S E. JOHNSEN
I A. DIXON
EN W. WELTY
RT C. WOO
D E. MASTAGNI
...ARD J. ROMANSKI
PHILLIP R.A. MASTAGNI
KATHLEEN N. MASTAGNI STORM
SEAN D. HOWELL
WILLIAM P. CREGER
SEAN D. CURRIN
ISAAC S. STEVENS
PAUL T. DOLBERG
DANIEL L. OSIER
JUDITH A. ODBERT
ERIN M. DERVIN
KENNETH E. BACON
KEVIN A. FLAUTT
JOHN H. BAKHIT
GRANT A. WINTER
IAN B. SANGSTER
JOSHUA A. OLANDER

Sacramento Office
1912 I Street
Sacramento, CA
95811
(916) 446-4692
Fax (916) 447-4614
Tax ID #94-2678446

MASTAGNI HOLSTEDT
A Professional Corporation

Rancho Cucamonga Office
(909) 477-8920

Chico: (530) 895-3836
San Jose: (408) 292-4802
Stockton: (209) 948-6158
Los Angeles: (213) 640-3529

CEZAR J. TORRES
DANIEL L. RAINSBURY
JOHN J. BOSTANZOGLOU
GREGORY J. THOMINC
BRENDAN R. ROCHFORT
ZEBULON J. DAVIS
DOUGLAS T. GREEN
SETH A. NUNLEY
MARK E. WILSON
MELISSA M. THOM
JASON M. EWERT
JONATHAN D. CHAI
PETER D. LEWICK
ELI MORENO-SANCHEZ
BRETT D. BEYLEI
CHELSEA R. AVENT
VANESSA A. MUNOZ
KIMBERLY A. VELAZQUEZ
JOSEPH A. HOFFMANN
DANIELLE J. WILLIAMS
MARIA S. ROSENFELI

All Correspondence to Sacramento Office
www.mastagni.com

--oo0oo-

FACSIMILE TRANSMISSION COVER SHEET

--oo0oo-

DATE:	May 1, 2019
TO:	Shelley Banks-Robinson, HR Director City of Sacramento
FAX NUMBER:	(916) 808-1907
FROM:	Jessica Delgado on behalf of Attorney Sean D. Currin
FAX NUMBER:	(916) 446-2857
RE:	Request to Appeal on behalf of Officer Josh Smith

TRANSMISSION CONTAINS TOTAL OF ___2___ PAGES, INCLUDING THIS COVER SHEET

IF YOU DO NOT RECEIVE ALL PAGES PLEASE CONTACT ME AT (916) 318-4645.

CRAIG E. JOHNSEN
BRIAN A. DIXON
STEVEN W. WELTY
STUART C. WOO
DAVID E. MASTAGNI
RICHARD J. ROMANSKI
PHILLIP R.A. MASTAGNI
KATHLEEN N. MASTAGNI STORM
SEAN D. HOWELL
WILLIAM P. CREGER
SEAN D. CURRIN
ISAAC S. STEVENS
PAUL T. DOLBERG
DANIEL L. OSIER
JUDITH A. ODBERT
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JOHN H. BAKHIT
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JOSHUA A. OLANDER

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ADRIAN CARPENTER
VANESSA A. MUNOS
KIMBERLY A. VELAZQUEZ
JOSEPH A. HOFFMANN
DANIELLE J. WILLIAMS

All Correspondence to Sacramento Office
www.mastagni.com

May 1, 2019

Sent Via Facsimile & U.S. Mail

Shelley Banks-Robinson
Director of Human Resources, City of Sacramento
915 I Street, First Floor
Sacramento, CA. 95814
Fax: (916) 808-1907

RE: Request to Appeal on behalf of Officer Josh Smith;
Our File No.: LDF/18-2840-C

Dear Ms. Banks-Robinson:

Please accept this letter on behalf of my client Officer Josh Smith as his request to appeal his Letter of Reprimand pursuant to section 21.2 of the Memorandum of Understanding between the City of Sacramento and the Sacramento Police Officers' Association.

At this time we would like to request all documents used to rely on the Letter of Reprimand issued to Officer Smith on April 26, 2019. Please contact me at your earliest convenience so we can schedule a mutually agreeable time to meet.

Sincerely,

MASTAGNI HOLSTEDT, A.P.C.

SEAN D. CURRIN
Attorney at Law

SDC/jd

cc: President Tim Davis

City of
SACRAMENTO
Police Department

DANIEL HAHN
Chief of Police

5770 Freeport Blvd., Suite 100
Sacramento, CA 95822-3516

(916) 808-0800
Fax: (916) 808-0818
www.sacpd.org

April 23, 2019

IAD2018-157

FINAL LETTER RECEIVED
DATE 4/26/19
EMPLOYEE
SUPERVISOR 4/26/19

Officer Joshua Smith
5770 Freeport Blvd., Ste. 100
Sacramento, CA 95822

Dear Officer Smith:

This letter is to inform you that you are hereby reprimanded in your position as a Police Officer with the City of Sacramento. This action is based on the following facts:

1. On May 9th, 2018, at approximately 1314 hours, you responded code 3 to the area of Hing Avenue and Carnation Avenue as a K9 officer to assist Officer Hughes regarding a subject, Carl Ulmer who had armed himself with a rock/brick.
2. Upon your arrival, you deployed your assigned police service dog, "Kai" and proceeded on foot to [redacted]Cal Valley Way, where Officer Hughes and Ulmer were.
3. Officer Hughes advised that he did not want a "dog" (police K9) but wanted responding officers to deploy a less-lethal shotgun.
4. Officer Harshbarger retrieved his less-lethal shotgun as Ulmer continued to refuse to drop the rock/brick.
5. After giving commands to Ulmer to drop the rock/brick, and Ulmer's repeated refusals to comply, Officer Harshbarger fired his less-lethal shotgun at Ulmer. You subsequently deployed your police service dog at Ulmer, despite Officer Hughes' stating that he did not want the service dog deployed.
6. Ulmer sustained punctures and lacerations to his left leg as a result of your police service dog deployment.
7. After an internal investigation, it was determined that you used excessive force and improper tactics in your apprehension of Ulmer.
8. During a fact-finding interview conducted on October 12th, 2018, you acknowledged/admitted the following:
    - You deployed your police service dog on the above call without requesting prior authorization to deploy from the District Sergeant (page 8 of 62, line 330).
    - You stated the reason you did not ask for authorization or approval from the District Sergeant to deploy your police service dog on this call over the radio was because the call was "a rapidly evolving event....I could have asked permission, but I didn't." (page 27 of 62, lines 1173-1180).

- You indicated you did not hear Officer Hughes' request to not deploy your canine (page 13 of 62, lines 545 and 564).
- You indicated that you were preparing for "an overwhelming less-lethal incident" with your police service dog, and the less-lethal shotgun on Ulmer (page 15 of 62, lines 653-658).
- You specified that your training on "overwhelming less-lethal" was "Simultaneous canine deployments, along with a 40-milimeter, as well as beanbags, and distraction devices all at the same time" (page 16 of 62, lines 666-667).
- You stated you deployed your canine at Ulmer after Officer Harshbarger fired his first less-lethal round at Ulmer (page 18 of 62, lines 768-769).
- You stated you felt Ulmer was still a threat after going to the ground after Officer Harshbarger's less-lethal shotgun rounds were fired because Ulmer was within "a hand's reach…", of bricks (page 17 of 62, lines 727, 731-736).
- You stated you allowed your canine to stay engaged on Ulmer after he was on the ground in order to "formulate that plan of going hands-on, develop that custody team, then that's when I pull my dog off" and for "officer safety reasons" (page 37 of 62, lines 1633-1639).
- You stated it was your opinion that deploying your K9 at Ulmer was a reasonable use of force (page 57 of 62, lines 2521-2543).

Your actions constituted cause for disciplinary action pursuant to the Rules and Regulations of the Civil Service Board, specifically, Rule 12.2 (c) inefficiency; (d) inexcusable neglect of duty; (p) willful disobedience of a lawful rule, order or direction; and (w) any conduct rationally related to employment which impairs, disrupts, or causes discredit to your employment and the public service.

Your actions in this matter are in violation of the following Sacramento Police Department General Orders and California Penal Code, which states, in relevant part:

580.02
USE OF FORCE
5-16-17

POLICY
It shall be the policy of the Sacramento Police Department that officers' value and preserve the sanctity of human life at all times. Officers shall use only that amount of force necessary under the circumstances presented that the officer reasonably believes is required. Officers are expected to use de-escalation techniques when reasonably possible and without increasing the risk of harm to officers or others in an effort to reduce or eliminate the use of force. When using force, officers shall continuously reassess the perceived threat to select the reasonable use of force response.

When making use of force decisions, officers should be mindful that subjects may be physically or mentally incapable of responding to police commands due to a variety of circumstances, including, but not limited to, alcohol or drugs, mental impairment, medical conditions, or language and cultural barriers.

B. GENERAL

5. When reasonable under the totality of the circumstances and where it may be accomplished without increasing the risk of harm to officers or others, officers should attempt to de-escalate situations. De-escalation techniques include, but are not limited to, gathering information about

the incident; assessing risks; gathering resources (personnel and equipment); using time, distance, cover; using crisis intervention techniques; and communicating and coordinating a response.

580.12
LESS LETHAL WEAPON SYSTEM
10-09-12

POLICY

It shall be the policy of the Sacramento Police Department to deploy and use Less Lethal Weapon Systems as instructed in Department training in order to maximize the safety of all individuals involved in an incident.

A. DEFINITIONS

1. FLEXIBLE BATON ROUND (BEAN BAG) – A Less Lethal 2 ¾" 12 gauge shotgun round firing a Kevlar bag containing 40 grams of lead shot at a velocity of 280 feet per second (FPS). The drag stabilized projectile delivers 112 ft/lbs of energy on impact. Flexible baton rounds are discharged from a dedicated 12-gauge shotgun that is distinguishable by an orange butt stock and fore grip. This round provides accurate and effective performance when fired from the approved distance of not less than five (5) feet but not more than 50 feet from the target.

E. USE OF LESS LETHAL WEAPONS

4. Authorization to use the flexible baton or the 40mm Less Lethal weapon systems shall be made by a field supervisor.

6. When practical, prior to firing a Less Lethal weapon system, the discharging officer shall

a. Loudly announce that a specified Less Lethal weapon system is going to be used and

b. Instruct the Communications Center to broadcast that a specified Less Lethal weapon system is to be used. The purpose of this notification is to alert all personnel that a Less Lethal weapon is being used and to comply with case law.

F. TACTICAL CONSIDERATIONS

2. Unless extraordinary circumstances exist, consideration should be given to the following responsibilities:

a. Deploying officer(s) – at least one officer to discharge the Less Lethal weapon system. Multiple officers with Less Lethal weapon systems may be utilized in a single incident. The use of K-9 and the Conducted Energy Device may also be appropriate in concert with Less Lethal weapon systems.

3. Under exigent circumstances, nothing in this order shall prohibit an officer from deploying and discharging a Less Lethal weapon without requesting authorization or having the presence of additional officers.

580.14
USE OF CANINES
02-23-17

POLICY

It shall be the policy of the Sacramento Police Department to use only canines in appropriate circumstances and to review all injuries received from Department canines.

PROCEDURE

A. GENERAL

1. Approval shall be obtained from a field supervisor prior to using a canine to search for or apprehend an individual. Exception: A rapidly evolving situation that is within the deployment guidelines, but in which it is impractical to obtain supervisory approval.
2. It is recognized that situations may arise that do not fall within the provisions set forth in this policy; in any such case, a standard of reasonableness shall be used to review the decision to use a canine in view of the totality of the circumstances.

B. DEPLOYMENT GUIDELINES

Department canines may be used to apprehend an individual if the canine handler and approving supervisor reasonably believe that the individual has either committed or is about to commit any offense and if any of the following conditions exist:

1. There is a reasonable belief that the individual poses an immediate threat of violence or serious harm to the public, any officer, or the handler.
2. The individual is physically resisting arrest and the use of a canine appears necessary to overcome such resistance.
3. The individual is believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

NOTE: Absent the presence of one or more of the above conditions, mere flight from pursuing officer(s) shall not serve as good cause for a canine apprehension.

C. CONSIDERATIONS PRIOR TO DEPLOYMENT

Prior to the use of a Department canine to search for or apprehend an individual, the canine handler and/or supervisor at the scene shall consider all pertinent information reasonably available at the time. The information shall include, but is not limited to

1. The individual's age or an estimate thereof.
2. The nature of the suspected offense.
3. Any potential danger to the public and/or other officers at the scene if the canine is utilized.
4. The degree of resistance, if any, the individual has shown.
5. The potential for escape or flight if the canine is not utilized.
6. The potential for injury to officers or the public caused by the individual if the canine is not used.

Continuation of the above acts or other misconduct on your part will subject you to further disciplinary action, up to and including termination.

A copy of this letter will be placed in your personnel file. This letter will be withdrawn from your official personnel file eighteen (18) months from the date issued provided there has not been additional formal discipline imposed during the eighteen (18) month period. Pursuant to the Agreement covering your classification, you may have an administrative review of the reprimand by submitting a request in writing within seven (7) days to the Director of Human Resources at 915 I Street, Historic City Hall, First Floor, Sacramento, CA 95814.

Sincerely,

Dave Peletta, Deputy Chief
Office of Operations

cc: Human Resources - Labor Relations
Human Resources - Employment, Classification, and Development

Sacramento Police Department
Citizen Complaint Form

REPORTED SOURCE: Departmental

IAD NUMBER: IAD2018-157

INJURY: YES X NO ____ PHOTOS: YES ____ NO ____ OPSA PD ____

DISTRICT 4 - South BEAT 4B ASSIGNMENT Patrol INCIDENT SUPERVISOR Sgt. A. Vassallo MED. WAIVER: YES ____ NO ____

DATE REPORTED	TIME REPORTED	DATE OCCURRED	TIME OCCURRED	DAY
May 10, 2018	13:54	May 9, 2018	12:47	Wednesday

LOCATION: [redacted] Cal Valley Way - Sacramento

CITIZEN

NAME	AGE	D.O.B.	SEX	RACE
Sacramento Police Department				
RESIDENCE ADDRESS		RESIDENCE/CELL PHONE		
BUSINESS ADDRESS	ZIP CODE	BUSINESS/CELL PHONE		

NARRATIVE: Allegations of excessive force and/or improper tactics by Ofcrs. Rpt 18-138490; Carl Ulmer sustained a broken arm and damaged spleen.

WITNESSES

NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE
NAME	AGE	D.O.B.	SEX	RACE	RESIDENCE PHONE
RESIDENCE ADDRESS			STATE	ZIP	BUSINESS PHONE

EMPLOYEE INVOLVED

NAME	BADGE #	SEX	RACE	DESCRIPTION	VEHICLE NUMBER
C Keith Hughes	0718	Male	White	Police Officer	

Person Accepting Inquiry: Sgt. Eric Forbeck, #3035

Per California Penal Code Section 148.6(b):

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER FOR ANY IMPROPER POLICE CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZEN COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS. IT IS AGAINST THE LAW TO MAKE A COMPLAINT THAT YOU KNOW TO BE FALSE. IF YOU MAKE A COMPLAINT AGAINST AN OFFICER KNOWING THAT IT IS FALSE, YOU CAN BE PROSECUTED ON A MISDEMEANOR CHARGE.

I have read and understood this statement.

Signature: _____

☐ Acknowledged via phone ☐ Refused to sign Initials: _____ Badge #: _____ Date: _____

Continued on other side.

Sacramento Police Department
Citizen Complaint Form

C. Keith Hughes **IAD2018-157**

INCIDENT CLASSIFICATIONS:

☐ Force	☐ Discrimination	☐ False Arrest	☐ Improper Search	☐ Missing Property
☐ Discourtesy	☐ Harassment	☐ Dishonesty	☐ Firearm Discharge	☐ Conduct Unbecoming
☐ Insubordination	☐ Intoxication	☐ Garnishment	☐ Traffic	☐ Neglect of Duty
☐ Service				■ Improper Tactics

DISPOSITION:

IMPROPER TACTICS – RELATED TO WITNESS DC – C.E.D. POLICY

Approved By: _____ Chief of Police

Date: 3/27/19

SKELLY OR DISCIPLINE SETTLEMENT:

Approved By: _____ Chief of Police

Date: _____

M E M O R A N D U M **SACRAMENTO POLICE DEPARTMENT**

TO: **OFFICER KEITH HUGHES #718**
SOUTH COMMAND-1B47

DATE: March 28, 2019

FROM: **LIEUTENANT JOE BAILEY #4113**
SOUTH COMMAND

SUBJECT: DOCUMENTED COUNSELING

On May 09,2018, you were dispatched to a call at [redacted] Cal Valley Way (CN#18-138490) in District 4B. This call resulted in an application of force as well as an arrest. After reviewing this incident, I was made aware that during this call you were not wearing your department issued conducted energy device (CED).

General Order 580.10 states: The CED shall be worn at all times by all sworn, uniformed officers and authorized non-sworn Department personnel.

The purpose of this memorandum is to properly document your actions that have been determined not to be within department policies and guidelines. A copy of this memorandum will be retained in your watch file.

C K Hughes

Officer

3-28-19

Date

J R B #4113

Supervisor

3/28/19

Date

Ryan Bullard

From: Ryan Bullard
Sent: Thursday, April 04, 2019 13:00
To: C Keith Hughes
Cc: James Harrington
Subject: IA Reclassification

Ofc Hughes,

This email is to inform you that you have been reclassified as a WITNESS OFFICER in the allegations pertaining to GO 18-138490. Please contact me if you have any questions.

Sgt. Ryan Bullard #3135
Sacramento Police Department
Internal Affairs Division
916-808-2297
5760 Freeport Blvd, Sacramento CA 95822

Ryan Bullard

From: David Risley
Sent: Friday, September 27, 2019 14:28
To: Ryan Bullard
Cc: James Harrington; Dave Peletta
Subject: Training Debrief of IAD2018-157

Please place this email in the IA file and reference this training in the investigative log.

On September 11, 2019 representatives from the Training Division conducted a training debrief of IAD case #2018-157. The discussion focused on de-escalation, arrest tactics, planning, reducing exigency in a dynamic environment and less lethal force options. The participants included officers Joshua Smith, John Harshbarger and Keith Hughes. Lt. Kaneyuki, Lt. josh Dobson, Sgt. Bill McCoin and Lt. Zack Bales facilitated the debrief. Many opportunities for improvement were identified and discussed.

Thank You,

Captain Dave Risley

Sacramento Police Department
Research, Development and Training
2409 Dean St.
McClellan CA 95652

City of SACRAMENTO
Office of Public Safety Accountability

MEMORANDUM

DATE: May 10, 2019

TO: Daniel Hahn, Chief

FROM: Francine Tournour, Director

CC: Howard Chan, City Manager

SUBJECT: **IAD2018-0104**

The Office of Public Safety Accountability (OPSA) had the opportunity to review the administrative investigation associated with the above case and was also briefed by the Captain of the accused officers, Captain of the Training Division and Deputy Chief over patrol. It was established during this meeting that several things could have been done differently with a potentially more positive outcome. Suggestions were made by the Department regarding updating policy as well as training to accomplish better outcomes in the future. Management felt the level of force used by the officers on-scene was within policy, with exception of the K-9 deployment. OPSA believes the use of the beanbag shotgun was also an excessive use of force for the following reasons:

Officers are authorized to use force (including less-lethal force) that is “objectively reasonable” to defend themselves, defend others, effect an arrest or detention, prevent escape, or overcome resistance. Less-lethal force generally is used when there is no imminent threat of death or serious bodily harm to the officers or other individuals and the officers can deploy the less-lethal weapon safely. As with any tactical situation, officers may choose to use different tools and approaches based on the individual circumstances. The factors to be considered in each circumstance include, among others, the distance between the officers and the individual, whether the individual poses an imminent threat to the officers or the public, the resources available to the officers, the potential effectiveness of different strategies (e.g., de-escalation through verbalization), and the feasibility of executing different strategies safely.

Distance, along with cover, may also provide officers with time that can be used to plan, communicate with the individual, request additional resources, etc.

During this call for service, the initial officer on-scene felt the individual needed medical aid. When the Sacramento Fire Department arrived, the man refused to be seen and tried to leave the area. The subject armed himself with a brick and the only time he presented the brick as a potential threat was when he initially picked it up. At no other time did he raise the brick or display it in a threatening manner towards officers. He even had a hard time holding the weight of the brick with one hand. As the man began to hit the brick against the pillar, he was shot with the beanbag shotgun.

There was no exigency at that time to use force against this individual. Not only was he limited in mobility, the officers had established a safe distance from him which could have allowed them time to devise a plan beyond the need to use force in order to gain control. There was mention of concerns the brick was going to be broken into smaller throwable pieces. The brick was not broken, and the officers could have moved even further away, which could have rendered the smaller pieces ineffective to cause injury and not likely to even reach the officers.

The amount of time dedicated to de-escalation (verbal commands) was less than 6 minutes. While there is no perfect or set amount of time that should be dedicated to de-escalation (due to each circumstance being different), the levels of force this individual was subjected to would have warranted more attempts at compliance. More time and consideration should have also been given, especially due to the fact the officers believed the man needed medical and/or possible mental health services.

Individuals who have committed minor nonviolent crimes and are clearly in need of medical or mental health services should not be subjected to Use of Force-Tactics to gain compliance to provide those services.

OPSA recommends SPD develop directives to provide guidance to officers about the circumstances under which they are authorized to use different types of weapons and techniques in the field, as well as strategies for increasing their effectiveness.

OPSA also feels the deployment of the beanbag round was excessive given the subject was not an immediate threat to officers or other individuals. Although the officer was told to deploy the beanbag by a senior officer on-scene, officers should access the circumstances at hand and be able to independently articulate the need for the use of force they are using.

City of SACRAMENTO Police Department

KATHERINE LESTER
Chief of Police

5770 Freeport Blvd., Suite 100
Sacramento, CA 95822-3516

(916) 808-0800
Fax: (916) 808-0818
www.sacpd.org

Report Number: 2018-138490

Please note that the records provided in this release do not include records or portions of records that are exempt from disclosure pursuant to applicable law. Without limiting other arguments against disclosure that may exist, the following records or portions of records are specifically prohibited or exempted from disclosure:

Records or information, the disclosure of which would compromise the anonymity of whistleblowers, complainants, victims or witnesses (Cal. Pen. Code § 832.7(b)(6)(B))

Records or information, the disclosure of which would reveal personal identifying information, where, on the facts of the particular case, the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure of the information (Cal. Pen. Code § 832.7(b)(7))

Records or information wherein the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure (Cal. Gov. Code § 7922.000)

Records or information, the disclosure of which is exempted or prohibited pursuant to federal or state law (Cal. Gov. Code § 7927.705; see also Cal. Const. art. 1 Sec. 1).

Sacramento Police Department
Professional Standards Unit
916-808-3790
spdpsu@pd.cityofsacramento.org