

Independent Police Auditor Use of Force Review

SUBJECT'S NAME: Dierra C. Fields
CASE NUMBER: 2024-003974
DATE OF INCIDENT: 01/11/2024
DATE OF REPORT: 04/12/2024

IPA REVIEW OF INCIDENT

During this incident, Officer Shoemaker found himself in a situation where multiple parties were irate and arguing with one another. Upon initially arriving on the call, Officer Shoemaker had to break up a physical altercation occurring inside the home between Anita Fields, b/f/59, David Fields, b/m/59, [REDACTED] Lauren Johnson, b/f/37, and Dierra Fields, b/f/24. After separating the parties, [REDACTED] and Dierra continued to taunt and banter back and forth in very loud voices. Numerous times during the first couple of minutes of Officer Shoemaker arriving on the scene, David and Anita said they wanted Dierra to leave the residence. Dierra attempted to get her purse and coat to leave but was told by Officer Shoemaker that if she left the house she would be arrested. Dierra asked why she would be arrested but Officer Shoemaker did not provide a response. David began to have a medical crisis during the chaos, requiring Officer Shoemaker to call for EMS and to roll David onto his side.

Sgt. Shmigal arrived prior to EMS. While waiting for EMS to arrive, [REDACTED] began to scream, curse, stand on the sofa and refuse to be quiet, when told to do so by both her grandmother, Anita, and Officer Shoemaker. At one point, Officer Shoemaker pushed [REDACTED] down on the sofa while yelling **"Sit the fuck down. If you get up again, you're getting arrested."**¹ [REDACTED] got to her feet, continued to stand on the sofa and disregarded the directions given by Anita and Officer Shoemaker. This use of force was not reported or documented by either Officer Shoemaker or Sgt. Shmigal.

During the same exchange, Anita was dangerously close to Officer Shoemaker. She was waving her hands about his head and face. She yelled at Officer Shoemaker, stating **"Hey, hey...Let me handle her!"**² (referring to [REDACTED]).

Again, Anita asked Officer Shoemaker to let Dierra leave or step outside, so Anita could speak with Officer Shoemaker. Officer Shoemaker ignored her request. It was in this instance [REDACTED] who was again standing on the sofa next to Officer Shoemaker, began to scream, yell and curse at Dierra, who was standing quietly behind a chair on the other side of the living room with her arms crossed.³ For some unknown reason Officer Shoemaker made the decision to approach Dierra and begin to place her in handcuffs, instead of turning around to place [REDACTED] in handcuffs and gain control of the situation.

Initially Officer Shoemaker did not provide Dierra with any direction or explanation as to why she was being placed in handcuffs. He simply grabbed Dierra's arms and placed them behind her

¹ BWC – (Extraction_1.1)_Domestic_Fight_[REDACTED]_Sheomaker_1505, mark 3:42

² *Id.*, mark 3:43

³ BWC – (Extraction_1.1)_Domestic_Fight_[REDACTED]_Sheomaker_1505, mark 5:52

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back. As he reached for his handcuffs, Dierra, whose hands were behind her back, looked over her left shoulder to ask why she was being arrested. Officer Shoemaker replied, ***“You are not under arrest; you are being detained and handcuffed.”***^{4 5}

Dierra turned her head to look over her right shoulder as she explained to Officer Shoemaker that she could sit in her vehicle with her kids and wait outside, which is what she tried to do in the first place. Officer Shoemaker told her she was not going to her vehicle. It was during this verbal exchange that Officer Shoemaker released Dierra’s right wrist, as he adjusted the handcuffs, then suddenly released her left wrist. Without provocation by Dierra, Officer Shoemaker grabbed both of her arms, lifted her up and threw her face first towards the ground in an abrupt and aggressive manner. Officer Shoemaker then transitioned Dierra to a kneeling position at the sofa, as he held her down with his bodyweight to apply the handcuff to her right wrist.⁶ Officer Shoemaker then escorted Dierra outside where he placed her in the backseat of his police cruiser.

She was interviewed on scene by Sgt. Belacic. After a prolonged discussion between officers on the scene a decision was made to issue Dierra a summons for Obstructing Official Business and Resisting Arrest instead of making a custodial arrest.

EVIDENCE and MATERIALS REVIEWED

- Ohio Revised Code (ORC) §2919.25 – Domestic Violence, [Section 2919.25 - Ohio Revised Code | Ohio Laws](#)
- ORC §2921.31 – Obstructing Official Business, [Section 2921.31 - Ohio Revised Code | Ohio Laws](#)
- ORC §2921.33 – Resisting Arrest, [Section 2921.33 - Resisting arrest.pdf](#)
- Akron Police Department Directives-Voluntary Contacts, Investigatory Detentions, Pat-Downs and Arrests, #P-2020-004, Effective Date July 8, 2020, [voluntary contacts investigatory detentions pat downs and arrests.pdf \(revize.com\)](#)
- Akron Police Department Directives – Resisting Arrest/Use of Force Procedure, #P-2021-013, Effective Date January 4, 2021, [SKM_C45820122310350 \(revize.com\)](#)
- Akron Police Department Directives – Domestic Violence Procedure, #P-2020-011, Effective Date July 16, 2020, [domestic violence procedure.pdf \(revize.com\)](#)
- Akron Police Department Use of Force Investigation, Case #2024-00397, dated 1/12/2024.
- Akron Police Department Use of Force/Resisting Arrest Officer Witness Report, Report #24-3974, dated 1/12/2024.
- Akron Police Department Field Case Report, Case #2024-00003974, dated 1/11/2024 16:28
- Incident Details re: 2024-00003974
- Akron Police Department Use of Force/Resisting Arrest Report dated 1/15/2024.

⁴ *Id.*, mark 6:03

⁵ BWC – (Extraction_1.1) [REDACTED] Shmigal_1380-2, mark 2:02

⁶ BWC – (Extraction_1.1) [REDACTED] _Shmigal_1380-2, mark 2:06

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- BWC – (Extraction_1.1)_██████████_Lovesey_1572
- BWC – (Extraction_1.1)_██████████_Belacic_1298
- BWC – (Extraction_1.1)_██████████_Shmigal_1380
- BWC – (Extraction_1.1)_██████████_Shmigal_1380-2
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_Gregg_1477
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_Jackson_1522
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_Jackson_1522-2
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_McGraw_1537
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_McGraw_1537-2
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_McGraw_1537-3
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_McGraw_1537-4
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_McGraw_1537-5
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_Sheomaker_1505
- BWC – (Extraction_1.1)_Domestic_Fight_██████████_Shoemaker_1505-2
- BWC – (Extraction_1.1)_wagon_call_██████████_Gregg_1477

INTERVIEWS

Below is a summarization of the interviews conducted on scene, not a verbatim translation of them.

Each interview that was conducted was recorded on BWC video, under (Extraction_1.1)_██████████_Belacic_1298. The duration of the video is 38:29 minutes.

Sgt. Belacic interviewed Dierra Fields, as she was handcuffed and seated in the rear seat of Officer Shoemaker's cruiser.

At the 4:50 mark, she describes a verbal altercation with her father, where her father physically assaulted her as he attempted to remove her from the house. She stated that the argument became heated, and her father began to push her out of the house while calling 911.⁷

She initially stated that Officer Shoemaker told her she was being detained, but later stated she was not given any instructions or warnings. She stated that when her left arm was grabbed, she turned to her right to give up her right arm. She denied pulling away from Officer Shoemaker or resisting arrest.

Sgt. Belacic interviewed David Fields, the father of Dierra, inside the home. Fields stated that he called the police because he wanted Dierra to leave the home, but she refused. He stated that Dierra lived at the house with him, his wife and granddaughter. He stated the officer advised Dierra she was going to be detained. He was unable to say if Dierra physically pulled away from the officer. He did not observe the officer punch, kick, or strike her in any way. He did not feel like the officer did anything wrong or used any force that he felt was unnecessary.

⁷ This allegation of an assault was not investigated by any officer on the scene.

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CONCLUSION

It is clear this incident was chaotic and stressful for all involved. However, I do not concur with the assessment by Sgt. Belacic, ***“In conclusion, I believe that Officer Shoemaker’s actions were not only justified but reserved as well. It would have been very easy for someone in the same situation to lose their patience and react in way that would reflect poorly on the Akron Police Department.”***⁸ However, this is exactly what Officer Shoemaker did when he responded to this incident on January 11, 2024. Officer Shoemaker lost his patience with the situation and used force that was not justified against Dierra.

APD Directive P-2020-011, Subject: Domestic Violence Procedure states “Officers shall use an evidence-based investigation to attempt to determine the primary physical aggressor in domestic violence incidents.”⁹ The definition of ‘evidence-based investigation’ is the “Concept of relying on physical evidence rather than verbal statements alone.”¹⁰ According to the directive, an officer “Upon arriving on the scene...first responsibility is to assure the safety of all parties involved and de-escalate the situation.”¹¹ APD defines de-escalation as “Using non-confrontational verbal skills, empathy, and active listening to stabilize the incident. De-escalation may also incorporate the use of additional time, distance, and resources as well as persuasion, command presence, repositioning, and warnings, to reduce the intensity of a potentially violent situation to decrease the potential need to use force.”¹²

██████████, on multiple occasions, was ordered to be quiet and sit down, yet she failed to comply. Officer Shoemaker even had to use force against ██████████ when she charged him while she was standing on the sofa cursing at Dierra. While Officer Shoemaker did push ██████████ down onto the sofa, for some unknown reason, Officer Shoemaker made the decision to approach Dierra and place her in handcuffs. Officer Shoemaker advised Dierra she was not under arrest, but just being detained (in handcuffs). Officer Shoemaker failed to use non-confrontational verbal skills, empathy, or active listening, but instead used the opposite, to include vulgar profanity during this incident. This was a source of the continued chaos throughout this incident. The primary aggressor was standing directly next to, and in fact had made physical contact in a threatening manner against Officer Shoemaker, yet Officer Shoemaker failed to adhere to the policy as outlined in P-2020-011.

⁸ Akron Police Department Use of Force Investigation, Case #2024-00397, Section Conclusion, dated 1/12/2024.

⁹ Akron Police Department Directives – Domestic Violence Procedure, #P-2020-011, Effective Date July 16, 2020, Section I. Policy, page 1, [domestic_violence_procedure.pdf \(revize.com\)](#)

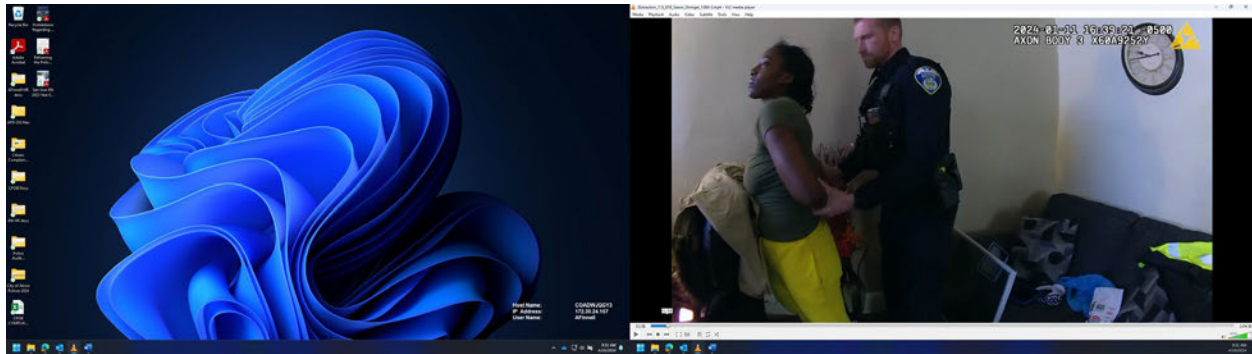
¹⁰ *Id.*, Section H., page 2.

¹¹ *Id.*, Section III(A.1), Procedures, page 2.

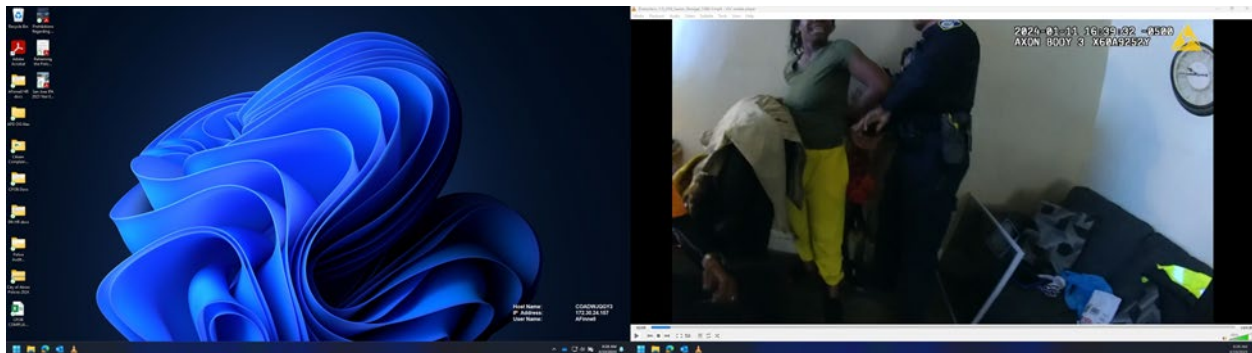
¹² Akron Police Department Directives – Resisting Arrest/Use of Force Procedure, #P-2021-013, Effective Date January 4, 2021, Section II(A) Definitions, page 1, [SKM_C45820122310350 \(revize.com\)](#)

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Screenshots from (Extraction_1.1)_██████████_Shmigal_1380_2



@01:58 – Dierra is compliant and not resisting being placed in handcuffs



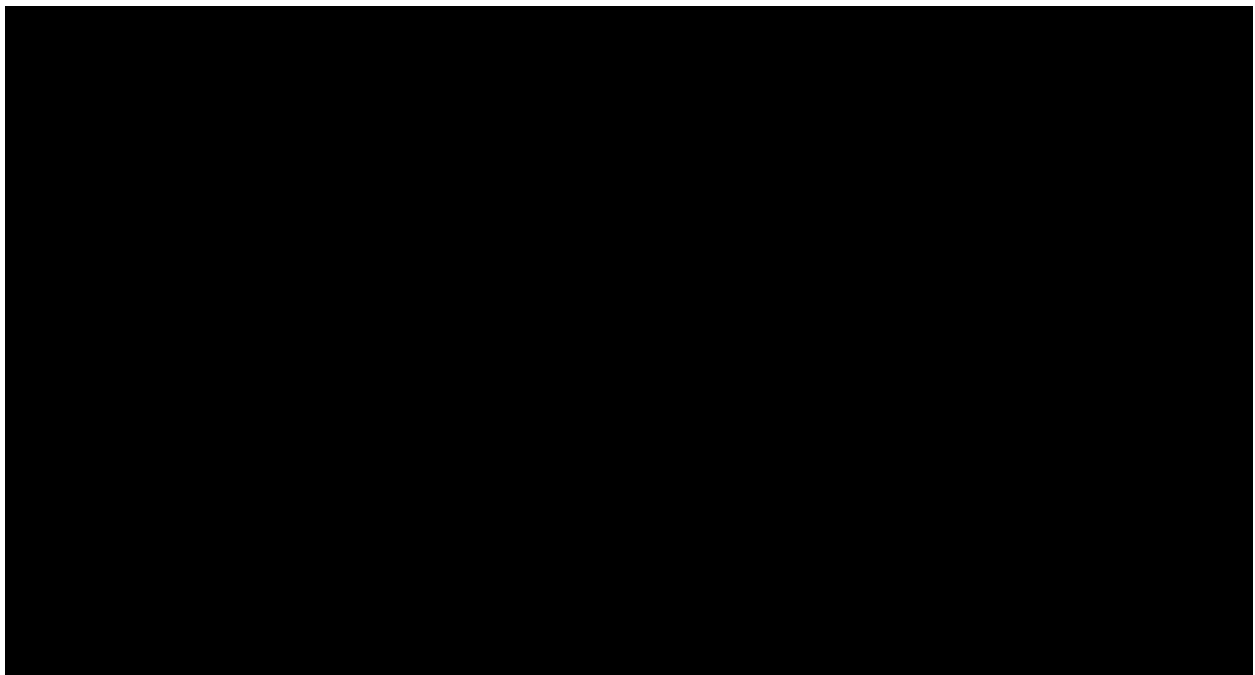
@02:09 Dierra turns to ask why she is being arrested. She is then told she is not being arrested but detained in handcuffs. She continues to question Shoemaker, stating that she can be detained by sitting in her car (with her children).

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Screenshot from (Extraction_1.1)_Domestic_Fight_ [REDACTED] _Shoemaker_1505

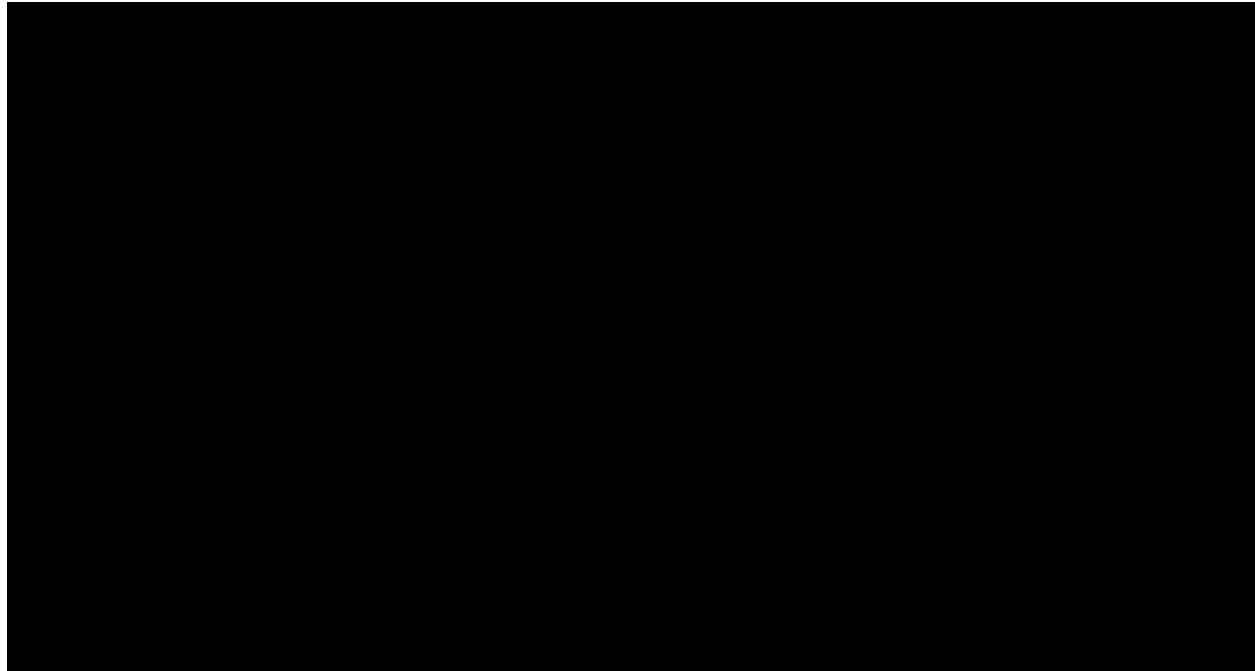


@2:12 this shows Dierra seated on the opposite side of the room while everyone else is screaming, arguing, and cussing.



@2:54 Dierra is now standing behind a chair. She is engaged in verbal back and forth with [REDACTED].

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@2:59 attempts to get her coat and belongings so she can leave from inside the home; prevented from doing so by Officer Shoemaker and told if she tries to leave, she will be arrested. Fields asked “why”. Fields’ dad just told her to leave but Shoemaker prevented her from doing so.

ORC §2921.33(A) Resisting arrest states, **“No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.”**¹³ When Officer Shoemaker began to place Dierra in handcuffs, he clearly stated **“You are not under arrest. You are being detained in handcuffs.”**¹⁴ However, this statement was not factual. When Dierra initially stated that she wished to leave, Officer Shoemaker told her **“if you try to leave here you are going to jail.”**¹⁵ According to APD an arrest is defined as **“taking a person into custody.”**¹⁶ APD also defines custody as **“A person is in custody...when a reasonable person in the individual’s position would have understood the situation to constitute a restraint of freedom of movement of the degree that the law associates with formal arrest.”**¹⁷ Based on these definitions, Dierra, being a reasonable person in this situation, would believe that she was not free to leave the residence. Officer Shoemaker, by his actions and by APD’s definition, had placed Dierra under a de facto arrest.

¹³ ORC §2921.33 – Resisting Arrest, [Section 2921.33 - Resisting arrest.pdf](#)

¹⁴ BWC – (Extraction_1.1)_Domestic_Fight_█_Sheomaker_1505, mark 6:03.

¹⁵ *Id.*, mark 3:12.

¹⁶ Akron Police Department Directives-Voluntary Contacts, Investigatory Detentions, Pat-Downs and Arrests, #P-2020-004, Section II(A), Definitions, Effective Date July 8, 2020, [voluntary contacts investigatory detentions pat downs and arrests.pdf \(revize.com\)](#)

¹⁷ *Id.*, Section II(C).

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Officer Shoemaker wrote in his police report that ***“Officers attempted to detain Dierra in handcuffs due of(sic) her aggressiveness towards ██████ and her desire to leave the scene. She pulled away from officers and was arrested for Resisting Arrest.”***¹⁸ The report narrative does not accurately document what occurred leading up to Officer Shoemaker placing Dierra in handcuffs. The narrative also does not mention the takedown technique used against Dierra. She was standing on the opposite side of the room, leaning against a chair, quietly watching other family members scream, yell and be physically aggressive with one another. The BWC footage clearly shows that Dierra was not the primary aggressor. She simply wanted to remove herself, and her two young children, from that environment. At no time did Dierra resist Officer Shoemaker as he placed her in handcuffs, even though she asked why she was being detained in handcuffs. While there were moments where Dierra did engage in a verbal back and forth with ██████, I found there was no reasonable suspicion to detain Dierra, especially while in handcuffs. I also found there was no probable cause to arrest Dierra for Resisting Arrest.

ORC §2921.31(A) Obstructing official business states, ***“No person, without privilege to do so and with purpose to prevent, obstruct, or delay the performance by a public official of any authorized act within the public official’s official capacity, shall do any act that hampers or impedes a public official in the performance of the public official’s lawful duties.”***¹⁹ I did not observe any evidence to support charging Dierra with this offense. It would be a stretch to say that by arguing (Dierra) and yelling with others in the household that such actions prevented Officer Shoemaker and Sgt. Shmigal from conducting a domestic violence investigation. It would also be a stretch to imply that Dierra prevented the officers from providing medical assistance to David, while waiting for EMS to arrive.²⁰ BWC footage does not show evidence of probable cause to support arresting Dierra for Obstruction of official business.

Sgt. Shmigal was present and had a clear view of Officer Shoemaker as he began to place Dierra in handcuffs and subsequently body slam Dierra. I was able to determine this based on the view of Officer Shoemaker’s actions from footage from Sgt. Shmigal’s BWC.²¹ At no time during the incident did Sgt. Shmigal intercede to stop Officer Shoemaker from placing Dierra in handcuffs when she had not committed a crime or posed a danger to herself or others, nor did Sgt. Shmigal intercede when Officer Shoemaker body slammed Dierra. APD policy specifically states an officer has a duty to intercede; ***“Any officer who observes another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. Officers shall promptly report these observations to a supervisor.”***²²

After reviewing all associated paperwork and videos of the incident, I have determined that the force used by Officer Shoemaker, a takedown, was **NOT OBJECTIVELY REASONABLE.**

¹⁸Akron Police Department Field Case Report, Case #2024-00003974, Narrative, page 3, dated 1/11/2024 16:28

¹⁹ ORC §2921.31 – Obstructing Official Business, [Section 2921.31 - Ohio Revised Code | Ohio Laws](#)

²⁰ BWC video from both officer’s cameras show that they did not do anything more than place David in a recovery position and then stand there waiting for EMS to arrive.

²¹ BWC – (Extraction_1.1 ██████_Shmigal_1380-2, mark 1:55

²² As defined in Akron Police Department Directives – Resisting Arrest/Use of Force Procedure, #P-2021-013, Effective Date January 4, 2021, Section III(J) Definitions, [SKM C45820122310350 \(revize.com\)](#)

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My recommendation to the CPOB is as follows:

1. The CPOB requests APD change the disposition of Officer Shoemaker's use of force, under case number 24-00003974 from **Objectively Reasonable to Not Objectively Reasonable** and take appropriate disciplinary action as warranted by such a disposition.
2. The CPOB also requests APD initiate an Internal Affairs investigation into Officer Thomas Shoemaker and Sergeant Timothy Shmigal for the following:
3. Thomas Shoemaker
 - a. P-2020-011, Domestic Violence Procedure, Section I
 - b. De-escalation²³
 - c. Failure to document/report a reportable use of force.
 - d. Objectively reasonable force²⁴
 - e. Custody, detention, arrest²⁵
4. Sgt. Timothy Shmigal
 - a. De-escalation
 - b. Failure to document/report a reportable use of force.
 - c. Duty to Intercede



Anthony W. Finnell
Independent Police Auditor

²³ As defined in Akron Police Department Directives – Resisting Arrest/Use of Force Procedure, #P-2021-013, Effective Date January 4, 2021, Section II(A) Definitions, [SKM_C45820122310350 \(revize.com\)](#)/d., Section II(A).

²⁴ *Id.*, Section II(H).

²⁵ *Id.*, Section III(D.1).