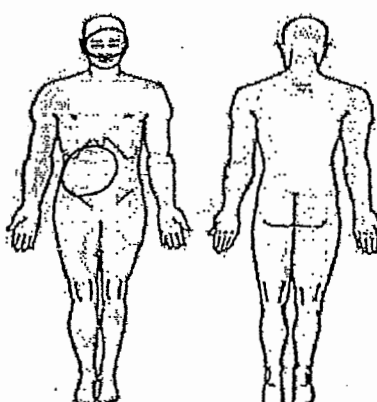




TOPEKA POLICE DEPARTMENT OFFICER USE OF FORCE REPORT



1) DATE 1/23/2018	2) TIME 1915	3) LOCATION 2600 SE 10th Street	4) TERRITORY 434	5) CALL TYPE Car stop	6) CASE # 7222-18			
7) SUBJECT'S NAME Timothy Clarence Harris			8) DATE OF BIRTH 9/15/1983	9) HEIGHT 601	10) WEIGHT 180	11) RACE B	12) ETH. N	13) SEX M
14) History of Violence Known to Officer? ☐ YES ☒ NO			15) CHARGES Warrant, parking facing traffic, disobey, obstruction, battery LEO			16) VIDEO BWC		
17) SUSPECT'S ACTIONS: ☒ Passive Resistant (See General Order 4.3) EXPLAIN: Refused lawful orders to sit in vehicle. ☒ Active Resistant (See General Order 4.3) EXPLAIN: Subject muscled up and actively resisted empty-hand techniques, attempted to get up after he was taken to the ground. ☒ Assaultive Resistant (See General Order 4.3) EXPLAIN: Subject swung his elbow at me, subject elbowed me in the torso, subject pinched my torso. ☒ Life Endangering/Perceived Lethal Threat (See General Order 4.3) EXPLAIN: Subject grabbed at weapons on my duty belt, including my firearm.								
18) OFFICER'S DEFENSIVE ACTIONS: ☒ Verbal Direction (Commands of direction or of an arrest) EXPLAIN: Gave subject lawful order to sit in car, gave subject lawful orders to stop, gave subject lawful orders to stop attempting to get up. ☐ Active pointing of Firearm (to gain compliance) ☐ Active pointing of Electronic Control Device (to gain compliance) Did Subject comply with your commands without further incident? ☐ Yes ☐ No EXPLAIN: ☒ Empty Hand Control (Reverse Palm, Single Cross Face, Double Cross Face, Figure 4 Leg Lock, Palm Mastoid, Thigh Lock, Other) EXPLAIN: Single cross face, reverse palm to takedown, thigh lock, closed-fist body strikes. ☒ Intermediate Weapons EXPLAIN: OC Spray (Check all appropriate) ☒ O.C. ☐ Impact Weapon ☐ Electronic Control Device ☐ Less Lethal Munitions ☐ Other ☐ LETHAL FORCE (Firearms or other lethal force applied) EXPLAIN:								
19) Subject Injuries: ☐ Complaint of Injury ☒ Apparent Injury			Taken To? Treated by AMR on scene			Physician:		
☐ NONE			Transported By? Refused			Photo's By? & # SGT H. Lam (11)		
20) At the time of arrest the subject was: ☒ Suspected to be under the influence of alcohol / drugs ☐ Mentally Impaired or mentally ill ☐ Other								
21) Restraint Method used: ☒ Handcuffs ☐ Flex Cuffs ☐ Leg Restraints ☐ None ☐ Other			22) Post incident observation of physical/ mental condition of subject Immediately following Final Control Technique Subject was complaining that he could not breath and tried to stand up and walk away. 15 minutes following Final Control Technique Subject refused further treatment from AMR and was placed into a Police vehicle. 30 minutes following Final Control Technique Subject was sitting inside the Police vehicle without further complaints.					
 Indicate area of impact for O.C. spray, L.L. munitions, strikes or E.C.D. hits,			23) EFFECTS OF THE O.C. SPRAY Where did you aim? Eyes Where did you hit? Eyes Number of 1-2 second bursts? 1 Approx. distance from subject? 1 Foot Were further control measures needed? Yes					
			24) EFFECTS OF THE E.C.D. Where did you aim? Where did you hit? Number of times ECD was used? Approx. distance from subject? Were further control measures needed? Serial # of ECD cartridge?					
			25) EFFECTS OF THE L.L. MUNITIONS Where did you aim? Where did you hit? Number of L.L. rounds deployed? Approx. distance from subject? Were further control measures needed? Number of Hits? Number of Misses?					
			26) OFFICER NAME / BADGE # C. James 154					
			27) SUPERVISOR NAME / BADGE # SGT H. Lam 419					



TOPEKA POLICE DEPARTMENT
SUPERVISOR INQUIRY OF OFFICER DEFENSIVE ACTION



DATE 01/23/2018	TIME 1915	LOCATION 2600 SE 10th Street	CASE # 7222-18
--------------------	--------------	---------------------------------	-------------------

REASON THE OFFICER USED FORCE (Check all that apply):

☒ TO EFFECT AN ARREST	☐ TO DEFEND ANOTHER OFFICER	☐ TO PREVENT A VIOLENT FELONY	☐ FIELD FORCE OPERATION
☒ TO DEFEND SELF	☐ TO DEFEND ANOTHER PERSON	☐ TO PREVENT A VIOLENT MISDEMEANOR	☐ TO RESTRAIN FOR SUBJECT'S SAFETY

OFFICER APPLYING FORCE: C. Janes, 154

Subject Injuries: ☐ NONE ☒ Apparent Injury	Complaint of Injury ☐	Taken To? <u>Treated by AMR on Scene</u> Transported By? <u>Refused</u>	Physician: Photo's By? &# <u>SGT Lam, 11 photos</u>
Officer Injuries: ☐ NONE ☒ Apparent Injury	Complaint of Injury ☐	Taken To? <u>Stormont Vail Express Care</u> Transported By? <u>Self</u>	Physician: <u>APRN Mary L. Roy</u> Photo's By? &# <u>SGT Lam, 4 photos</u>

Did the subject actively resist the control of the officer? ☒ YES * ☐ NO

* If "YES", to what extent did the subject resist? (check all that apply)

☐ Attempted to evade arrest (fled)
☒ Passive Resistant
☒ Active Resistant
☒ Assaultive
☒ Life Threatening

What Defensive Action was used? ☐ ACTIVE POINTING FIREARM ☐ ACTIVE POINT TASER

EXPLAIN: Single cross face, reverse palm to take-down, thigh lock, closed-fist body strikes

What were the physical surroundings where the actions occurred?

EXPLAIN: Concrete curb/sidewalk

Were the tactics used trained by our instructors? ☒ YES ☐ NO *

* If "NO", was the force used objectively reasonable? ☐ YES ☐ NO (Notify your supervisor)

In your opinion, were the tactics used within Topeka Police Department policy? ☒ YES ☐ NO (Notify your supervisor)

WITNESS OR PERSON WITH KNOWLEDGE:	ADDRESS:	PHONE OR CONTACT #:
1) Airl Marilyn Gatewood		
2)		
3)		
4)		

Synopsis of witness statements:

Please see supervisor UOF Narrative

Subjects response to interview:

Please see supervisor UOF Narrative

SUPERVISOR'S NAME / BADGE #
SGT Lam 419

LT Krippe

Supervisor Inquiry UOF Narrative

Supervisor must include synopsis of all interviews suspect, witnesses & involved officers

Call Details and Background

On Tuesday, January 23rd, 2018, at approximately 1342 hours, OFC Janes responded to 2631 SE 10th, and made contact with Katie Adkins. She stated she dated Timothy Harris and he is in possession of her MacBook computer and Victoria Secret bag without her permission. Timothy drove away in a blue Chevy Cobalt before OFC Janes' arrival. OFC Janes ran a test warrant on Timothy and found him to have a probation violation warrant for dangerous drugs and interference with LEO. He also looked up Timothy's photo so he could identify Timothy when he made contact with him.

At approximately 1913 hours, Officer Janes observed a blue Chevy Cobalt parked facing the wrong way in front of 2631 SE 10th. The vehicle was turned on and the reverse lights came on. OFC Janes Shined his spot light into the vehicle and the driver looked back at him. OFC Janes recognized the driver to be Timothy Harris from the picture he looked up in LERMS. OFC Janes turned on his emergency lights to stop this vehicle.

Officers' Actions

OFC Janes called in the car stop and asked for a back unit. Tim opened the driver side door and stepped out. OFC Janes told Tim to sit in the car. Tim did after he was told to sit down the second time. OFC Janes stated he could smell a strong odor of marijuana coming from the vehicle. There was a female (Airel Gatewood, owner of the vehicle) sitting in the front passenger seat. OFC Janes told Timothy the reason for the stop was the vehicle parked facing the wrong way. OFC Janes did not want to let Timothy know he has a warrant by this point. OFC Janes asked for Tim's ID and he handed it to OFC Janes. OFC Janes then ran Tim for warrant. The driver door was opened. Tim was sitting in the driver seat. His left foot was outside the vehicle. OFC Janes was standing between the opened door and the vehicle. While OFC Janes was waiting on dispatch with the warrant check, Tim put out his cigarette and began removing his jacket. Tim removed his wallet and handed it to OFC Janes. Tim then stepped out of the car. OFC Janes held his hand out to prevent Tim from getting closer



to him and told him to have a seat. Tim refused to sit back down. OFC Janes attempted to push Tim back down but Tim tensed his body and resisted OFC Janes. OFC Janes asked for his back to go emergent. OFC Janes told Tim twice to place his hands behind his back. Tim refused both times. OFC Janes moved Tim's body so he could get his hands behind his back. OFC Janes stated he could feel that Tim was tensing up his body. Tim was placed in handcuffs. OFC Janes stated Tim's language made it appear as if he was compliant but, in fact, he was resisting by tensing up his entire body. This prevented OFC Janes from moving him. OFC Janes attempted to place a single-cross-face technique on Tim. He moved his body and head preventing OFC Janes from applying the single-cross-face. Tim then reached back and grabbed at OFC Janes' duty belt. This was the duty belt area that OFC Janes keep his handcuffs, OC spray, and firearm. OFC Janes moved to a reverse-palm technique and took Tim to the ground. OFC Janes applied the thigh lock technique. Tim was not resisting at this point so OFC Janes let up on the thigh lock.

The passenger (Airel) got out of the vehicle and started screaming at OFC Janes. Airel was standing 2-3 feet from OFC Janes. OFC Janes had to tell Airel to step back multiple times. At some point OFC Janes pointed his OC spray at Airel and stated he would spray her if she did not back up. Airel finally backed up. Tim then began to stand up. OFC Janes reapplied the thigh-lock on Tim. OFC Janes stated he was not able to apply the thigh-lock fully on Tim because of how he was positioned. Tim was able to move his lower body and he continued attempting to stand up. Tim then attempted to reach back to OFC Janes' duty belt. OFC Janes stated this was close to his firearm. OFC Janes delivered two closed-fist body strikes to Tim's torso area and, at the same time, told him to stop. Tim did not stop what he was doing. He even pinched OFC Janes' torso area underneath his vest. OFC Janes then applied one second burst of OC spray directly into Tim's eyes. Once Tim was sprayed, he elbowed OFC Janes in the torso. Tim stated he couldn't breathe while he was on the ground. OFC Janes stated he did not put his body weight on Tim's back or chest.

When back units arrived and help stabilized the scene, OFC Janes requested dispatch to start AMR for Tim's injuries. AMR treated Tim at the scene. He refused

further treatment from AMR. He was then taken to the back of a police Explorer. He was interviewed by me and transported to DOC.

Call Disposition

Timothy Harris was transported to DOC. He was charged with disobey lawful orders, obstruction, battery LEO, and parking facing traffic.

Synopsis of Witness Interview

I spoke to Airel Gatewood (Tim's girlfriend) while she was sitting in the back seat of the Police Explorer. She stated they were not parked at a DO NOT PARK sign. The vehicle was backing up. They backed up because they were looking for the house key that might have fallen under the seat. The car was in drive when OFC Janes pulled them over. She didn't know the situation between Tim and another female. The officer admitted he knew who Tim was before he asked. The officer asked Tim for his ID and Tim gave it to him. Tim was supposed to stay in the car but he did not. Tim got out of the car. Tim turned around and was handcuffed. The officer starts "jerking" Tim around. Tim was just standing there. The officer didn't need to jerk him around. Tim defended himself. He told the officer to calm down and he did not need to jerk him. Airel also got out of the car. Tim was defenseless and he was in handcuffs. The officer continued to jerk Tim. The officer slammed Tim against the car. Tim was already leaning against the car. Tim backed out and tried to shove the officer off. They went to the ground fighting but officer was on top of him. He placed his knee on the back of Tim's spine. Tim told him he couldn't breathe. The officer kept shoving his knee into Tim's back. Tim turned his head to get some breath. The officers took his knee and placed it on Tim's head and shoved it down some more. That was why Tim's face was like that. The officer punched Tim 4-5 times in the back for no reason. Tim kept telling him

he couldn't breathe but he wouldn't get off of him. Airel stated she was standing behind Tim and she told Tim to not fight the officer. Tim will only get himself in more trouble; just do what he said. So the officer pulled out pepper spray on me, Airel said. He said he will pepper spray me if I don't get back. Airel told the officer to give Tim a chance. The officer said he will pepper spray her. So she backed off. I have no weapon and I was not intimidating the officer, said Airel. I was not running up on the officer or putting my hands on the officer. I was 2-3 feet behind him. He had no right to pepper spray me. The officer leaned forward like he was going to pepper sprays me so I backed up further. He went back to Tim and sat on Tim and called for backup. I'm sure he did not have his camera on. I don't understand why he said I was disobeying. He did not ask me to stay in the car.

The officer had no rights to pepper spray Tim. Tim was on the ground and defenseless. He was beaten brutal and it did not make sense why he was pepper sprayed.

Synopsis of Suspect Interview

I spoke to Timothy Harris while he was sitting in the back of the Police Explorer. He told me his top(1) and bottom(1) right molar teeth were loose. He stated he did not do anything and he was arrested. He stated he told the officer he had his ex-girlfriend's property and she can come to get it. He was in handcuffs and the officer "beat my ass." He stated he was in the car. They were stopped at his house. The officer turned on his lights. Tim got out and asked what was going on. The officer said why your ex-girlfriend keep call us? Do you have her property? Tim said yes her property was here. Her dad came earlier. Tim told the officer. Tim had to take his son to the doctor's appointment. After that the officer placed Tim in handcuffs. He did not say why Tim was placed in handcuffs. The officer then led Tim to his car. He told Tim to stop resisting. Tim told him he was not resisting. Tim stated he was in handcuffs. Tim asked the officer for what? Tim stated they were walking to the officer's car. They did not make it to the back of

Tim's car when the officer took him down. The officer had Tim in a choke hold and took him down. While Tim was down on the ground he stated the officer kept hitting him.

Supervisor Analysis of Defensive Action

My analysis of the officers' involvement in this defensive action and subsequent arrest is guided by the seven questions that must be answered in any supervisory DAR narrative.

1. Why were the officers at the scene and were they lawfully there, if on/in private property what legal basis did they have to enter: OFC Janes was in the area lawfully. He was investigating a subject with warrants and theft charges.
2. Include a statement that the supervisor asked the officers involved at the scene what the probable cause for arrest or lawful reasoning for a custodial detention was: OFC Janes recognized the traffic violation and he ran a test warrant check on Tim and found him to have a probation violation warrant.
3. State the opinion of the supervisor as to whether or not the supervisor views the detention as lawful, if not what immediate action was taken by the supervisor: In my opinion, the detention was lawful.
4. Include a statement regarding the supervisor's opinion of the communication techniques used by the officers. Were the communication techniques appropriate for the situation? Were the communication techniques effective: The communication techniques used by OFC Janes was effective.
5. Identify if the defensive action was lawful and objectively reasonable? If not what immediate action was taken by the supervisor: In my opinion the defensive action by OFC Janes was lawful and objectively reasonable.
6. Include that after reviewing all reports/videos and reviewing the totality of the circumstances did the supervisor identify and concerns related to the incident? Could anything have been done differently? If so what is the supervisory action that was taken or will be taken: I reviewed the reports and

videos from OFC Janes, and OFC Blassingame. LT Johnson and I sat down with OFC Janes for the post UOF debrief. We watched the axon videos. We discussed the following topics with OFC Janes.

- a. We talked about the placement of his patrol vehicle to the suspect's vehicle. We talked about several areas of concerns;
 - i. We talked about the area the spot light did not cover. OFC Janes did not see Tim when he got out. He had to exit his patrol vehicle come up to Tim. We went over several positions he could place his patrol vehicle to correct this.
 - b. We talked about having the driver sit back in the vehicle vs allowing him to stand outside the vehicle. We also talked about closing the door once Tim sat back down. We also talked about allowing Tim to place if left leg outside the vehicle.
 - c. We talked about OFC Janes and the female passenger exchanging words. This could have escalated rather than deescalating the situation.
 - d. We pointed out that OFC Janes remained calm, and in control when he had to use force on Tim and addressed Airel at the same time.
 - e. We pointed out to OFC Janes when we viewed OFC Blassingame's BWC, we could see that he was not on Tim's back. Tim stated he couldn't breathe. Airel stated OFC Janes placed his knee on Tim's back. OFC Janes did not place his knee on Tim's back.
7. Indicate whether or not department policy was followed? If not what disciplinary action is being taken: Department policy was followed on this Use of force.

Final Conclusion of Defensive Action

I reviewed the involved officers' body worn camera footages of the incident. I spoke with involved officers and reviewing submitted documentations. OFC Janes' actions were lawful and objectively reasonable.

