



# WINTER PARK POLICE DEPARTMENT

Professional Standards Division

Review Investigative Summary

Shooting Case Number 2023-I-1

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Assigned Investigator: Lieutenant Tom Ponicki  
Winter Park Police Department  
500 North Virginia Avenue  
Winter Park, Florida 32789  
407-599-3312

Involved Officer:  
Winter Park Police Department  
500 North Virginia Avenue  
Winter Park, Florida 32789  
407-644-1313

WPPD Case Number: 202246000200

Date of Shooting: February 19, 2022

Date Completed: May 30, 2023

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#### BACKGROUND

On February 22, 2023, Lieutenant Tom Ponicki received a memorandum from Chief Timothy Volkerson to initiate an Investigative Review of the Use of Force/Critical Incident involving Daniel Patrick Knight. The investigative review was initiated after the completion of the criminal investigation by the State Attorney's Office.

On March 06, 2023, I began the process of compiling and reviewing documentation related to the incident. A thorough review of the case packet compiled by FDLE Special Agent David Snowden was conducted. The case file contained over 17 hours of audio-recorded interviews, and video files along with a comprehensive list of evidence. An interview of \_\_\_\_\_ was conducted on May 22, 2023.

#### INVESTIGATION OF THE SHOOTING BY FDLE AND SAO

On Saturday, February 19, 2022, the Florida Department of Law Enforcement (FDLE) was called in to investigate the officer-involved shooting involving \_\_\_\_\_. The FDLE investigation was documented under case OR-27-0409. On Thursday, August 4, 2022, FDLE Special Agent David Snowden completed his investigation and sent his findings to the Orange County State Attorney's Office.

On Tuesday, February 21, 2023, Orange County Deputy Chief Assistant State Attorney Alfredo Zamora Esq., sent a letter to Chief Timothy Volkerson stating that he reviewed the FDLE investigation and found that \_\_\_\_\_ reasonably believed that Daniel Knight represented a deadly threat, which led to \_\_\_\_\_ use of deadly force. Furthermore, the State Attorney's Office report states that the evidence in this case demonstrates that a reasonable officer in the position of \_\_\_\_\_ would have been in fear for their life and the life of his fellow officer at the time \_\_\_\_\_ discharged his firearm. The State Attorney's Office declared that they were not filing any criminal charges against \_\_\_\_\_.

On Tuesday, May 30, 2023, I completed my review of the FDLE Investigative Summary #OR-27-0409 by Special Agent David Snowden, along with photos and supporting documentation from that investigation.

All mentioned documents are attached to and made part of this investigation.

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#### QUOTED FDLE SUMMARY OF EVENTS

On Saturday, February 19, 2022, at approximately 2139 hours, Winter Park Police Department (WPPD) and Officer responded to the scene of a disturbance at a wedding reception located at the Winter Park Events Center. Upon arrival, Officer and contacted Knight on the exterior east side of the facility. Knight refused to listen to the commands of officers. Knight struck Officer with his fist and knocked him unconscious. attempted to utilize his Taser without success. Knight then attacked , who fired multiple rounds striking Knight. Knight was transported to Advent Health South Hospital where he was pronounced deceased. Officer and were transported to Advent Health Winter Park where they were treated for their injuries.

#### WINTER PARK POLICE DEPARTMENT ANALYSIS OF THE USE OF FORCE

On February 19, 2022, at approximately 21:37:36 hours, Winter Park Police Communications Center received a telephone call regarding a male, who according to the caller was "being irate and trying to fight." The caller indicated that the male was at 1050 West Morse Boulevard on the side of the building. WPPD Communications operator further advised that the male was "shoving people's heads and trying to hit them," "grabbing an older woman now and shoving her," "shoved several to the floor," and "grabbing female by the neck." The Communications Center dispatched the call at approximately 21:39 hours. Officer and responded to the location. The incident was captured on both Officer and body-worn cameras, as well as several surveillance cameras. The video footage coupled with the provided testimony revealed the following sequence of events:

Upon arrival, as Officer was walking toward the building, he was directed to the east side of the building by the event staff. followed Officer foot as both approached the building. As Officer was nearing the entrance door, a male voice could be heard in the distance stating "Shut up." Officer then picked up his pace, while the male could be heard saying "Shut up, I don't give a fuck who's behind me." As Officer approached Daniel Knight, who was facing away from Officer, Daniel Knight said "I don't give a fuck." Katrina Brown-Knight, who was standing facing Daniel Knight looked at Officer and stated "He's OK, he's OK, he's our brother." As soon as Katrina Brown-Knight finished her sentence Daniel Knight looked directly at Officer pointed his left hand at Officer and stated "Man that bitch ain't got nothing to do with me."

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Officer \_\_\_\_\_ took a small step back and Katrina Brown-Knight continued to say “It’s his first wedding.”

It is established that upon arrival, officers came in contact with Daniel Knight who matched the description of the Battery suspect as provided by the caller. The amount of information possessed by \_\_\_\_\_ and Officer \_\_\_\_\_ established reasonable suspicion required for the detention of Daniel Knight. The details of the articulable reasonable suspicion are explained below.

Upon contact, Daniel Knight appeared not compliant and hostile toward the officers. In cases of lawful detention where the alleged perpetrator is not compliant and hostile, the use of force may be required to control the incident. The Winter Park Police Department has a Standard Operating Procedure (SOP) which regulates officers’ use of force and response to resistance. The SOP 222 establishes guidelines that govern the use of force, including deadly force, by members of the Winter Park Police Department and defines procedures for reporting and notification in incidents involving the use of force. There are several portions of this policy that directly apply to this incident.

Section 222-4 General Procedures states that in all situations, members will use only that force which they reasonably believe to be necessary to make an arrest or achieve lawful objectives. The policy further indicates that all officers shall be trained in de-escalation techniques. The policy also instructs that law enforcement officers need not retreat or desist from efforts to make a lawful arrest because of the resistance or threatened resistance to the arrest. Law enforcement officers may use reasonable force in the performance of their duties.

Law enforcement officers may use any reasonable force to gain compliance in the following circumstances:

1. When the law enforcement officer reasonably believes that such force is necessary to defend themselves or another from bodily harm while making an arrest.
2. To prevent a person from injuring the law enforcement officer(s), another person, or themselves.

The first prong of this policy is the legality of police response and presence.

\_\_\_\_\_ responded to the scene following a 911 call in which the caller reported a physical disturbance where a person pushed and attempted to fight other people. Upon arrival, officers located the person who matched the description provided by the caller. The subject was later identified as Daniel Knight. In addition, Officers heard shouting and upon approaching Daniel Knight, observed Knight acting disorderly and aggressively by vigorously pointing at Officer \_\_\_\_\_, calling Officer \_\_\_\_\_ a bitch, and telling

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Officer \_\_\_\_\_ to shut up. Daniel Knight further failed to obey all instructions and orders consequently establishing reasonable suspicion required for detention and probable cause required for arrest. \_\_\_\_\_ intended to handcuff Daniel Knight to prevent escalation of the situation. The handcuffing of detained persons is a common practice, which allows officers to control the person(s) who are being detained. Handcuffing of detained persons is allowed by the WPPD policy.

Reasonable suspicion was established for the offense of battery:

784.03 Battery; felony battery. —

(1)(a) The offense of battery occurs when a person:

1. Actually and intentionally touches or strikes another person against the will of the other; or
2. Intentionally causes bodily harm to another person.

(b) Except as provided in subsection (2) or subsection (3), a person who commits battery commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Probable cause can be articulated for several Florida State Statutes including:

F.S.S 856.011 Disorderly intoxication-

(1) No person in the state shall be intoxicated and endanger the safety of another person or property, and no person in the state shall be intoxicated or drink any alcoholic beverage in a public place or in or upon any public conveyance and cause a public disturbance.

F.S.S. 877.03 Breach of the peace; disorderly conduct.—Whoever commits such acts as are of a nature to corrupt the public morals, or outrage the sense of public decency, or affect the peace and quiet of persons who may witness them, or engages in brawling or fighting, or engages in such conduct as to constitute a breach of the peace or disorderly conduct, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082.

F.S.S. 843.02 Resisting officer without violence to his or her person.—Whoever shall resist, obstruct, or oppose any officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; county probation officer; parole and probation supervisor; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, without offering or doing violence to the person of the officer, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082

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As the encounter continued [redacted] who was standing at an angle behind Daniel Knight told Daniel Knight to put his hands behind his back multiple times. [redacted] also told Katrina Brown-Knight to step away from Daniel Knight.

A common police practice, used by the officers of the Winter Park Police Department, encourages officers who are investigating a criminal incident to separate the parties involved. The practice serves several purposes; it separates the alleged perpetrator from possible victims, allows officers to more effectively control parties involved, as well as it prohibits parties from influencing, pressuring, or antagonizing each other, among others.

As officers attempted to establish communication with Daniel Knight, he turned toward Officer [redacted] and thrust his finger toward Officer [redacted] chest while saying "You shut up." Officer [redacted] immediately instructed Daniel Knight to "Back up." Officer [redacted] subsequently gave Katrina Brown-Knight clear verbal commands to move out of the way. Brown-Knight disregarded Officer [redacted] order and stood close to Daniel Knight with her hands-on Daniel Knight's waist and back, in a loose embrace. Officer [redacted] repeated his commands 7 times for Brown-Knight to move out of the way and attempted to control the situation by separating Daniel Knight from his relatives. Katrina Brown-Knight refused to follow Officer [redacted] orders and at one point turned toward Officer [redacted] and stated "He's not gonna hurt anybody, he doesn't have any weapons." In the course of this exchange, Daniel Knight pointed at Officer [redacted] and addressed Jennel Knight Smith stating "Don't let this mother fucker [unintelligible] at you."

While Officer [redacted] repeated commands for Brown-Knight to move out of the way were disregarded, Officer [redacted] gripped Brown-Knight's arm and attempted to pull her away from Daniel Knight. Officer [redacted] repeatedly instructed Katrina Brown-Knight to come with him at which point Daniel Knight grabbed Katrina Brown-Knight and pulled her toward himself. Knight immediately stepped toward Officer [redacted] and stated "Don't you snatch my motherfucking sister." At this point the situation was being escalated by Daniel Knight and Katrina Brown-Knight who were unquestionably refusing to follow Officer [redacted] and [redacted] commands, raising their voices, pulling away, and defeating all attempts of both officers to gain control and establish order.

Officer [redacted] then can be observed attempting to take control of Daniel Knight's arm, which was quickly defeated by Daniel Knight. As Officer [redacted] was attempting to gain control of Daniel Knight's arm a Taser laser from [redacted] ECW was visible scanning across Daniel Knight's upper body. At that point, Daniel Knight was forcefully holding Katrina Brown-Knight's right shoulder and left arm as both females and Daniel Knight were shouting at the officers and each other. [redacted] then

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moved toward the building in an attempt to deploy his Taser. Mellisa Cruz then stepped between Daniel Knight and \_\_\_\_\_ extended her hand, and stated "Wait, wait wait, he's just drunk." Melissa Cruz's actions interfered with \_\_\_\_\_ ability to control the situation and carry out law enforcement actions. At that point, none of the people surrounding Officer \_\_\_\_\_ and \_\_\_\_\_ were obeying the officers' commands but rather chose to shout and interfere with the officers, while creating disorder and severely diminishing the officers' ability to control the situation.

In accordance with the WPPD SOP 222, the actions of the officers who were attempting to separate Knight from the family members by giving verbal commands, pulling Brown-Knight's arm, and attempting to grab Daniel Knight's arm were within policy. The officers were attempting to detain Daniel Knight and separate all bystanders from Knight. Officers are allowed to use a reasonable amount of force necessary to take a person into custody. Officers are also allowed to use a reasonable amount of force against people who are interfering or obstructing the investigation.

In accordance with WPPD SOP 216-5 the use of Taser at the time initiated the ECW is within policy guidelines.

#### 216-5 DEPLOYMENT:

A. The CEW may be deployed on individuals exhibiting a Level 2 Active Resistance. A decision by the law enforcement officer to deploy the CEW must involve an arrest or a custodial situation during which the person who is the subject of the arrest or custody escalates resistance to the officer from passive physical resistance to active physical resistance and the person:

1. Has the apparent ability to physically threaten the officer or others, or
2. Is preparing or attempting to flee or escape.

B. Situational factors must be considered when deciding to deploy the CEW.

1. When Using Force, the officer shall consider:

- a. What is the severity of the crime that the subject has or is committing?
- b. Does the subject pose an immediate threat to the safety of officers or others?
- c. Is the subject actively resisting, aggressively resisting, or using deadly force resistance?
- d. Is it feasible to give a warning with a chance to comply prior to the use of force without compromising safety?

Other situational factors may include the following:

Subject's mental or psychiatric history, if known to the law enforcement officer

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Subject's combative skills  
Subject's access to weapons  
Innocent bystanders who could be harmed  
Electronic Control Device—SOP #: 216 Page 4  
Number of subjects versus number of law enforcement officers  
Duration of confrontation  
Subject's size, age, weight, and physical condition  
Law enforcement officer's size, age, weight, physical condition and defensive tactics expertise  
Environmental factors, such as physical terrain, weather conditions, likelihood of falling off of a platform, etc.

The second prong of the Use of Force addresses de-escalation. In order to understand de-escalation, it is imperative to define it. The Winter Park Police Department in its policy has definitions that explain elements of de-escalation. From the law enforcement perspective, de-escalation intends to result in voluntary compliance of subjects and thereby reduce or eliminate the necessity to use force.

It is crucial to understand that only the subject can decide to make a behavioral change. Law enforcement officers should recognize that, even when they properly use all the techniques available to them, de-escalation is not a guarantee.

In order to attempt de-escalation, law enforcement officers must be able to establish:

1. Containment of the scene to limit the subject's movements to a specific area. This "zone of safety" may expand and contract at the discretion of the law enforcement officers.
2. Control over the area to stop or prevent serious crimes, and to ensure the safety of the public.
3. Contact with the subject. As a condition of de-escalation, the subject must be willing and able to engage in conversation with the law enforcement officer.
4. Communication with the subject from a position of safety

In the course of this incident, containment is not fully established. There are multiple persons entering the scene and interfering with the officers.

The second necessary element of de-escalation which is identified as "control" could not be established during this incident. The attempt to create contact and communication with Daniel Knight was clearly rejected and disregarded by Daniel Knight who told the officers to shut up and refused to comply with the directions.



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While Officer \_\_\_\_\_ was attempting to gain the attention of Daniel Knight, Katrina Brown-Knight separated from Daniel Knight. As Officer \_\_\_\_\_ continued his efforts by saying “What’s up man, ok talk to me, hey talk to me” Daniel Knight punched Officer \_\_\_\_\_ in the face, causing Officer \_\_\_\_\_ to fall to the ground and lose consciousness.

As \_\_\_\_\_ witnessed Officer \_\_\_\_\_ being knocked out there are several elements of the Use of Force Policy that guide \_\_\_\_\_ response.

The policy identifies considerations the law enforcement officer should consider when using force:

1. What is the severity of the crime that the subject has or is committing?
2. Does the subject pose an immediate threat to the safety of law enforcement officers or others?
3. Is the subject actively resisting, aggressively resisting, or using deadly force resistance?
4. Is it feasible to give a warning prior to the use of force without compromising safety?

Several aspects of the policy require further examination.

Reasonable force, explained and defined by the Winter Park Police Department procedures states:

“At times, law enforcement officers must employ force to make an arrest and ensure public safety. It is not intended that a suspect ever be allowed to be the first to use force, thus gaining an advantage in a physical confrontation. Nothing in this policy should be interpreted to mean that a law enforcement officer is required to engage in hand to hand combat (with all its risks) before resorting to the use of force that will more quickly, humanely, and safely bring an arrestee under physical control. Law enforcement officers must use appropriate force and need not retreat or desist when physical force is necessary to make an arrest, prevent an escape, gain compliance, or overcome resistance.”

“Justification for the use of force is limited to what is reasonably known by the law enforcement officer at the time of its use. The escalating scale of options does not

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change the standards that guide the use of discretion in the field. Options range from verbal persuasion to the use of a firearm or other deadly force.”

The WPPD has adopted the recommended use of force levels established by the Florida Department of Law Enforcement.

“Deadly force resistance is a subject’s hostile, attacking movements with or without a weapon that create a reasonable perception by the law enforcement officer that the subject has the capability and intent to cause death or great bodily harm to the law enforcement officer or others. This includes actions by a subject that are likely to physically incapacitate the law enforcement officer.”

The WPPD has adopted the following law enforcement officer response options and definitions.

Law enforcement officers should always try to resolve a situation with the least amount of force necessary. Command presence and verbal communication often will defuse many volatile situations. Sometimes these are not enough or law enforcement officers may not have the opportunity to use them. Law enforcement officers need not apply force in gradually increasing steps in order to justify physical control or even deadly force. Instead, law enforcement officers need to respond with all the force reasonably necessary for the circumstances in each specific situation.

1. Physical Control is achieving compliance or custody through the use of empty hand or leverage-enhanced techniques, such as pain compliance, transporters, restraint devices, takedowns, and striking techniques.
2. Less Than lethal Weapon is the use of a weapon that is not fundamentally designed to cause death or great bodily harm. Some examples of less-than-lethal weapons include conducted energy weapons (CEW) such as a Taser, expandable batons, and chemical agent sprays.
3. Deadly Force is a force that is likely to cause death or great bodily harm and should only be used in the protection of life.

Use of deadly force may be a law enforcement officer’s first and only appropriate response to a perceived threat. The law enforcement officer must base their decision to use deadly force on a clear, reasonable belief that they, a fellow law enforcement officer, or another person faces an immediate threat of death or great bodily harm.

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**USE OF DEADLY FORCE:**

Law enforcement officers may only use deadly force when they reasonably believe that it is necessary to:

1. Defend themselves from an immediate threat of death or great bodily harm.
2. Defend another person from an immediate threat of death or great bodily harm.
3. When the law enforcement officer reasonably believes such force is necessary to defend themselves or another from bodily harm while making an arrest.

**FACTORS FOR DECIDING THE USE OF DEADLY FORCE:**

A. Law enforcement officers use three criteria for making deadly force decisions: ability, opportunity, and intent.

1. Ability refers to the subject having the means to carry out their intent to cause death or great bodily harm. A law enforcement officer must determine whether the subject has the necessary means to cause death or great bodily harm to the law enforcement officer or others. A weapon is not required; a subject must only have the apparent ability to carry out their intention. If the subject seems physically able to cause death or great bodily harm, then they have the ability. For example, a 6'4", 250-lb. muscular person threatening to do bodily harm to an officer does not necessarily need a weapon. By virtue of their size and physical condition, they have the apparent ability.

2. Opportunity means the subject is capable of carrying out an intention to cause death or great bodily harm to the law enforcement officer or others. The subject's weapon often determines opportunity. For example, a suspect armed with a knife may not be an immediate threat to a law enforcement officer standing far away. However, the same subject standing closer or carrying a firearm certainly has the opportunity to carry out their intent to cause death or great bodily harm.

3. Intent is a reasonably perceived, immediate threat to a law enforcement officer or another person based on the subject's actions, behaviors, words, or other indicators. It is a perception derived from the totality of the circumstances.

B. Law enforcement officers should use the amount of force necessary and reasonable for the situation. If the ability, opportunity, and intent are present and the law enforcement officer cannot control the threat using lesser means, then deadly force is justified.

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Objective Reasonableness in use of force decisions:

The totality of circumstances is a term the court uses to refer to all facts and circumstances known to the law enforcement officer at the time or reasonably perceived by the law enforcement officer as the basis for a use of force decision. The courts will look at the totality of the circumstances in determining whether the decision was objectively reasonable and legally justified. The totality of circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that may have an effect on the situation, and the response options available to the law enforcement officer.

Finally, all officers are required to utilize the Force Guideline Flowchart:

The Force Guideline Flowchart recognizes that law enforcement officers make use of force decisions based on the totality of circumstances at the time of the incident. Circumstances are fluid and dynamic.

A. Subject Resistance

1. Is the subject verbally or physically resisting my lawful authority?
2. Is the subject making attacking movements that are not likely to cause death or great bodily harm?
3. Is the subject making attacking movements that are likely to cause death or great bodily harm?

B. Situational Factors

1. What subject factors influence this situation? Weapons? Physical size? Demeanor? Others?
2. What law enforcement officer factors influence this situation? Training? Experience? Physical size? Others?
3. What environmental factors influence this situation? Weather? Location? Presence of others?

C. Law Enforcement Officer's Response

1. Can I physically control the subject?

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2. Could I use a less than lethal weapon not meant to cause death or great bodily harm?
3. Is deadly force the appropriate option to prevent death or great bodily harm to myself or others?

D. Justification

1. Were my actions reasonable based on the subject's resistance and the totality of the circumstances?
2. Am I able to articulate the reasons for my actions?
3. Was I in compliance with constitutional and state laws, agency policy, and training?

The act of Daniel Knight knocking out Officer \_\_\_\_\_ showed apparent and unhindered Ability, Opportunity, and Intent, as defined by WPPD SOP 222, to enact deadly force resistance against Officer \_\_\_\_\_. Knocking a fully armed police officer unconscious allows the suspect or bystanders unrestricted access to the officer's firearm and weapons. Despite meeting the criteria of the Winter Park Police Department, \_\_\_\_\_ did not resort to a Deadly Force response.

Daniel Knight then turned toward \_\_\_\_\_ and attacked \_\_\_\_\_ with his fists. During the confrontation, \_\_\_\_\_ verbally announced his intention to deploy his department issued Taser by shouting "Taser, Taser". \_\_\_\_\_ deployed his Taser, however, the connection was not established, and the Taser had no effect on Daniel Knight. As evidenced by available video footage Daniel Knight swung his fist and struck \_\_\_\_\_ causing \_\_\_\_\_ to fall to the ground. As \_\_\_\_\_ fell face down to an extremely vulnerable position, Daniel Knight continued his attack by striking \_\_\_\_\_ on the back of the head and body with multiple blows. \_\_\_\_\_ was struck on the head and punched several times causing pain, daze, and the sensation of immediate deadly threat. After being attacked for approximately 6 seconds \_\_\_\_\_ fired his handgun striking Daniel Knight. The shots were fired in rapid succession as \_\_\_\_\_ was being under continuous attack.

The same evaluation process needs to be applied when examining the use of deadly force by \_\_\_\_\_.

1. What is the severity of the crime that the subject has or is committing?

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2. Does the subject pose an immediate threat to the safety of law enforcement officers or others?
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4. Is it feasible to give a warning prior to the use of force without compromising safety?

Several aspects of the policy require further examination.

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“At times, law enforcement officers must employ force to make an arrest and ensure public safety. It is not intended that a suspect ever be allowed to be the first to use force, thus gaining an advantage in a physical confrontation. Nothing in this policy should be interpreted to mean that a law enforcement officer is required to engage in hand to hand combat (with all its risks) before resorting to the use of force that will more quickly, humanely, and safely bring an arrestee under physical control. Law enforcement officers must use appropriate force and need not retreat or desist when physical force is necessary to make an arrest, prevent an escape, gain compliance, or overcome resistance.”

“Justification for the use of force is limited to what is reasonably known by the law enforcement officer at the time of its use. The escalating scale of options does not change the standards that guide the use of discretion in the field. Options range from verbal persuasion to the use of a firearm or other deadly force.”

The WPPD has adopted the recommended use of force levels established by the Florida Department of Law Enforcement.

“Deadly force resistance is a subject’s hostile, attacking movements with or without a weapon that create a reasonable perception by the law enforcement officer that the subject has the capability and intent to cause death or great bodily harm to the law enforcement officer or others. This includes actions by a subject that are likely to physically incapacitate the law enforcement officer.”

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Law enforcement officers should always try to resolve a situation with the least amount

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of force necessary. Command presence and verbal communication often will defuse many volatile situations. Sometimes these are not enough or law enforcement officers may not have the opportunity to use them. Law enforcement officers need not apply force in gradually increasing steps in order to justify physical control or even deadly force. Instead, law enforcement officers need to respond with all the force reasonably necessary for the circumstances in each specific situation.

1. Physical Control is achieving compliance or custody through the use of empty hand or leverage-enhanced techniques, such as pain compliance, transporters, restraint devices, takedowns, and striking techniques.
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3. Deadly Force is a force that is likely to cause death or great bodily harm and should only be used in the protection of life.

Use of deadly force may be a law enforcement officer's first and only appropriate response to a perceived threat. The law enforcement officer must base their decision to use deadly force on a clear, reasonable belief that they, a fellow law enforcement officer, or another person faces an immediate threat of death or great bodily harm.

#### USE OF DEADLY FORCE:

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1. Defend themselves from an immediate threat of death or great bodily harm.
2. Defend another person from an immediate threat of death or great bodily harm.
3. When the law enforcement officer reasonably believes such force is necessary to defend themselves or another from bodily harm while making an arrest.

#### FACTORS FOR DECIDING THE USE OF DEADLY FORCE:

A. Law enforcement officers use three criteria for making deadly force decisions: ability, opportunity, and intent.

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1. Ability refers to the subject having the means to carry out their intent to cause death or great bodily harm. A law enforcement officer must determine whether the subject has the necessary means to cause death or great bodily harm to the law enforcement officer or others. A weapon is not required; a subject must only have the apparent ability to carry out their intention. If the subject seems physically able to cause death or great bodily harm, then they have the ability. For example, a 6'4", 250-lb. muscular person threatening to do bodily harm to an officer does not necessarily need a weapon. By virtue of their size and physical condition, they have the apparent ability.

2. Opportunity means the subject is capable of carrying out an intention to cause death or great bodily harm to the law enforcement officer or others. The subject's weapon often determines opportunity. For example, a suspect armed with a knife may not be an immediate threat to a law enforcement officer standing far away. However, the same subject standing closer or carrying a firearm certainly has the opportunity to carry out their intent to cause death or great bodily harm.

3. Intent is a reasonably perceived, immediate threat to a law enforcement officer or another person based on the subject's actions, behaviors, words, or other indicators. It is a perception derived from the totality of the circumstances.

B. Law enforcement officers should use the amount of force necessary and reasonable for the situation. If the ability, opportunity, and intent are present and the law enforcement officer cannot control the threat using lesser means, then deadly force is justified.

Objective Reasonableness in use of force decisions:

The totality of circumstances is a term the court uses to refer to all facts and circumstances

known to the law enforcement officer at the time or reasonably perceived by the law enforcement officer as the basis for a use of force decision. The courts will look at the totality of the circumstances in determining whether the decision was objectively reasonable and legally justified. The totality of circumstances includes consideration of the subject's form of resistance, all reasonably perceived factors that may have an effect on the situation, and the response options available to the law enforcement officer.

Finally, all officers are required to utilize the Force Guideline Flowchart:

The Force Guideline Flowchart recognizes that law enforcement officers make use of force decisions based on the totality of circumstances at the time of the incident. Circumstances are fluid and dynamic.



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#### A. Subject Resistance

1. Is the subject verbally or physically resisting my lawful authority?
2. Is the subject making attacking movements that are not likely to cause death or great bodily harm?
3. Is the subject making attacking movements that are likely to cause death or great bodily harm?

#### B. Situational Factors

1. What subject factors influence this situation? Weapons? Physical size? Demeanor? Others?
2. What law enforcement officer factors influence this situation? Training? Experience? Physical size? Others?
3. What environmental factors influence this situation? Weather? Location? Presence of others?

#### C. Law Enforcement Officer's Response

1. Can I physically control the subject?
2. Could I use a less than lethal weapon not meant to cause death or great bodily harm?
3. Is deadly force the appropriate option to prevent death or great bodily harm to myself or others?

#### D. Justification

1. Were my actions reasonable based on the subject's resistance and the totality of the circumstances?
2. Am I able to articulate the reasons for my actions?
3. Was I in compliance with constitutional and state laws, agency policy, and training?

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Prior to the use of force, Officer [redacted] and [redacted], collectively gave over 42 verbal commands to Daniel Knight, Katrina Brown-Knight, and Melissa Cruz. All of the commands were disregarded.

#### ADDITIONAL POLICY ANALYSIS

In the analysis of the use of force by [redacted] the following factors were examined.

Officers' presence at the location was lawful. Officers established reasonable suspicion and probable cause to detain Daniel Knight.

The lack of compliance from Katrina Brown-Knight and other family members who entered the scene during the initial contact exacerbated the officers' ability to gain control and establish means to allow Daniel Knight to de-escalate his aggression.

There are several elements, which created distinct situational factors contributing to the totality of circumstances. Daniel Knight was a muscular male, approximately 6'3" tall, weighing around 257 lbs. Daniel Knight's strength was exhibited when Knight easily pulled his sister away from Officer [redacted]. During the attempted apprehension Daniel Knight used deadly force resistance, as defined by the Winter Park Police Department Standard Operating Procedure, by knocking Officer [redacted] unconscious with a single punch. After incapacitating Officer [redacted] Daniel Knight violently attacked [redacted] with no regard for anyone's safety. While unconscious Officer [redacted] had no control over his firearm or department issued weapons. Furthermore, if knocked unconscious [redacted] firearm as well as department issued weapons would become readily available to Daniel Knight who was actively brutally attacking [redacted].

Daniel Knight displayed apparent and unhindered Ability, Opportunity, and Intent, as defined by WPPD SOP 222, to enact deadly force resistance against [redacted] by repeatedly punching [redacted] on the head and body. The likelihood of [redacted] suffering great bodily harm or death by being punched repeatedly on the head is apparent. Daniel Knight posed an immediate threat to the safety and life of [redacted].

[redacted] indicated in his interview that he felt a well-founded and imminent feeling that Daniel Knight's continued attack would result in [redacted] death or great bodily harm. Furthermore, [redacted] felt physically stunned and shocked after receiving blows to the back of the head, which attributed to the feeling of imminent threat. It is commonly established that a single punch to the back of the head can render a person [redacted].

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unconscious and cause serious irreparable spinal cord damage or even death. Moreover, Daniel Knight had demonstrated his ability to knock out a person by incapacitating Officer

Moreover, during the encounter Officer \_\_\_\_\_ and \_\_\_\_\_ were surrounded by multiple guests who were actively interjecting and interrupting Officers' efforts to establish control. Additionally, there was a large number of guests/family members present at the venue who were actively or passively involved in the situation.

The acts of aggression displayed by Daniel Knight are evidenced on the body-worn camera as well as video surveillance footage. During the entire encounter, Daniel Knight had ample ability to comply with officers' orders. Even after knocking out Officer \_\_\_\_\_ Daniel Knight had the opportunity to stop his violent behavior and comply with orders to place his hands behind his back. Nevertheless, Daniel Knight showed no intent to handle the situation peacefully without aggression or violence.

The use of deadly force as it relates to a person's necessity to retreat or stand their ground is further defined by Florida State Statute 776.012- Use or threatened use of force in defense of a person. —

(2) A person is justified in using or threatening to use deadly force if he or she reasonably believes that using or threatening to use such force is necessary to prevent imminent death or great bodily harm to himself or herself or another or to prevent the imminent commission of a forcible felony. A person who uses or threatens to use deadly force in accordance with this subsection does not have a duty to retreat and has the right to stand his or her ground if the person using or threatening to use the deadly force is not engaged in a criminal activity and is in a place where he or she has a right to be.

Additionally, there are Florida State Statutes, which govern the justifiable use of force

Florida State Statute 776.05

Law enforcement officers; use of force in making an arrest. —A law enforcement officer, or any person whom the officer has summoned or directed to assist him or her, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force:

- (1) Which he or she reasonably believes to be necessary to defend himself or herself or another from bodily harm while making the arrest;
- (2) When necessarily committed in retaking felons who have escaped; or

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(3) When necessarily committed in arresting felons fleeing from justice. However, this subsection shall not constitute a defense in any civil action for damages brought for the wrongful use of deadly force unless the use of deadly force was necessary to prevent the arrest from being defeated by such flight and, when feasible, some warning had been given, and:

(a) The officer reasonably believes that the fleeing felon poses a threat of death or serious physical harm to the officer or others; or

(b) The officer reasonably believes that the fleeing felon has committed a crime involving the infliction or threatened infliction of serious physical harm to another person.

Florida State Statute 776.032

Immunity from criminal prosecution and civil action for justifiable use or threatened use of force. —

(1) A person who uses or threatens to use force as permitted in s. 776.012, s. 776.013, or s. 776.031 is justified in such conduct and is immune from criminal prosecution and civil action for the use or threatened use of such force by the person, personal representative, or heirs of the person against whom the force was used or threatened, unless the person against whom force was used or threatened is a law enforcement officer, as defined in s. 943.10(14), who was acting in the performance of his or her official duties and the officer identified himself or herself in accordance with any applicable law or the person using or threatening to use force knew or reasonably should have known that the person was a law enforcement officer. As used in this subsection, the term “criminal prosecution” includes arresting, detaining in custody, and charging or prosecuting the defendant.

(2) A law enforcement agency may use standard procedures for investigating the use or threatened use of force as described in subsection (1), but the agency may not arrest the person for using or threatening to use force unless it determines that there is probable cause that the force that was used or threatened was unlawful.

(3) The court shall award reasonable attorney’s fees, court costs, compensation for loss of income, and all expenses incurred by the defendant in defense of any civil action brought by a plaintiff if the court finds that the defendant is immune from prosecution as provided in subsection (1).

(4) In a criminal prosecution, once prima facie claim of self-defense immunity from criminal prosecution has been raised by the defendant at a pretrial immunity hearing, the burden of proof by clear and convincing evidence is on the party seeking to overcome the immunity from criminal prosecution provided in subsection (1).

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Following the use of deadly force [redacted] disengaged and attempted to create distance between himself and Knight's family members/wedding guests. As [redacted] was standing a few feet away from the location where he discharged his firearm Mellisa Cruz aggressively approached [redacted] Mellisa Cruz then attacked [redacted] with her arms and hands by hitting, scratching, and clawing [redacted]. As [redacted] was being battered by Melissa Cruz he was able to use his hands to push Cruz away utilizing an appropriate level of response to the aggressive threat. [redacted] appropriately utilized defensive tactics techniques to counter the aggressive level of resistance as defined by WPPD SOP 222. [redacted] was able to push Cruz off utilizing his hands while shouting "Get off of me!"

#### 222-8 LEVELS OF FORCE:

Following are the adopted and recommended use of force/levels established by the Florida Department of Law Enforcement.

#### A. SUBJECT RESISTANCE LEVELS:

1. Passive resistance is a subject's verbal and/or physical refusal to comply with a law enforcement officer's lawful direction, causing the law enforcement officer to use additional techniques to establish control.
2. Active resistance is a subject's use of physically evasive movements directed toward the law enforcement officer such as bracing, tensing, pushing, or pulling to prevent the law enforcement officer from establishing control over the subject.
3. Aggressive resistance is a subject's attacking movements toward the law enforcement officer or another that may cause injury but are not likely to cause death or great bodily harm to the law enforcement officer or others

After being attacked by Mellisa Cruz, while [redacted] was attempting to control the scene and coordinate emergency response efforts, he was accosted by several family members. [redacted] utilized appropriate levels of response while being verbally challenged by the wedding guests. [redacted] was not aggressive or "out of control" as several wedding guests implied.

Following the use of force, Winter Park Police officers provided medical aid to Daniel Knight by performing CPR and summoning Winter Park Fire Rescue. Upon arrival, Winter Park Fire Rescue took over medical care.

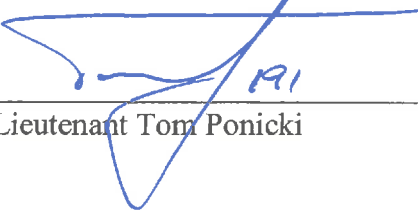
Officers then managed to control an extremely chaotic scene during which compliance and order were tremendously difficult to attain.

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All evidence, in this case, demonstrates that a reasonable officer in the position of \_\_\_\_\_ would have been in fear for his/her life and the life of his/her fellow officer at the time \_\_\_\_\_ utilized deadly force against Daniel Knight.

My investigation found that \_\_\_\_\_ use of deadly force was **JUSTIFIED** per agency policy, and there is no evidence to suggest that his use of force violated any Winter Park Police Department policies or Florida State Statutes. My post action shooting review is closed with no further action recommended.

  
\_\_\_\_\_  
Lieutenant Tom Ponicki

Sworn to and subscribed before me  
this 24 day of October, 2023 A.D.

  
\_\_\_\_\_  
My Commission Expires 3/3/2027

