



PUBLIC INFORMATION RELEASE MEMORANDUM

DATE: July 14, 2025

SUBJECT: Use of Force

Officer: Officer Javier Chavez
San Bernardino Police Department

Involved Subject: Billy Lee Hill
Date of Birth **/**/**

Date of Incident: June 6, 2024, to June 7, 2024

Incident location: *** E. 40th St.
San Bernardino, CA

DA STAR #: 2024-00-0023458

Investigating Agency: San Bernardino Police Department

Case Agent: Sergeant Matthew Block

Report Number #: DR# 2024-00066911

PREAMBLE

This case involved the use of force by an officer with the San Bernardino Police Department. This factual summary is based on a review of investigative reports, photographs, video recordings, and audio recordings submitted under DR# 2024-00066911.

FACTUAL SUMMARY

On June 6, 2024, Officer Abraham Jun and Officer Javier Chavez, from the San Bernardino Police Department, responded to a call for service at the KWIK Stop Dairy located at *** E. 40th St., in the City of San Bernardino. The call was regarding a male adult on a motorcycle driving erratically. The male adult "dropped" the motorcycle in the parking lot and was heard asking for help to hide the bike because it was not his. The male subject was described as wearing a black hat, black shirt, and blue jeans. When Officer Jun and Officer Chavez arrived at the location they spoke to a subject, later identified as Billy Hill. Hill brought up the motorcycle without being asked about it by the officers. Hill also matched the description of the motorcycle driver. Both officers noticed Hill appeared to be under the influence of a controlled substance. Hill was agitated and was sweating profusely. Hill also had rapid speech and rapid eye movements.

Given that Hill matched the description of the person driving erratically on a possible stolen motorcycle and Hill showed objective signs of being under the influence of a controlled substance, Officer Chavez detained Hill for further investigation. Officer Chavez ordered Hill to put his hands on top of head. Hill refused to comply with Officer Chavez's verbal commands. Instead, Hill told Witness #1 to record what was happening. As Officer Chavez and Officer Jun approached Hill, Hill crossed his arms in front of him. When Officer Chavez and Officer Jun reached for Hill's arms, Hill immediately started moving them around to avoid being handcuffed. Officer Chavez and Officer Jun told Hill to stop fighting.

Officer Gabriel Wilson arrived at the scene and attempted to assist Officer Jun and Officer Chavez. Hill insisted that he was not fighting and not resisting. However, Hill's body was tense and he refused to put his hands behind his back, which prevented Officer Jun from handcuffing Hill. Officer Jun was only able to get one handcuff around Hill's right wrist. During the physical confrontation, the body worn cameras on both Officer Jun and Officer Wilson were knocked off their persons.

Officer Wilson told Officer Jun and Officer Chavez they should take Hill to the ground. Hill continued to physically resist any efforts by the three officers to take him to the ground. Officer Chavez saw Hill pulling away and refusing to put his hands behind his back. It appeared to Officer Chavez that the control holds were ineffective. Officer Chavez decided to use his taser to try and gain compliance from Hill. Officer Chavez attempted to use the taser on Hill's left leg. Hill grabbed Officer Chavez's taser and pulled it towards him. Officer Chavez believed Hill was attempting to disarm him. Fearful Hill could use the taser to incapacitate him or his partners, Officer Chavez struggled with Hill over possession of the taser. Hill kicked Officer Jun in the leg. Officer Wilson struck Hill once in the face with a closed fist. Ultimately, Officer Chavez was able to pull the taser out of Hill's hand.

Officer Chavez holstered his taser and took out his Rapid Containment Baton (RCB). Officer Chavez and Officer Jun ordered Hill to the ground but he refused to comply. Officer Chavez struck Hill in the left leg five times with the RCB. Hill kicked his leg at Officer Chavez. Officer Chavez determined the baton strikes were ineffective since Hill remained

standing. Officer Chavez struck Hill five additional times in the left leg with the RCB. Hill continued to pull away from Officer Jun and Officer Wilson. At the same time, Hill raised his leg and attempted to kick Officer Chavez. It did not appear to Officer Chavez that Officer Jun and Officer Wilson had control of Hill. Officer Chavez struck Hill four more times with the RCB. Hill fell to the ground. Officer Chavez struck Hill with his RCB two more times after Hill was on the ground.

Once Hill was on the ground, Officer Jun and Officer Wilson ordered Hill to turn over and put his hands behind his back. Hill refused to comply. Eventually Officer Jun and Officer Wilson rolled Hill onto his stomach and finished handcuffing him. Hill started kicking at the officers. Officer Jun delivered two knee strikes to Hill's left shin in order to place a hobble on Hill's feet. Officer Chavez transported Hill to the hospital for medical treatment for his injuries.

Hill had visible injuries of a contusion to his right cheek, laceration to his lip, redness to his left shoulder, scratches and redness on his abdominal area, an approximate one inch laceration and swelling on his right shin, and an approximate one inch laceration and swelling to the outside of his left ankle. At the hospital, Hill told medical staff he had no complaint of pain. Hill was taken to Central Detention Center for booking. At the Central Detention Center, Hill told a nurse that he was having trouble walking as a result of falling off his motorcycle prior to contacting officers.

STATEMENTS BY POLICE OFFICERS¹

Officer Javier Chavez, from the San Bernardino Police Department, was assigned to patrol. Officer Chavez was in uniform and driving a marked patrol vehicle. On June 6, 2024, at around 11:00 in the evening, Officer Chavez noticed Officer Abraham Jun was on a call for service, by himself, at *** E. 40th Street. The call for service was in regards to a white male adult driving a motorcycle erratically and dropped it. The subject indicated to several people that the motorcycle was not his and was asking for help to hide it. The call also advised the subject was trying to hide the motorcycle to the rear of the location, near a U-Haul.

When Officer Chavez arrived at the location, he saw a white male adult, later identified as Billy Hill, to the rear of the business. Hill was wearing a black shirt, blue jeans, and a black hat which matched the description of the subject in the call for service. Officer Chavez spoke to Hill and noticed Hill displayed signs of being under the influence of a controlled substance. Hill had rapid speech and eye movement, was sweating profusely, and appeared agitated. Officer Chavez asked Hill why he was acting weird. Hill responded that he did not like cops. Hill told Officer Chavez he was a convict. Officer Chavez asked Hill about the motorcycle. Hill said the motorcycle was his and it was locked up.

¹ Police officers from the San Bernardino Police Department involved in the incident under review were not interviewed. Summaries of the police officers' statements are based upon their written police reports.

Officer Chavez decided to detain Hill for further investigation. Officer Chavez ordered Hill to put his hands on top of his head. Hill refused to comply and took a step back. When Officer Abraham Jun went to handcuff Hill, he began pulling away and refused to put his hands behind his back. Officer Gabriel Wilson arrived at the scene and tried to assist Officer Jun. The officers' control holds were ineffective. Officer Chavez determined verbal and compliance control techniques were not effective and removed his taser from his holster.

Due to the close proximity between himself and Hill, Officer Chavez attempted to drive stun Hill. Officer Chavez activated the taser and moved it towards Hill's left leg. Hill grabbed Officer Chavez's taser towards the bulky middle portion and began pulling it towards him. Officer Chavez believed Hill was attempting to disarm him. Officer Chavez feared that Hill could use the taser on the officers. If any of the officers were incapacitated, their weapons, including their handgun, baton, or pepper spray would become accessible to Hill. Hill could then use the weapons against the officers. Officer Chavez decided to deploy his Rapid Containment Baton (RCB). Officer Chavez ordered Hill to get on the ground and struck Hill five times on Hill's left shin. Hill attempted to kick Officer Chavez. Officer Chavez noticed the strikes were ineffective and Hill was still standing. Officer Chavez struck Hill five additional times on his left thigh. Hill attempted to kick Officer Chavez as he continued to pull away from the other two officers.

Based on his training and experience, Officer Chavez knew suspects who were under the influence of a controlled substance will have a high pain tolerance. Consequently, those suspects are not as easily susceptible to pain compliance and do not tire easily during physical altercations. Officer Chavez decided additional force was reasonable and necessary to effect an arrest and overcome Hill's assaultive behavior. Officer Chavez struck Hill six more times with his RCB which caused Hill to fall to the ground. While on the ground, Officer Chavez observed Hill continuing to kick at him, Officer Jun, and Officer Wilson.

Officer Chavez ordered bystanders who were recording the incident to back away from the officers. Officer Jun and Officer Wilson were eventually able to handcuff Hill. Officer Chavez then assisted Officer Jun and Officer Wilson with taking Hill into custody. Hill was yelling and continued kicking his legs towards the officers' bodies and faces. Hill was taken into custody and transported to the hospital for treatment of his injuries.

Officer Abraham Jun, from the San Bernardino Police Department, was assigned to patrol. Officer Jun was in uniform and driving a marked patrol vehicle. On June 6, 2024, Officer Jun responded to a call for service at the Kwik Stop Dairy located at *** E. 40th St. in the City of San Bernardino. The call for service was in reference to a suspicious circumstance. The reporting party indicated a white male adult transient, wearing a black hat, black shirt, and blue jeans was driving a motorcycle erratically. The subject dropped the motorcycle in the parking lot. The male subject then admitted the motorcycle was not his and asked several people to help him hide it.

When Officer Jun arrived at the location he saw a male subject, later identified as Billy Hill, exit the Kwik Stop Dairy and start walking towards him. Officer Jun got out of his patrol car to speak with Hill. Hill asked Officer Jun what he was doing there. Officer Jun advised Hill he was on a call for service. Officer Jun asked Hill who he was and Hill responded that he worked at the business and his motorcycle was parked in the lot within the chain link fence. Officer Jun noted he had not mentioned that the call for service involved a motorcycle. Officer Jun observed Hill was sweating profusely and had rapid speech and eye movements. Also, Hill was speaking loudly, making erratic arm movements, and appeared agitated with Officer Jun.

Officer Chavez arrived at the scene shortly after Officer Jun. Officer Jun asked Hill why he was acting nervous. Officer Chavez asked Hill why he was acting so crazy and weird. Hill told Officer Jun and Officer Chavez, "Because I have all these homeless people around and they're f**king retards." Officer Chavez asked Hill, "What does that have to do with us?" Hill then replied, "I'm not being weird. I just hate cops. I'm a convict and you're cops, so why are you here, what's up." Given that Hill showed signs of being under the influence of a controlled substance and matched the description of the subject that dropped the motorcycle, Officer Jun decided to detain Hill for further investigation.

Officer Jun told Hill he was detained and to sit on the bumper of Officer Chavez's patrol vehicle. Hill refused to sit. Officer Jun and Officer Chavez ordered Hill to put his hands on top of his head. Hill refused to comply with those orders. Hill became agitated and asked why he was being detained. A person nearby started walking towards the officers. Hill told the person, "Audio and video."

When Officer Jun and Officer Chavez approached Hill, Hill started to back away. Hill refused to obey commands to put his hands on top of his head and instead crossed his arms. Officer Jun and Officer Chavez each grabbed one of Hill's arms and tried to put them behind Hill's back. When Officer Jun tried to place the handcuff on Hill's right arm, Hill started to squirm and pull away. Officer Jun and Officer Chavez pushed Hill's body face forward onto the hood of the patrol vehicle. Hill continued to pull away from the officers and frantically move his arms to avoid being handcuffed. Hill moved his body to face toward the officers and knocked Officer Jun's body worn camera off of him.

Officer Gabriel Wilson arrived at the location and went to Officer Jun's left side to help control Hill's right hand. Hill continued to pull away from officers. Hill's skin and clothes were wet due to Hill sweating profusely. As a result, it was difficult for officers to maintain a firm grip on Hill's hands and body. Officer Jun was eventually able to handcuff Hill's right hand. Officer Wilson then said, "Let's take him to the ground." Hill replied, "Yeah, bring me to the ground." However, Hill had his back leaning against the hood of the patrol car and refused to bend his knees or drop down.

Hill was forcing his back against the hood of the patrol car, preventing the officers from controlling him and putting his hands behind his back. Officer Jun used both of his hands to pull down on Hill's handcuffed right hand. Officer Chavez tried pulling Hill down from his left arm and Officer Wilson tried to push Hill forward from behind. Hill, however, continued

to overpower the officers and kept leaning the full weight of his body on the hood of the patrol unit. Officer Chavez used his taser to drive stun Hill in the leg. The drive stun was ineffective and Hill started to kick the officers.

Officer Jun positioned his body to be face to face with Hill. Officer Jun intended to deliver knee strikes to Hill's torso. Before Officer Jun was able to deliver any knee strikes, he heard Officer Chavez deploy his baton and strike Hill multiple times in the legs. Officer Chavez's baton strikes were ineffective in getting Hill to comply and get on the ground. Officer Jun decided not to deliver any knee strikes to Hill and moved back to Hill's right side to avoid being accidentally struck by Officer Chavez's baton. Officer Jun and Officer Wilson continued to give Hill verbal commands and attempted to take Hill to the ground. However, Hill kept leaning his body weight onto the patrol vehicle and overpowered the officers.

Officer Chavez continued to strike Hill in the legs with his baton. One of the strikes was effective, causing Hill to lose his balance and slip off the side of the hood of the patrol vehicle on which he was leaning. Hill fell with his butt to the ground. Officers continued to give Hill commands to put his hands behind his back and turn over. Hill would not comply with those verbal commands. Eventually officers were able to roll Hill over and handcuff both his hands to the rear. Hill started to try and kick at officers. Officer Wilson said out loud to hobble Hill.

Officer Jun retrieved a hobble from his patrol unit. When Officer Jun tried to hobble Hill, Hill started to flail his legs and almost struck Officer Jun in the face. Officer Jun tried to hold Hill's legs so he could apply the hobble, but Hill continued to try to kick Officer Jun. Officer Jun delivered one right knee strike to Hill's left shin. The knee strike was partially effective and Officer Jun was able to wrap the hobble around one of Hill's feet. Hill continued to flail his legs, nearly striking Officer Jun in the face again. Officer Jun delivered a second right knee strike to Hill's left shin. The knee strike was effective and Officer Jun was able to hobble Hill's other foot and secure the hobble to the handcuffs. Hill was then picked up off the ground and placed in the rear seat of Officer Chavez's patrol unit.

Officer Gabriel Wilson, from the San Bernardino Police Department, was assigned to patrol. Officer Wilson was in uniform and driving a marked patrol vehicle. On June 6, 2024, at around 10:57 in the evening, Officer Wilson had finished a call for service when he noticed there were other officers nearby, at *** E. 40th St., responding to a call for service. Officer Wilson read the text of their call while enroute to that location. The call for service was in reference to a white male adult in a black shirt and blue jeans driving a motorcycle erratically. The subject said the motorcycle was not his before hiding it next to a U-Haul.

When Officer Wilson arrived at the location, he saw Officer Jun and Officer Chavez struggling to detain a subject, later identified as Billy Hill. Hill matched the description of the subject in the call for service. Hill appeared to be shrugging his shoulders, flexing his arms, clenching his fists, and taking a bladed stance towards the officers who attempted

to control his arms. Based on his training and experience, these were indicators of assaultive behavior and Officer Wilson believed Hill was about to physically resist officers. Officer Wilson exited his patrol vehicle and broadcasted over the radio that officers had one resisting. Officer Wilson ran toward Officer Jun and Officer Chavez.

Hill had his back to the front of a patrol vehicle. Officer Chavez was on Hill's left side and Officer Jun was on Hill's right side. Officer Jun was struggling to control Hill's right side. Officer Wilson tried to grab Hill's right hand. Officer Wilson tried to turn on his body worn camera, but Hill was moving his body and arms around and knocked the camera off of Officer Wilson. In an effort to get Hill to the ground, Officer Wilson used his right hand to pull Hill towards him. Hill, however, was extremely slippery due to the amount of sweat he was excreting and Officer Wilson had difficulty trying to control Hill's arm. Officer Wilson heard Hill shouting loudly and incoherently, which caused Officer Wilson to believe Hill was under the influence of a controlled substance. Officers were unable to gain control of Hill's arms and their attempts to use control holds were ineffective.

At this time, Officer Wilson told the other officers to take Hill to the ground. Hill began to kick his feet towards the officers. Hill kicked Officer Wilson in his right leg. Officer Wilson saw Officer Chavez attempt to drive stun Hill with his taser. Hill suddenly lunged his left arm forward and grabbed onto Officer Chavez's taser. Officer Wilson realized if Hill gained control of the taser it would further escalate the situation. Therefore, Officer Wilson used his right hand to deliver a closed fist punch to Hill's right cheek. Officer Wilson wanted to disorient Hill and force Hill to let go of Officer Chavez's taser. After Officer Wilson struck Hill, Officer Chavez was able to gain control of his taser.

Officer Wilson grabbed Hill's right arm and tried to force it behind Hill's back. During this time, Officer Wilson felt something come into contact with several items on his duty belt, such as his baton and firearm holster. Officer Wilson pushed against Hill's arm and he no longer felt his duty belt being manipulated. Officer Chavez then used his baton against Hill's legs. Hill was actively kicking his legs towards Officer Wilson, Officer Chavez, and Officer Jun. The officers forced Hill onto his stomach. Officer Wilson used both of his hands to force Hill's left arm behind his back so Officer Jun could handcuff Hill.

Right after Hill was handcuffed, Officer Wilson grabbed his body worn camera from the ground, turned it on, and placed it back on his chest. Officer Wilson put his right knee across Hill's hip to gain some control over Hill. Hill began kicking his feet and almost struck Officer Wilson. Officer Wilson shouted for Officer Jun to get a hobble. After Officer Jun retrieved a hobble from his patrol vehicle, the officers were able to hobble Hill and Hill stopped resisting.

Officer Wilson requested medical aid for Hill. Officer Wilson assisted officers and placed Hill into the rear of Officer Chavez's patrol vehicle. Paramedics assessed Hill for injuries. Hill was then transported to the hospital for treatment. While photographs were being taken of Hill's injuries, Hill advised the injuries to his lower legs were the result of a motorcycle collision.

STATEMENTS BY CIVILIAN WITNESSES²

On June 6, 2024, **Witness #2** indicated to Sergeant Equino Thomas, from the San Bernardino Police Department, that she had witnessed part of the incident under review

Witness #2 said she was coming out of the store when she saw three police officers on top of Hill. Witness #2 said one officer took out a baton and was hitting Hill until they dropped Hill to the floor. Witness #2 said the police officers then started beating Hill while he was on the floor. Witness #2 advised she did not hear the police officers saying anything at the time. Witness #2 told the officers to stop. Witness #2 said there was a lot of commotion.

On June 6, 2024, **Witness #1** indicated to Sergeant Equino Thomas, from the San Bernardino Police Department, that he had witnessed part of the incident under review and recorded it with his cell phone.

Witness #1 said the officer told Hill to sit on the bumper of his patrol vehicle until he could figure out what was going on and his backup got there. Hill told the officer he was not going to sit on the bumper. The officer asked Hill for his name. Hill replied he did not have to identify himself because he was on private property. When the officer asked Hill what he was doing, Hill said he worked there. Witness #1 told Sergeant Thomas that the officer kept hitting and kicking Hill. Witness #1 estimated the officer struck Hill over ninety times.³ Witness #1 also said the officer kicked Hill in the head and stepped on his throat. Witness #1 provided the video recording he took of the incident to San Bernardino Police Department.

INCIDENT VIDEO SUMMARIES

BODY CAMERA VIDEO RECORDINGS.

Officer Chavez

Officer Chavez was equipped with a body worn camera on the date of the incident under review. The camera was activated and recorded during the incident under review.⁴ The body camera recording was approximately 43 minutes in length.⁵

² Statements from civilian witnesses were obtained from Sergeant Thomas's body camera video recording. No police reports were provided indicating either witness subsequently submitted to a formal interview.

³ Both Witness #1's cell phone video recording and Officer Chavez's body camera video recording show Hill was struck sixteen times.

⁴ The summary will only cover from the beginning of the recording through the point Hill was on the ground and handcuffed.

⁵ There was a thirty second delay between when the video recording started and when the audio was heard on the recording.

Officer Chavez drove to the location and got out of his patrol vehicle. Officer Jun spoke to Hill. Hill was leaning on the front of Officer Chavez's vehicle. Hill gestured and pointed with his right hand. Officer Chavez asked Hill why he was acting crazy. Hill said because he had all these "homeless people that are f**king retards." Officer Chavez asked Hill what that had to do with the officers. Hill replied "nothing" and apologized. Officer Chavez said he did not understand why Hill was acting weird. Hill denied acting weird and stated he did not like cops. Hill said he was a convict and they were cops. Hill asked Officer Jun and Officer Chavez why they were at the location.

Officer Chavez told Hill he was being detained. Hill asked what he was being detained for. Officer Chavez told Hill to hang out. Hill said he was not going anywhere. Officer Chavez asked Hill where the motorcycle was. Hill said the motorcycle was his and he had it locked up. Officer Chavez asked where Hill had the motorcycle. Hill said the motorcycle was at his house in the garage. Officer Chavez told Hill multiple times to put his hands on top of his head. Hill repeatedly asked, "For what?" Officer Chavez and Officer Jun both told Hill to "stop." Hill looked over his shoulder, pointed at a male subject who was approaching, and said, "audio video."

Officer Chavez told Hill to put his hands on top of his head. Hill asked Officer Chavez multiple times, "For what?" Officer Chavez told Hill to "stop," and to put his hands on top of his head. Hill shook his head from side to side. Hill told Officer Chavez, "I'm a civilian, just like you." Hill crossed his arms in front of his body. Officer Chavez again told Hill to put his hands on top of his head. Hill refused and asked, "What am I doing?" Officer Chavez told Hill to "stop." Officer Jun and Officer Chavez each grabbed one of Hill's arms. Officer Jun had his handcuffs out. Hill repeatedly yelled at officers, "What are you doing?" Hill continued to move his arms around.

Officer Jun got behind Hill, who was faced toward the front of the patrol vehicle. Officer Jun struggled to get the handcuffs on Hill. Officer Chavez tried to get Hill's right hand behind Hill's back. Hill struggled and turned to where his back now faced the front of the patrol vehicle. Hill held something in his left hand. Officer Chavez held onto Hill's left arm. Hill appeared to pull away from Officer Chavez. Officer Jun continued to struggle with Hill's right arm. Officer Jun told Hill to put his hands behind his back. Hill repeatedly said, "Dude, what are you doing? What are you doing?" Hill asked, "Bro, what are you doing? Bro, what the f**k? Dude, what am I doing wrong? What the f**k?" Officer Chavez told Hill to stop fighting. Hill yelled, "I'm not fighting!"

Hill told the officers, "What am I doing? I'm not doing nothing." Officer Chavez told Hill he needed to relax. Officer Wilson appeared and tried to assist Officer Jun and Officer Chavez handcuff Hill. Officer Wilson had his right arm around Hill's upper torso. Hill told Officer Chavez, "Bro, I'm totally chill." Officer Wilson said, "Let's take him to the ground." Hill said, "Yeah, bring me to the ground, I'm not going down. For what?" Hill repeatedly asked the officers, "Bro, for what?" Officer Chavez took out his taser. Hill asked Officer Chavez, "You going to tase me?" Officer Chavez said, "Yup." Hill then told the nearby male subject, "Audio, video."

Officer Jun and Officer Wilson tried to maintain a hold of Hill. Hill's right wrist was handcuffed. Officer Jun held the other part of the handcuff and continued to try and maintain a hold of Hill. Officer Chavez placed his taser on the upper portion of Hill's left leg. Hill kicked Officer Jun in the leg. Hill grabbed the taser with his right hand and attempted to pull it away from Officer Chavez. Hill kicked his leg toward Officer Chavez. Hill yelled multiple times, "What the f**k!" The officers yelled at Hill, "Get on the ground!" Officer Chavez backed away from Hill and appeared to put his taser away. Officer Wilson and Officer Jun continued to struggle with Hill in front of the patrol vehicle. Officer Chavez yelled at Hill, "Get on the f**king ground! Stop it!"

Officer Wilson appeared to strike Hill in the face with his right fist. Officer Wilson and Officer Jun struggled to maintain a hold of Hill. Officer Jun and Officer Wilson were to the right of Hill. Hill's back was facing the patrol vehicle. Officer Chavez took out his RCB and held it in his right hand. Officer Chavez moved around to the left side of Hill. Officer Chavez raised the RCB with both hands and struck Hill five times in the legs. Officers told Hill to get on the ground. Hill remained standing and raised one of his legs as Officer Chavez struck him. Officer Chavez used his RCB to strike Hill in the legs five additional times. Hill appeared to kick toward Officer Chavez. During this time, Hill yelled multiple times at Officer Chavez, "What the f**k! Stop!"

Officer Chavez briefly stopped hitting Hill with the RCB. Officer Jun and Officer Wilson struggled to gain control of Hill. Officer Chavez ordered Hill to "get on the f**king ground." Officer Jun and Officer Wilson ordered Hill to get on the ground. Hill stood near the front of the patrol vehicle. Officer Chavez used his RCB to strike Hill four additional times in the legs. During this time, Hill kicked his leg out toward Officer Chavez. Hill fell to the ground. Officer Chavez then used his RCB to strike Hill in the legs two more times. Officer Chavez put the RCB away.

Once Hill was on the ground, Officer Jun and Officer Wilson told Hill to turn over. A male subject was nearby yelling and recording the officers. Officer Jun was still holding the end of the handcuff that was attached to the handcuff on Hill's right wrist. Officer Wilson had a hold of Hill's left arm. Hill was on his back with both of his legs raised up in the air. Officer Jun and Officer Wilson turned Hill over onto his stomach. Officer Jun then finished handcuffing Hill.

Officer Jun

Officer Jun was equipped with a body worn camera on the date of the incident under review. The camera was activated and recorded during the incident under review. The camera was knocked off Officer Jun during the physical altercation with Hill. As a result, the complete physical altercation was not captured on the recording.

Officer Wilson

Officer Wilson was equipped with a body worn camera on the date of the incident under review. Officer Wilson forgot to activate the camera when he arrived at the location. The camera was knocked off Officer Wilson during the physical altercation with Hill. As a result, the complete physical altercation was not captured on the recording.

CIVILIAN CELL PHONE VIDEO RECORDING.

Witness #1 recorded part of the incident under review with his cell phone. That video recording was provided to San Bernardino Police Department.

INJURIES

Hill was transported to the hospital for a medical examination. Hill was evaluated by a physician. Hill told hospital staff that he was not injured and had no complaints of pain. As a result, Hill was medically discharged for jail booking.

Officer Jun noted Hill had visible injuries. Those visible injuries included the following: a contusion to his right cheek, laceration to his lip, redness to his left shoulder, scratches and redness on his abdominal area, an approximate one inch laceration and swelling on his right shin, and an approximate one inch laceration and swelling to the outside of his left ankle.

While at the San Bernardino County Sheriff's Department Central Detention Center for booking, Hill told the nurse that he was having trouble walking as a result of falling off of his motorcycle prior to his contact with officers.

CRIMINAL HISTORY

2004, 11377(a) of the Health and Safety Code, Possession of Controlled Substance. San Bernardino County Court case number MSB076998, a misdemeanor.

2005, 12020(a) of the Penal Code, Carry Concealed Dirk or Dagger. San Bernardino County Court case number MSB084186, a misdemeanor.

2005, 10851(a) of the Vehicle Code, Taking Vehicle Without Owner Consent. San Bernardino County Court case number TSB116793, a misdemeanor.

2005, 853.7 of the Penal Code, Failure to Appear After Written Promise. San Bernardino County Court case number MSB088946, a misdemeanor.

2005, 459 of the Penal Code, First Degree Burglary. San Bernardino County Court case number FSB051420, a felony.

2006, 459 of the Penal Code, Burglary and 666 of the Penal Code, Petty Theft with Prior Jail. San Bernardino County Court case number FSB054066, a misdemeanor.

2009, 594(b)(1) of the Penal Code, Vandalism. San Bernardino County Court case number FSB904916, a felony.

2014, 69 of the Penal Code, Obstructing or Resisting Executive Officer, misdemeanor. 664/11377(a) of the Health and Safety Code, Attempt Possession of Controlled Substance. San Bernardino County Court case number FSB1402369, a felony.

2018, 14601.1(a) of the Vehicle Code, Driving with Suspended License. San Bernardino County Court case number 16CR-013823, a misdemeanor.

2018, 10851(a) of the Vehicle Code, Taking Vehicle Without Owner Consent. San Bernardino County Court case number 16CR-030565, a misdemeanor.

2020, 148(a)(1) of the Penal Code, Resisting, Delaying, or Obstructing Peace Officer. San Bernardino County Court case number MSB19019222, a misdemeanor.

2020, 602 of the Penal Code, Trespassing. San Bernardino County Court case number FSB19004074, a misdemeanor.

2022, 23152(f) of the Vehicle Code, Driving Under the Influence of any Drug. San Bernardino County Court case number MSB21004768, a misdemeanor.

2022, 236 of the Penal Code, False Imprisonment. San Bernardino County Court case number FSB21004617, a felony.

DE-ESCALATION

When Hill spoke to Officer Jun and Officer Chavez, Hill showed objective signs of being under the influence of a controlled substance. Hill also matched the description of the subject who was reported driving erratically on a motorcycle that may have been stolen. When asked about the motorcycle, Hill said it was his and it was locked up. Officer Chavez told Hill he was being detained for further investigation.

Officer Jun told Hill to sit on the bumper of Officer Chavez's patrol vehicle but Hill refused. Hill was agitated. Officer Chavez and Officer Jun ordered Hill to put his hands on top of his head but Hill would not comply. Instead, Hill asked the officers, "For what?" When Hill started to pull away from the officers and move his arms around to avoid being handcuffed,

officers continued to give verbal commands to Hill to try and de-escalate the situation. The officers told Hill to “stop,” and Officer Jun told Hill to put his hands behind his back. Hill continued to pull away from the officers and would not comply with their verbal commands. Officer Wilson attempted to assist Officer Jun and Officer Chavez get physical control over Hill.

Officer Chavez noticed the officers’ control holds were ineffective. Hill was agitated and increasingly uncooperative. As a result of Hill’s demeanor, Officer Chavez decided to use other methods of force, including both his taser and baton, to try and gain Hill’s compliance. During this time officers also continued to give Hill verbal commands to get on the ground and stop resisting. There was no indication from Hill that he intended to cooperate with the officers.

APPLICABLE LEGAL PRINCIPLES

PENAL CODE SECTION 834a. If a person has knowledge, or by the exercise of reasonable care, should have knowledge that he is being arrested by a peace officer, it is the duty of such a person to refrain from using force or any weapon to resist such arrest.

PENAL CODE SECTION 835. An arrest is made by an actual restraint of the person, or by submission to the custody of an officer. The person arrested may be subject to such restraint as is reasonable for his arrest and detention.

PENAL CODE SECTION 835a. Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance.

A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

PENAL CODE SECTION 245(a)(4). Any person who commits an assault upon the person of another by any force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

PENAL CODE SECTION 149. Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding ten

thousand dollars (\$10,000), or by imprisonment in a county jail not exceeding one year, or pursuant to subdivision (h) of Section 1170, or by both that fine and imprisonment.

USE OF FORCE BY A PEACE OFFICER

The use of force is analyzed under the Fourth Amendment's "*objective reasonableness*" standard. (*Brosseau v. Haugen* (2004) 543 U.S.194, 197.) This question is governed by the principles enunciated in *Tennessee v. Garner* (1985) 471 U.S. 1 and *Graham v. Connor* (1989) 490 U.S. 386.

"The Fourteenth Amendment protects the people from arrest without probable cause [citation omitted], investigatory detention without reasonable suspicion [citation omitted], and the use of excessive force by law enforcement during the course of either [citation omitted]." (*People v. Perry* (2019) 36 Cal.App.5th 444, 465).

Reasonableness is an objective analysis and must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight. (*Graham v. Conner, supra*, 490 U.S. at p. 396.) It is also highly deferential to the police officer's need to protect himself and others. The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving about the amount of force that is necessary. (*Id.* at p. 396-397.)

The question is whether the officer's actions are "objectively reasonable" considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. (*Id.* at p. 397.)

The US Supreme Court in *Graham* set forth factors that should be considered in determining the reasonableness of an officer's use of force. They are:

- (1) the severity of the crime at issue,
- (2) whether the suspect poses an immediate threat to the safety of the officer or others, and
- (3) whether he is actively resisting arrest or attempting to evade arrest by flight.

(*Graham v. Connor, supra*, 490 U.S. at p. 396.)⁶

The question is whether the totality of the circumstances justifies a particular sort of ... seizure. (*Tennessee v. Garner* (1985) 471 U.S. at p. 8-9. The most important of these factors is the threat posed by the suspect. (*Smith v. City of Hemet* (2005) 394 F.3d

⁶ See also *People v. Perry* (2019) 36 Cal.App.5th 444, 472-473. The Fifth District Court of Appeal noted that the proposed instruction to the jury, which contained the *Graham* factors, was "an accurate statement of the law[.]"

689,702.)

The Court advised against substituting our personal notions of proper police procedure for the instantaneous decision of the officer at the scene. “We must never allow the theoretical, sanitized world of our imagination to replace the dangerous and complex world that policemen face every day. What constitutes ‘reasonable’ action may seem quite different to someone facing a possible assailant than to someone analyzing the question at leisure.” (*Smith v. Freland* (1992) 954 F.2d 343, 347.)

CRIMINAL LIABILITY

Assault by Officer Under Color of Authority **Penal Code Section 149**

To prove the defendant committed an assault under color of authority and without lawful necessity in violation of Penal Code section 149, the People must prove that:⁷

1. The defendant was a public officer;
2. The defendant willfully and unlawfully touched the alleged victim in a harmful or offensive manner;
3. When the defendant touched the alleged victim in a harmful or offensive manner, the defendant was performing or purporting to perform his duties as a public officer;
4. When the defendant touched the alleged victim, he acted without lawful necessity; and
5. When the defendant touched the alleged victim, he did not act in self-defense or defense of someone else.

A peace officer is a public officer.

Someone commits an act willfully when he or she does it willingly or on purpose. It is not required that he intend to break the law, hurt someone else, or gain any advantage.

Without lawful necessity means more force than was reasonably necessary under the circumstances.

⁷ See CALCRIM 908 (Revised 2025) Assault Under Color Authority.

Under color of authority means clothed in the authority of law or when acting under pretense of law.

Special rules control the use of force by a peace officer.

A peace officer may use reasonable nondeadly force to arrest or detain someone, to prevent escape, to overcome resistance, or in self-defense.

Reasonable cause to believe that a person has committed a crime exists when the facts known to the arresting officer at the time of the arrest would persuade someone of reasonable caution that the person to be arrested has committed a crime. A peace officer may arrest someone if he or she has reasonable cause to make an arrest. Any other arrest is unlawful. In deciding whether the arrest was unlawful consider evidence of the officer's training and experience and all the circumstances known by the officer when he or she arrested the person.

In deciding whether defendant used unreasonable or excessive force, you must determine the amount of force that would have appeared reasonable to a peace officer in defendant's position under the same or similar circumstances.

(*People v. Perry* (2019) 36 Cal.App.5th 444, 460-461, 467.)

"[T] he proper focus under section 149 is the reasonable necessity for the degree of force used." (*People v. Perry* (2019) 36 Cal.App.5th at 470.)

Self-Defense or Defense of Another⁸

A defendant is not guilty if he used force against the other person in lawful self-defense or defense of another. The defendant acted in lawful self-defense or defense of another if:

1. The defendant reasonably believed that he or someone else was in imminent danger of suffering bodily injury;
2. The defendant reasonably believed that the immediate use of force was necessary to defend against that danger; and
3. The defendant used no more force than was reasonably necessary to defend against that danger.

Belief in future harm is not sufficient, no matter how great or how likely the harm is believed to be. The defendant must have believed there was imminent danger of bodily injury to himself or to someone else.

⁸ See CALCRIM 3470 (Revised 2022) Right to Self-Defense or Defense of Another (Non-Homicide).

Defendant's belief must have been reasonable and he must have acted because of that belief.

The defendant is only entitled to use that amount of force that a reasonable person would believe is necessary in the same situation. If the defendant used more force than was reasonable, the defendant did not act in lawful self-defense or defense of another.

When deciding whether the defendant's beliefs were reasonable, consider all the circumstances as they were known to and appeared to the defendant and consider what a reasonable person in a similar situation with similar knowledge would have believed. If the defendant's beliefs were reasonable, the danger does not need to have actually existed.

The defendant's belief that he was threatened may be reasonable even if he relied on information that was not true. However, the defendant must actually and reasonably have believed that the information was true.

A defendant is not required to retreat. He or she is entitled to stand his or her ground and defend himself or herself and, if reasonably necessary, to pursue an assailant until the danger has passed. This is so even if safety could have been achieved by retreating.

ANALYSIS

Officer Chavez and Officer Jun detained Hill for further investigation. Hill was suspected of driving erratically on a stolen motorcycle and being under the influence of a controlled substance. Hill appeared agitated with both Officer Jun and Officer Chavez. In total, Officer Chavez struck Hill sixteen times in both the leg and thigh area with his RCB. The time from the first RCB strike to the last RCB strike was approximately thirty one seconds. There was approximately a ten second pause in between Officer Chavez's first ten RCB strikes and Officer Chavez's last six RCB strikes. During this time period, Hill was uncooperative, refused to comply with verbal commands from the officers, and physically resisted efforts by the officers to detain and handcuff him.

Officer Chavez had an honest and objectively reasonable belief that Hill was an imminent threat to himself and his partners. As shown in Officer Chavez's body worn camera video, Hill grabbed Officer Chavez's taser and attempted to pull it away from Officer Chavez. Officer Chavez logically believed Hill was trying to disarm him and would use the taser against him. Officer Chavez knew if he was incapacitated by the taser, Hill would have access to the weapons on his duty belt, including his firearm, baton, and pepper spray. Officer Chavez's belief that Hill posed an imminent risk to his physical safety and the physical safety of his partners was objectively reasonable.

Hill's physical resistance to Officer Chavez was not limited to trying to take Officer Chavez's taser. During this time, Officer Chavez's body worn camera video showed Hill struggling with Officer Jun and Officer Wilson and Hill kicking Officer Jun in the leg. To avoid being

handcuffed, Hill moved his arms around, making it difficult for Officer Jun and Officer Wilson to gain control of Hill's hands. Eventually Officer Jun was able to handcuff Hill's right wrist. Hill, however, remained uncooperative and continued to physically resist, interfering with Officer Jun's ability to handcuff Hill's left wrist. As a result of Hill's actions, Officer Jun was forced to hold onto the part of the handcuff that was not attached to Hill's wrist to prevent Hill from using it as a weapon. Officer Jun realized if he lost his grip, there was a risk Hill could swing the metal handcuff at officers.

During the physical struggle with Hill over control of the taser, Officer Chavez was eventually able to pull the taser from Hill's hand and holster it. Officer Wilson was seen punching Hill once in the head area with a closed fist on Officer Chavez's body worn camera video. Given the physical resistance from Hill and Hill's unwillingness to comply with the officers' verbal commands, Officer Chavez took out his RCB and ordered Hill to get on the ground. Hill would not comply with Officer Chavez's orders and continued to struggle with Officer Jun and Officer Wilson. Based on Officer Chavez's training and experience, suspects who are under the influence of a controlled substance have a high pain tolerance and are not as susceptible to pain compliance. Those subjects also do not get as tired during physical altercations.

Officer Chavez used his RCB to strike Hill five times in the left shin. During this time, Officer Chavez's body worn camera video showed Hill kicking his leg toward Officer Chavez. It was objectively reasonable for Hill to believe Hill was attempting to strike him. When Hill refused to comply with the officers' verbal commands to get on the ground, Officer Chavez struck Hill with the RCB five more times in the left thigh. Officer Chavez's body worn camera video showed Hill kicking his leg toward Officer Chavez while Hill was pulling away from Officer Jun and Officer Wilson.

Officer Chavez briefly stopped striking Hill with the RCB. During this approximate ten second pause, both Officer Chavez's body worn camera video and Witness #1's cell phone video showed Officer Jun and Officer Wilson continuing to struggle to gain control of Hill's hands. Hill was still not completely handcuffed. Hill was refusing to get on ground and remained standing near the patrol vehicle. In order to effectuate Hill's arrest, Officer Chavez struck Hill six more times in the leg area with the RCB. Although Officer Chavez indicated in his report Hill fell to the ground after the last RCB strike, Officer Chavez's body worn camera video showed the final two RCB strikes to Hill's leg occurred after Hill fell to the ground. This discrepancy can be explained when considering the time it would take for Officer Chavez to process seeing Hill fall to the ground and subsequently making the decision to stop swinging the RCB.

When Hill grabbed Officer Chavez's taser, Officer Chavez feared Hill intended to disarm him and use the taser against him or his partners. Officer Chavez knew if he were incapacitated, Hill would have access to the weapons on his duty belt. Officer Chavez reasonably believed that Hill posed an immediate threat to his safety and the safety of his partners. Hill's physical resistance to being detained and handcuffed was not limited to grabbing Officer Chavez's taser. Hill also kicked Officer Jun and attempted to kick Officer Chavez. Officer Chavez elected to use his RCB to effectuate Hill's arrest by targeting Hill's

leg and thigh area. Officer Chavez's decision to use his RCB was based upon Hill's physical resistance, and Hill's demonstrated unwillingness to cooperate with officers. Another relevant factor in Officer Chavez's decision to strike Hill with the RCB was Officer Chavez's objectively reasonable belief that Hill was under the influence of a controlled substance, which could require an increased use of force. Officer Chavez's intention was to get Hill on the ground, which would allow officers to get in a better position to handcuff Hill. That was what occurred in this incident. Given those circumstances facing Officer Chavez, his decision to strike Hill with the RCB was not unreasonable.

CONCLUSION

Officer Chavez's use of force was objectively reasonable and not excessive. It was therefore lawful.

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