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STATE OF CONNECTICUT *v.* RAIKES Y. DELACRUZ-GOMEZ
(AC 44356)

Bright, C. J., and Moll and Vertefeuille, Js.

Syllabus

Convicted, after a jury trial, of the crimes of assault of public safety personnel and interfering with an officer, the defendant appealed to this court, claiming that the trial court had improperly admitted into evidence certain prejudicial, uncharged misconduct evidence. Police officers working with the Violent Fugitive Task Force of the United States Marshals Service came to the defendant's apartment to execute an arrest warrant that contained outstanding charges against him of assault in the first degree and criminal possession of a firearm. The officers, including C, had their weapons drawn as they searched the apartment for the defendant, who was found hiding in a bedroom. As C placed a handcuff on the defendant's wrist, the defendant lunged at him, causing C to fall backward into a nightstand, fracturing his ribs and puncturing a lung. During their testimony at trial, officers identified by name the charges against the defendant in the arrest warrant and the name and purpose of the task force as the entity that executed the arrest warrant. On appeal, the defendant claimed, inter alia, that evidence of the names of the charges in the warrant and the identity and purpose of the task force were indicative to the jury of his propensity for criminal conduct and that he was violent and dangerous and that the probative value of that evidence was not outweighed by its prejudicial effect. *Held*:

1. The trial court did not abuse its discretion in admitting as uncharged misconduct evidence the officers' testimony as to the names of the charges in the arrest warrant: the names of the charges were relevant to the jury's determination as to whether the officers were acting in the performance of their duties and whether the force they used during the execution of the arrest warrant was reasonable, there was no evidence that the uncharged misconduct, which did not include details of the prior assault charge, was more severe than the crimes with which the defendant was charged, the officers' testimony was limited to the names of the charges in the warrant and did not include any details of those charges, and the officers mentioned the charges only in the context of explaining why they used certain tactical gear and had their weapons drawn; moreover, the court reduced any prejudicial impact the evidence might have had when it instructed the jury during C's testimony and in its final charge that evidence of the names of the charges could be considered only on the issue of the reasonableness of the force used by the officers, that the evidence was not admitted to demonstrate a criminal propensity on the part of the defendant and that details involved in the warrant were not pertinent and should not be considered.
2. The defendant could not prevail on his claim that the trial court abused its discretion when it permitted police officers to identify the name and purpose of the Violent Fugitive Task Force: the officers' brief testimony about the name and purpose of the task force was relevant to whether they were acting in the performance of their duties when they executed the arrest warrant, it explained why the officers were at the defendant's apartment and the nature of the task force, as evidenced by its name and its purpose to apprehend violent fugitives, and the officers' testimony helped explain why they executed the arrest warrant in the manner that they did, including why they had their weapons drawn when they searched the apartment; moreover, the evidence was not unduly prejudicial, as the name and purpose of the task force was not likely to arouse the emotions of the jurors any more than the officers' testimony about the nature of the charges contained in the arrest warrant.

Argued September 13, 2022—officially released March 21, 2023

Procedural History

Substitute information charging the defendant with

the crimes of assault of public safety personnel and interfering with an officer, brought to the Superior Court in the judicial district of Waterbury, where the court, *Klatt*, *J.*, overruled the defendant's objection to the admission of certain evidence and denied the defendant's motion to exclude certain evidence; thereafter, the case was tried to the jury before *Klatt*, *J.*; verdict and judgment of guilty, from which the defendant appealed to this court. *Affirmed*.

Jennifer B. Smith, assistant public defender, for the appellant (defendant).

Jonathan M. Sousa, assistant state's attorney, with whom, on the brief, were *Maureen Platt*, state's attorney, *Don E. Therkildsen*, *Jr.*, supervisory assistant state's attorney, and *Alexandra Arroyo*, deputy assistant state's attorney, for the appellee (state).

Opinion

VERTEFEUILLE, J. The defendant, Raikes Y. Delacruz-Gomez, appeals from the judgment of conviction, rendered after a jury trial, of assault of public safety personnel in violation of General Statutes § 53a-167c (a) (1) and interfering with an officer in violation of General Statutes § 53a-167a (a). On appeal, the defendant claims that the trial court improperly admitted into evidence (1) testimony as to the names of felony charges contained in a prior outstanding warrant for the defendant's arrest as prior uncharged misconduct evidence, and (2) testimony naming the task force that had executed that warrant, specifically, the Violent Fugitive Task Force.[1] We affirm the judgment of the trial court.

The jury reasonably could have found the following facts. On November 18, 2016, officers working with the United States Marshals Service's Violent Fugitive Task Force arrived at 8 Elmer Street in Waterbury to execute arrest warrants for the defendant and his son, Hendimbert Delacruz (Hendimbert). Both warrants contained charges for violent felony offenses, and the defendant, more specifically, had outstanding charges of assault in the first degree and criminal possession of a firearm. The task force had received information that the defendant and Hendimbert were residing in an apartment at that address.

The apartment was a two-story end unit, which had front and rear entrances. After setting up a perimeter around the area, the entry team of the task force positioned itself at the front door of the apartment. The entry team included James Masterson, a member of the United States Marshals Service, and Detectives Daniel Chalker, Edward Mills, and Jeffrey Taylor of the Waterbury Police Department. All of the officers wore tactical vests that displayed markings of their respective agencies and clearly identified them as law enforcement personnel.

The members of the entry team knocked on the front door of the apartment for at least five minutes, while announcing, "police with a warrant," but they received no response. After Masterson and Mills saw the defendant looking out a window on the second floor, Mills attempted to force entry into the apartment using a battering ram, but he was unsuccessful. They heard a woman's voice from inside the apartment, telling them to "wait a minute." The woman, later identified as the defendant's wife, opened the back door of the apartment and let the officers inside.

The officers then entered the kitchen area of the apartment. They detained the defendant's wife and, when they asked her who else was in the apartment, she told them that her children were there. When the officers showed her a photograph of the defendant, she

nodded her head to indicate that he also was there, and she pointed upstairs. The officers did a quick search of the first floor, then yelled for anyone who was on the second floor to come downstairs. Several people came downstairs, including a man and some children, but the defendant and Hendimbert did not.

Masterson, carrying a ballistic shield, then led Chalker, Mills, and Taylor upstairs to the second floor of the apartment, while Timothy McMahon, a probation officer assisting the task force, remained on the first floor with the individuals in the kitchen area. When they reached the top of the stairs, Masterson stayed in the hallway to protect the other officers with the shield while they began to search the rooms for the defendant and Hendimbert, as well as for any firearms or other weapons.

After searching a bathroom, Chalker, Mills, and Taylor entered a bedroom located to the left of the stairs with their guns drawn. The room was small and "very cluttered" with a king-size bed that took up three quarters of the room and a nightstand next to it. A large pile of clothing was on the floor at the foot of the bed between the bed and a wall. The pile appeared to contain "an extreme amount" of clothing, which was approximately the same height as the bed.

Chalker holstered his weapon, got onto the bed, and began to remove clothing from the pile to determine whether someone was hiding underneath. After removing a couple of items of clothing, Chalker could see part of a person's body. Chalker yelled, "[s]how me your hands, show me your hands," but the person did not move. After seeing the person's eyes, Chalker recognized him as the defendant. Chalker grabbed the defendant's left hand, started to pull him up onto the bed, and placed a handcuff on his wrist in the process. Chalker continued to provide instructions to the defendant, informing him that he was under arrest, but the defendant provided no assistance or effort in getting up and, instead, acted as "dead weight."

When the defendant was pulled halfway up onto the bed, he used his feet to push off the wall and lunge at Chalker. The defendant's head and shoulder hit Chalker in his chest. As a result, Chalker fell backward off the bed, striking the right side of his back on the nightstand. He dropped onto the floor in severe pain and had difficulty breathing.

Taylor yelled for help from the other task force members. McMahon immediately ran upstairs and observed that Chalker "appeared to be [in] excruciating pain . . . cowering toward his side . . . and seemed to be gasping for air." He assisted Chalker back down the stairs, out of the apartment building, and into a police car. Mills and Taylor holstered their weapons and finished handcuffing the defendant, then continued searching

for Hendimbert, whom they also found hiding underneath the pile of clothing.[2]

After transporting the defendant to the police station, Taylor brought Chalker to Saint Mary's Hospital in Waterbury. At the hospital, Chalker learned that he had sustained multiple fractures of his ribs and a punctured lung. He also suffered from shoulder pain and, as a result of the injuries to his ribs, continued to experience pain for several months.

The defendant subsequently was charged by way of a substitute information with one count of assault of public safety personnel in violation of § 53a-167c (a) (1) and one count of interfering with an officer in violation of § 53a-167a (a). The jury found the defendant guilty on both counts, and the trial court sentenced the defendant to a total effective term of eight years of incarceration followed by two years of special parole. This appeal followed. Additional facts and procedural history will be set forth as necessary.

We begin by setting forth our standard of review governing both of the defendant's claims, which are evidentiary in nature. "We review the trial court's decision to admit evidence, if premised on a correct view of the law . . . for an abuse of discretion. . . . We will make every reasonable presumption in favor of upholding the trial court's ruling, and only upset it for a manifest abuse of discretion. . . . In determining whether there has been an abuse of discretion, the ultimate issue is whether the court could reasonably conclude as it did." (Internal quotation marks omitted.) *State* v. *Wynne*, 182 Conn. App. 706, 718, 190 A.3d 955, cert. denied, 330 Conn. 911, 193 A.3d 50 (2018). We address the defendant's claims in turn.

I

The defendant first claims that the court improperly admitted into evidence the testimony of several police officers who named the felony offenses contained in the defendant's arrest warrant as uncharged misconduct evidence. Specifically, the defendant contends that the probative value of the evidence was outweighed by its prejudicial effect. We are not persuaded.

Prior to trial, the state filed a notice of its intent to introduce evidence of uncharged misconduct pursuant to § 4-5 (c) of the Connecticut Code of Evidence.[3] Specifically, the state advised the defendant that it intended to present evidence that "the Violent Fugitive Task Force was in possession of an arrest warrant charging the defendant with, among other things, assault in the first degree and criminal possession of a firearm." The state clarified that it was "not seeking to introduce the other charges on the warrant, nor [was] it seeking to introduce the underlying conduct that led to the arrest warrant being issued."

The defendant filed a written objection to the uncharged

misconduct evidence, arguing that such evidence would be unduly prejudicial because it was inflammatory, confusing, and would create a side issue about the facts underlying the charges in the warrant. He also argued that there was a high risk that the jury improperly would consider it as propensity evidence. He acknowledged that the jury would likely wonder why the police were at his apartment to arrest him but argued that a sufficient explanation could "be accomplished simply by instructing the jury [that] there was an arrest warrant for him without addressing the charges."

Prior to the start of evidence, a hearing on the admissibility of the prior uncharged misconduct evidence was held before the court, *Klatt*, *J*. The prosecutor argued that he was offering the uncharged misconduct evidence to prove an element of both of the crimes charged—specifically, that the officers were acting in the performance of their duties at the time that the assault and interference occurred—and to corroborate crucial prosecution testimony. The prosecutor contended that he sought to introduce the evidence to provide an explanation for the amount of force that the officers used, and to explain "their conduct for the entry, for the ballistic shield, and for holding the defendant at gunpoint." Defense counsel argued that the evidence was "highly prejudicial" and that it was likely that the jury would improperly consider it as propensity evidence because the charges in the defendant's arrest warrant and the charges then at issue in the present case both involved assault. He maintained that the evidence should be limited to the fact that the officers were executing a warrant and that the court should instruct the jurors that "they're not to be concerned as to what the charges were . . . ."

The court then made the following oral ruling: "Well, it appears from both parties that you're all in agreement that the fact that the officers were there to serve a warrant is something that's admissible. I'm going to allow the state's motion regarding naming the two charges. From the argument that I heard from both parties, it would appear to be relevant evidence on the charge of interference. It goes to the reasonable belief of the officers, and it does . . . help establish the prosecution testimony, as well as complete the story of why they're there.

"I do find, listening again to the argument of both parties, that it would appear to be more probative than prejudicial, and that any prejudice could be eliminated through an appropriate jury charge. So, I'll allow the state's offer as it exists."

Subsequently, during trial, Masterson and Chalker testified that the defendant's arrest warrant contained charges of assault in the first degree and criminal possession of a firearm, and that such charges fell within the purview of the task force.

The officers also provided testimony explaining how the nature of these charges influenced the manner in which they executed the arrest warrants.[4] For example, they testified that Masterson was carrying a ballistic shield due to the defendant's firearm charge. Masterson explained that there were a large number of officers involved in securing and searching the apartment because "this is someone . . . [who] is wanted for a violent felony charge." Mills testified that he had a battering ram with him at the front door of the apartment because, "for a felony warrant of this type, it's normal for that procedure." Mills and Taylor further explained that they began to search the bedroom with their guns drawn due to the nature of the case and, more specifically, the defendant's firearm charge.

During defense counsel's cross-examination of Chalker,[5] the court provided the following limiting instruction to the jury: "So, ladies and gentlemen, there's certain rulings that the court made, and there are reasons for those rulings and they're based on the principles that I've already instructed you on many times. The officers were there to serve a warrant, that's their testimony, that the charges were for assault one and criminal possession of a firearm, which are classified as violent felon[ies]. That is not to say that the defendant committed these offenses; he enjoys the same presumption of innocence as to any warrant that's being served. But the officers' testimony reflect[s] their preparation for the service of a violent . . . of a warrant that charges a violent felony. That's it, nothing more. The details involved in that warrant are not pertinent to this, not relevant, and should not be considered by you."

Defense counsel continued to question the officers about whether they had used their firearms to hit or strike the defendant.[6] Ultimately, however, defense counsel conceded during his closing argument that the officers had been acting in the performance of their duties when executing the arrest warrant.

In its final instructions to the jury, the trial court charged that "[t]he state has . . . offered evidence . . . that there was a warrant for the defendant for the charge of assault in the first degree and criminal possession of a firearm as an act of misconduct of the defendant. This evidence is not being admitted to prove the bad character, propensity or criminal tendencies of the defendant. Such evidence is being admitted solely to show or establish an element of the . . . crimes charged . . . .

"You may not consider such evidence as establishing a predisposition on the part of the defendant to commit any of the crimes charged or to demonstrate a criminal propensity. You may consider such evidence if you believe it and further find that it logically, rationally

and conclusively supports the issue for which it is being offered by the state, but *only as it may bear on the issue of reasonableness of force as used by the peace officers*.

"On the other hand, if you do not believe such evidence, or even if you do, if you find that it does not logically, rationally and conclusively support the issue for which it is being offered by the state, namely, reasonableness of force used, then you may not consider that testimony for any other purpose.

"You may not consider evidence of other misconduct of the defendant for any purpose other than the one I've just told you because it may predispose your mind uncritically to believe that the defendant may be guilty of the offense here merely because of the alleged other misconduct. For this reason, *you may consider this evidence only on the issue of reasonableness of force used and for no other purpose*." (Emphasis added.)

On appeal, the defendant claims that the trial court erred by admitting testimony about the names of the charges contained in the defendant's arrest warrant because the probative value of the evidence was outweighed by its prejudicial effect. The state responds that the court properly admitted the uncharged misconduct evidence because of the significant probative value of the evidence in proving an element of the charged offenses, the limited nature of the evidence, and the court's cautionary instructions to the jury. We agree with the state and conclude that, under the circumstances of the present case, the trial court did not abuse its discretion in admitting the testimony as to the names of the felony offenses with which the defendant was charged.

"Although [e]vidence of a defendant's uncharged misconduct is inadmissible to prove that the defendant committed the charged crime or to show the predisposition of the defendant to commit the charged crime, such evidence is admissible if it is offered to prove intent, identity, malice, motive, a system of criminal activity or the elements of a crime. . . . To determine whether evidence of prior uncharged misconduct is admissible for a proper purpose, we have adopted a two-pronged test: First, the evidence must be relevant and material to at least one of the circumstances encompassed by the exceptions. Second, the probative value of such evidence must outweigh the prejudicial effect of the other crime evidence." (Citation omitted; internal quotation marks omitted.) *State* v. *Patrick M.*, 344 Conn. 565, 597, 280 A.3d 461 (2022); see Conn. Code Evid. § 4-5 (a) and (c) ("[e]vidence of other crimes, wrongs or acts of a person is inadmissible to prove the bad character, propensity, or criminal tendencies of that person" but is admissible for other purposes, "such as to prove intent, identity, malice, motive, common plan or scheme, absence of mistake or accident, knowledge, a

system of criminal activity, or an element of the crime, or to corroborate crucial prosecution testimony").

"The admission of evidence of prior uncharged misconduct is a decision properly within the discretion of the trial court. . . . [E]very reasonable presumption should be given in favor of the trial court's ruling. . . . [T]he trial court's decision will be reversed only [when] abuse of discretion is manifest or [when] an injustice appears to have been done." (Internal quotation marks omitted.) *State* v. *Patrick M.*, supra, 344 Conn. 598.

We first consider the probative value of the prior uncharged misconduct evidence. In the present case, the state bore the burden of demonstrating that the officers were "acting in the performance of [their] duties" to prove the elements of the charged offenses of assault of public safety personnel and interference with an officer. General Statutes § 53a-167c (a); see also General Statutes § 53a-167a (a). The state was required to prove, in connection with this element, that the officers had used a reasonable amount of force during the incident underlying the defendant's current charges. See *State* v. *Davis*, 261 Conn. 553, 572, 804 A.2d 781 (2002) (jury must determine whether use of physical force by officers was justified such that it was within performance of their duties); see also *State* v. *Outlaw*, 179 Conn. App. 345, 351, 179 A.3d 219 ("an officer's exercise of reasonable force is inherent in the performance of duties, and therefore unreasonable and unnecessary force by a police officer would place the actions outside the performance of that officer's duties" (internal quotation marks omitted)), cert. denied, 328 Conn. 910, 178 A.3d 1042 (2018).

The uncharged misconduct evidence at issue here was relevant to the jury's determination of whether the officers had exercised a reasonable amount of force while executing the defendant's arrest warrant. Specifically, the testimony regarding the nature of the criminal charges the defendant faced as set forth in the arrest warrant provided an explanation for the manner in which the officers conducted themselves while they were at the apartment, such as their reason for using certain tactical gear, like the battering ram and ballistic shield, and why they had their weapons drawn.[7] Accordingly, the court properly determined that the charges in the defendant's arrest warrant were relevant for the purpose of establishing that the officers were acting in the performance of their duties at the time of the incident underlying his conviction.[8]

We next turn to the issue of whether the probative value of the prior misconduct evidence outweighed its prejudicial effect. See *State* v. *Daniel M.*, 210 Conn. App. 819, 832, 271 A.3d 719, cert. denied, 343 Conn. 906, 273 A.3d 234 (2022). "Section 4-3 of the Connecticut Code of Evidence . . . provides that [r]elevant evidence may be excluded if its probative value is out-

weighed by the danger of unfair prejudice or surprise, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time or needless presentation of cumulative evidence. [T]he determination of whether the prejudicial impact of evidence outweighs it probative value is left to the sound discretion of the trial court judge and is subject to reversal only where an abuse of discretion is manifest or injustice appears to have been done. . . . [Our Supreme Court] has previously enumerated situations in which the potential prejudicial effect of relevant evidence would counsel its exclusion. Evidence should be excluded as unduly prejudicial: (1) where it may unnecessarily arouse the jury's emotions, hostility or sympathy; (2) where it may create distracting side issues; (3) where the evidence and counterproof will consume an inordinate amount of time; and (4) where one party is unfairly surprised and unprepared to meet it." (Internal quotation marks omitted.) Id.

The defendant argues that the uncharged misconduct evidence "was likely to unduly arouse the emotions and hostilities of the jur[ors], especially given the severity of the charges and the similarity between the assault charge in the warrant and the assault of Detective Chalker." The defendant also contends that the evidence "created a side issue that risked the jur[ors'] engaging in speculation about the underlying facts of the two charges." The defendant's arguments are unavailing.

At the outset, we acknowledge that "evidence of dissimilar acts is less likely to be prejudicial than evidence of similar or identical acts"; (internal quotation marks omitted) *State* v. *Vega*, 259 Conn. 374, 398, 788 A.2d 1221, cert. denied, 537 U.S. 836, 123 S. Ct. 152, 154 L. Ed. 2d 56 (2002); and, in the present case, the uncharged misconduct and the charged crimes were similar insofar as they both involved assaults.

Nevertheless, our review of the record indicates that the uncharged misconduct evidence did not include any details of the prior assault charge that would have increased the risk of undue prejudice to the defendant. See, e.g., *State* v. *Morlo M.*, 206 Conn. App. 660, 693–94, 261 A.3d 68 (uncharged misconduct, although similar to crimes of which defendant was convicted, was not unduly prejudicial given lack of details about incidents of prior misconduct), cert. denied, 339 Conn. 910, 261 A.3d 745 (2021). There was no evidence to indicate that the uncharged misconduct was more severe than the crimes of which the defendant was charged; see *State* v. *Patterson*, 344 Conn. 281, 298, 278 A.3d 1044 (2022) ("[t]he prejudicial impact of uncharged misconduct evidence is assessed in light of its relative viciousness in comparison with the charged conduct" (internal quotation marks omitted)); or that the underlying facts of the assaults contained similarities or common characteristics. Cf. *State* v. *Raynor*, 337 Conn. 527, 563–66,

254 A.3d 874 (2020); see id., 564 (uncharged misconduct evidence was unduly prejudicial when it "was not limited only to the fact that there was a shooting, with no other details regarding the surrounding events," and details demonstrated, inter alia, common characteristics of incidents).

Instead, the uncharged misconduct evidence in the present case was limited to testimony regarding the names of the charges in the warrant, thus minimizing the risk of prejudice to the defendant. See *State* v. *Griggs*, 288 Conn. 116, 140–42, 951 A.2d 531 (2008) (trial court minimized risk of prejudice to defendant by excluding details surrounding his prior convictions and permitting state to introduce only limited evidence about number and nature of convictions); *State* v. *Wilson*, 209 Conn. App. 779, 824, 267 A.3d 958 (2022) (uncharged misconduct evidence did not create unduly distracting side issue due to restricted nature of testimony); see also *State* v. *Patterson*, supra, 344 Conn. 296 (finding significant "the degree to which the trial court exercised its discretion to limit the extent of the evidence of the prior shootings it admitted").

Moreover, in addition to limiting the scope of their testimony about the prior uncharged misconduct, the officers mentioned the defendant's charges only in the context of explaining why they used certain tactical gear and had their weapons drawn during their execution of the arrest warrant, which highlighted the limited purpose for which the evidence was admitted.[9]

Finally, the fact that the court provided a limiting instruction during Chalker's testimony, as well as in its final charge to the jury, reduced any prejudicial impact the evidence might have had. See *State* v. *Daniel M.*, supra, 210 Conn. App. 834–35 (limiting instruction during testimony and in final charge reduced any prejudicial impact that uncharged misconduct evidence might have had); see also *State* v. *Pereira*, 113 Conn. App. 705, 715, 967 A.2d 121 ("[p]roper limiting instructions often mitigate the prejudicial impact of evidence of prior misconduct" (internal quotation marks omitted)), cert. denied, 292 Conn. 909, 973 A.2d 106 (2009). The court repeatedly instructed the jurors that they could consider such evidence only on the issue of reasonableness of force used by the officers and that the evidence was not admitted to demonstrate a criminal propensity on the part of the defendant. Moreover, although the defendant argues that the jurors would have "engag[ed] in speculation about the underlying facts of the two charges" and "wonder[ed] what gave rise to" the charges, the court specifically told the jurors that "[t]he details involved in that warrant are not pertinent . . . and should not be considered by you." We presume that the jury followed these instructions. See, e.g., *State* v. *Wilson*, supra, 209 Conn. App. 827.

Accordingly, considering the manner in which the

testimony was limited and the cautionary instructions provided to the jury, we conclude that the court did not abuse its discretion by admitting evidence of the names of felony charges contained in the defendant's arrest warrant.

II

The defendant also claims that the court abused its discretion by admitting evidence that the Violent Fugitive Task Force was the entity that executed the warrant for his arrest. Specifically, he argues that testimony concerning the name and purpose of the task force was unfairly prejudicial. We are not persuaded.

Prior to the start of evidence, immediately after the court overruled the defendant's objection regarding the charges set forth in his arrest warrant, defense counsel orally moved to exclude evidence "that these police officers and this federal marshal were part of this Violent [Fugitive] Task Force . . . this special task force for violent offenders," on the ground that such evidence would be highly prejudicial. Defense counsel argued that it would be sufficient for the officers to testify that they were at the defendant's apartment to execute an arrest warrant. The prosecutor objected to the defendant's motion because the name of the task force explained the reason why the officers were at the defendant's apartment and the manner in which they executed the warrant.

The court denied the defendant's motion, explaining that "[i]t's an acronym for . . . you can explore it on cross-examination regarding any prejudice you think might exist because of the name of the unit. It's simply identifying themselves and . . . the court feel[s] that that's relevant and probative."

During trial, the officers testified that they were assigned to the Violent Fugitive Task Force at the time they executed the arrest warrants for the defendant and Hendimbert.[10] The officers also provided testimony about the purpose of the task force and its role in apprehending the defendant. For example, Masterson testified that the "Fugitive Task Force" works with state and local agencies "to apprehend individuals wanted on violent felonies . . . ." Chalker similarly testified that the "Violent Fugitive Task Force" works with the United States Marshals Service in "locating violent fugitives and apprehending them."

On appeal, the defendant argues that evidence of the name and purpose of the task force was unfairly prejudicial because it was likely to unduly arouse the jurors' emotions and hostilities and "portrayed the defendant as a violent, dangerous individual." The state responds that the name and purpose of the task force helped explain the manner in which the officers executed the arrest warrant. In addition, the state contends that "[t]he name and purpose of the task force did not

prejudice the defendant any more than the names of the felony charges on the warrant . . . because it was the latter that explained the task force's connection to the defendant." We agree with the state.

As explained in part I of this opinion, to the extent that the challenged testimony constitutes uncharged misconduct evidence,[11] it "must be relevant and material to at least one of the circumstances encompassed by the exceptions" set forth in § 4-5 (c) of the Connecticut Code of Evidence, and "the probative value of such evidence must outweigh the prejudicial effect of the other crime evidence." (Internal quotation marks omitted.) *State* v. *Patrick M.*, supra, 344 Conn. 597.

In the present case, the officers' brief testimony about the name and purpose of the Violent Fugitive Task Force, like the evidence regarding the charges against the defendant, was relevant to the issue of whether Chalker and the other officers were acting in the performance of their duties. See part I of this opinion. Specifically, the officers' testimony about their association with the Violent Fugitive Task Force, and the purpose of that task force, provided an explanation for why Chalker and the other officers were at the defendant's apartment. In addition, the nature of the task force, as evidenced by its name and its purpose of apprehending "violent fugitives," helped explain, even if only to a slight degree, why the officers executed the arrest warrants in the manner that they did, including why they had their weapons drawn when they searched the apartment. See, e.g., *State* v. *Collins*, 299 Conn. 567, 587 n.19, 10 A.3d 1005 ("Evidence is relevant if it has *any* tendency to make the existence of any fact that is material to the determination of the proceeding more probable or less probable than it would be without the evidence. . . . All that is required is that the evidence tend to support a relevant fact *even to a slight degree*, [as] long as it is not prejudicial or merely cumulative." (Emphasis in original; internal quotation marks omitted.)), cert. denied, 565 U.S. 908, 132 S. Ct. 314, 181 L. Ed. 2d 193 (2011).

Moreover, the evidence was not unduly prejudicial. As the state points out, any prejudice arising from the challenged testimony pertained to its implication that the defendant was considered a "violent" fugitive who had an outstanding warrant for "violent" felonies. Thus, the testimony about the name and purpose of the task force was not likely to arouse the emotions of the jurors any more than the testimony about the nature of the charges in the defendant's arrest warrant, which, as we have explained in part I of this opinion, also was properly before the jury. See *State* v. *James G.*, 268 Conn. 382, 400, 844 A.2d 810 (2004) (evidence is less likely to unduly arouse jurors' emotions when similar evidence has been presented to jury); see also *State* v. *Gray-Brown*, 188 Conn. App. 446, 462–63, 204 A.3d 1161

(admission into evidence of electronic scale, which tended to show that defendant was involved in sale of drugs, was unlikely to shock jury because witness later testified without objection that defendant used and sold drugs), cert. denied, 331 Conn. 922, 205 A.3d 568 (2019). Therefore, the court reasonably concluded that the evidence was relevant and that its probative value outweighed any undue prejudice to the defendant.

The judgment is affirmed.

In this opinion the other judges concurred.

[1] In his principal appellate brief, the defendant also claims that the trial court erred in its instruction to the jury on the charge of assault of public safety personnel in violation of § 53a-167c (a) (1). Specifically, the defendant contends that the court improperly failed to instruct the jury to consider whether the law enforcement officers, in arresting the defendant, used a reasonable and necessary amount of physical force, which pertains to the second element of § 53a-167c (a) (1), namely, whether the officers were acting in the performance of their duties. The defendant effectively abandoned this claim, however, as he conceded, in his reply brief and at oral argument before this court, that any claimed error was harmless beyond a reasonable doubt because (1) defense counsel conceded during closing arguments that the officer acted in accordance with his official duties, and (2) there was no evidence that the officers used unwarranted or excessive force. Therefore, we decline to review this claim. See *State* v. *Gray*, 342 Conn. 657, 685 n.12, 271 A.3d 101 (2022); see also *Moutinho* v. *500 North Avenue, LLC*, 191 Conn. App. 608, 612 n.4, 216 A.3d 667, cert. denied, 333 Conn. 928, 218 A.3d 68 (2019).

[2] At trial, the defendant testified that, when he learned that the police were at his apartment, he helped cover Hendimbert with clothing before hiding himself.

[3] Section 4-5 (c) of the Connecticut Code of Evidence provides: "Evidence of other crimes, wrongs or acts of a person is admissible for purposes other than those specified in subsection (a), such as to prove intent, identity, malice, motive, common plan or scheme, absence of mistake or accident, knowledge, a system of criminal activity, or an element of the crime, or to corroborate crucial prosecution testimony."

[4] The officers testified that they had discussed the defendant's charges at a briefing that took place prior to their arrival at the apartment.

[5] Defense counsel began to question Chalker about whether he knew the outcome and underlying facts of the assault and firearm charges contained in the arrest warrant. During a discussion conducted outside the presence of the jury, defense counsel explained that he sought to explore the reason why Chalker had characterized the defendant as a "violent felon" when he testified that Masterson was leading the officers upstairs with the ballistic shield "[b]ecause [they were] serving a warrant on a violent felon that's been charged with a gun charge." The court noted that defense counsel had not objected to Chalker's testimony characterizing the defendant as a "violent felon," warned defense counsel that that line of questioning may open the door to testimony about the underlying facts of the uncharged misconduct, and offered to provide the limiting instruction that followed.

[6] The defendant, testifying on his own behalf, claimed that an officer had pulled him from the pile of clothing and started to hit him in the back of the head with a gun, but he did not recognize Chalker as that officer. Hendimbert testified that he could not see what was happening during that time, but he could hear the defendant say, "ow," and then ask the officers why they were hitting him. The officers, however, denied hitting or striking the defendant.

[7] The defendant contends that "the state's purported reason for introducing [the challenged] evidence to establish that the police were acting in the performance of their duties was satisfied by simply admitting evidence that the police were there to execute a warrant for the defendant's arrest," and, therefore, the evidence should have been limited to that fact. We disagree. The fact that the officers were serving an arrest warrant explains their presence at the defendant's apartment in the first instance, but it does not shed light on the reasonableness of any force used during the execution of that warrant, which the defendant disputed throughout trial until his closing argument.

[8] Notably, the defendant does not dispute that the uncharged misconduct evidence was relevant to the jury's determination of whether the officers were acting in the performance of their duties and used a reasonable degree of force in their execution of the defendant's arrest warrant.

[9] In its closing argument, the state similarly tied the misconduct evidence to the issue of whether Chalker was acting in the performance of his duties and whether the officers had utilized a reasonable amount of force in their execution of the arrest warrant.

[10] The evidence demonstrates that Masterson, Mills, and Taylor were members of the Violent Fugitive Task Force, while Chalker and McMahon were not official "deputized" members but, nevertheless, had been assigned to assist the task force that day.

[11] On appeal, both the defendant and the state characterize the testimony concerning the name and purpose of the task force as uncharged misconduct evidence.