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October 15, 2019

Chief Craig Meidl
Spokane Police Department
1100 W. Mallon Avenue
Spokane, Washington 99260

RE: R19-2 – Use of Force Reporting on Force Used Against Persons of Mistaken Identity

Dear Chief Meidl,

The OPO received and reviewed two cases¹ where officers were looking for a suspect and ended up using force on a person who matched the description, but who was not the intended person. While we understand that officers must take control of a subject before they are able to confirm or dispel their identity, it is prudent that the Spokane Police Department (SPD) thoroughly document the circumstances leading up to the use of force, and the reasons why the force was utilized.

In both cases, the actions of the officers could be seen as objectively reasonable as the officers were conducting an investigative stop or detention that is well settled under *Terry v. Ohio*. However, when officers intrude on the privacy of an innocent community member, the government intrusion should be thoroughly documented. Furthermore, the right to privacy is jealously guarded in the state of Washington by Article 1, Section 7 of the constitution. It provides, “No person shall be disturbed in his private affairs, or his home invaded, without authority of law.” While we are not contesting the authority of the officers’ actions, thorough documentation of these types of matters are important.

In both of the complaints we received, the force utilized was what SPD refers to as a “Non-Reportable Use of Force.” SPD’s policy regarding the reporting of physical uses of force was reported to be “more limited than other agencies” in the Use of Force Summary report completed by Police Strategies, the consultant who analyzed SPD’s last 5 years of use of force.² The report says most agencies require officer[s] to report on any physical force that was used to overcome any level of resistance. This would include pulling a resistant subject’s arms back for handcuffing, the use of joint manipulation and pain compliance techniques, physical strikes, pushes, and takedowns using body weight to hold a subject to the ground and wrestling with a

¹ C18-088/OPO 18-56; C19-017/OPO 19-18

² See <https://static.spokanecity.org/documents/opo/analysis/spd-use-of-force-summary-report-from-2013-to-2018.pdf> (last accessed on October 14, 2019).

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subject. SPD officers are only required to report physical uses of force when the subject is injured or complains of an injury.

In one of the cases reviewed, it could be perceived that a Level 1 Lateral Neck Restraint (LNR) was applied, which is far more serious than the threshold of what should be considered a reportable use of force. SPD neither categorized the force used in this case as an LNR nor did it consider it reportable force. Regardless, we believe that ANY force utilized, whether it be restraints, body manipulation, take downs, body weight, etc., in addition to "reportable uses of force" employed against an innocent community member who only resembles the person of interest, should be thoroughly documented in a manner consistent with the documentation requirements for what SPD refers to as "reportable use of force" cases. These incidents should be promptly referred to a non-involved supervisor for next steps.

In the two cases reviewed, follow up was not made until complaints were filed. The OPO recommends a non-involved supervisor review the case and contact the person involved to determine whether further action or documentation is necessary. This would have been especially prudent in the case involving a juvenile. Thank you for your prompt consideration of this matter.

Sincerely,



Bart Logue
Police Ombudsman
Office of the Police Ombudsman, City of Spokane

cc: Director Jacqui MacConnell