



SPOKANE POLICE DEPARTMENT

FRANK STRAUB, JR.
CHIEF OF POLICE



**Internal Affairs
Exemption Log**

Number	Material Withheld	Brief Explanation of Why Material Withheld	Legal / Statutory Basis
Witness Exemptions			
#1a	<u>Name / Identity</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1b	<u>Date of birth</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1c	<u>Personal home, work or cell phone number</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1d	<u>Residential address</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
#1e	<u>E-mail address</u> of witness who fears for his/her safety and wishes his/her identity not be disclosed	A witness has requested the protection of his or her identity and disclosure would endanger any person's life, physical safety, or property.	RCW 42.56.240(2) (Investigative, law enforcement, and crime victims)
Juvenile Information			
#2a	Names of Juveniles who are in the Juvenile court system	Redacted to protect the personal information of a juvenile in the court system. May not be released to the public except by court order.	RCW 13.50.050 (Juvenile Courts and Juvenile Offenders) and RCW 13.50.100 (4) (a) and (b) (Keeping and Release of Records by Juvenile Justice or Care Agencies). <i>Deer v. DSHS</i> , 122 Wn.App. 84, 94 (2004)
#2b	Records relating to commission of Juvenile	Redacted to protect the personal information of a juvenile in the court	RCW 13.50.050 (Juvenile Courts and Juvenile

	offenses.	system. May not be released to the public except by court order.	Offenders) and RCW 13.50.100 (4) (a) and (b) (Keeping and Release of Records by Juvenile Justice or Care Agencies). <i>Deer v. DSHS, 122 Wn.App.</i> 84, 94 (2004)
#2c	Child Victim of Sexual Assault	This redaction protects information revealing the identity (name, address, location, or photograph) of child victims of sexual assault who are under age eighteen.	RCW 42.56.240(5) (Investigative, law enforcement, and crime victims)
#2d	Child victims or child witnesses	Information re a child witness / victim is protected to assure the rights under law: to not have name, address, nor photograph disclosed by any law enforcement agency w/o permission of the child or parents/guardians.	RCW 42.56.240(5) (Investigative, law enforcement, and crime victims)
ACCESS Database Info			
#3a	Information from WACIC/NCIC (ACCESS): <u>Criminal history information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3b	Information from WACIC/NCIC (ACCESS): <u>License Plate Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3c	Information from WACIC/NCIC (ACCESS): <u>Vehicle Registered owner information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3d	Information from WACIC/NCIC (ACCESS): <u>Wanted persons information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3e	Information from WACIC/NCIC (ACCESS): <u>Officer safety information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to

		to criminal justice agencies; audited by the FBI and the WSP.	cancellation for failure to comply with use provisions of part C.
#3f	Information from WACIC/NCIC (ACCESS): <u>Gun information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3g	Information from WACIC/NCIC (ACCESS): <u>DOL Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3h	Information from WACIC/NCIC (ACCESS): <u>Stolen Vehicle Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3i	Information from WACIC/NCIC (ACCESS): <u>Missing Persons Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3j	Information from WACIC/NCIC (ACCESS): <u>Runaways or endangered persons</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
#3k	WACIC/NCIC (ACCESS): <u>DOC Information</u>	WACIC/NCIC/III - information from ACCESS restricted to law enforcement use pursuant to federal law. May not be disseminated except to criminal justice agencies; audited by the FBI and the WSP.	28 USC § 534 For criminal justice purposes only. 28 CFR 20.38 Access to FBI systems subject to cancellation for failure to comply with use provisions of part C.
Personal Identifiers and Financial Info			
#4a	Social Security Number	This information constitutes personal identifying information unique to the holder and which, if obtained by the public could be abused or lead to identity theft.	RCW 42.56.050 (Invasion of privacy), RCW 42.56.230 (Personal information), 42.56.250(3)(8) (Employment and

			licensing), 42.56.210(1) (Certain personal and other records exempt), 42 USC § 405(c)(2)(viii)(I) (Limits on Use and Disclosure of Social Security Numbers)
#4b	Driver's License or Identocard	This information constitutes personal identifying information unique to the holder and which, if obtained by the public could be abused or lead to identity theft.	18 USC § 2721 (Prohibition On Release And Use Of Certain Personal Information From State Motor Vehicle Records); RCW 42.56.050 (Invasion of privacy), RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#4c	Credit/Debit Card Numbers	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4d	Electronic Check/Check Numbers	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4e	Card Expiration Dates	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4f	Bank Account Number	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
#4g	Financial Institution Account Number	Could be subject to identity theft. Disclosure has no legitimate public value and violates the individual's right to privacy.	RCW 42.56.230(5) (Personal Information), RCW 42.56.060 (Invasion of privacy)
Employees Files			
#5a	Photos of Spokane Police Department or other criminal justice employees	Photographs in the personnel files of employees and workers of criminal justice agencies as defined in RCW 10.97.030 are protected from disclosure for their safety and privacy.	RCW 42.56.250(8) (Employment and licensing)
#5b	Birthdates of criminal justice employees	Birthdates in the personnel files of employees and workers of criminal justice agencies as defined in RCW 10.97.030 are protected from disclosure for their safety and privacy.	RCW 42.56.250(8) (Employment and licensing)

#5c	Personal Information in employee files	Personal information in files maintained for employees, appointees, or elected officials of any public agency is protected to the extent that disclosure would violate their right to privacy.	RCW 42.56.230(3) (Personal information), RCW 42.56.250(3) (Employment and licensing)
Criminal History			
#6a	Criminal history <u>not</u> from ACCESS- Non-Conviction Data	Criminal history which has not led to a conviction or other adverse disposition is protected by state law and only released to Criminal Justice Agencies for law enforcement purposes.	RCW 10.97 (Criminal Procedure)
Officer Safety or Intelligence			
#7a	Intelligence, sensitive security, or tactical information	Record includes sensitive intelligence, security or tactical information the non-disclosure of which is essential to effective law enforcement.	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims)
#7b	Undercover Officer identification	Contains information which could reveal the identity of an undercover officer, who undertakes ongoing dangerous / confidential undertakings to effect law enforcement purposes. Protected to preserve the life and personal safety of officer and family.	RCW 42.56.240(1) Specific intelligence information the nondisclosure of which is essential to effective law enforcement.
#7c	ID Records revealing covert law enforcement activity	Any record pertaining to a vehicle license plate, driver's license, or identicard revealing the identity of an individual performing undercover law enforcement, confidential public health work, public assistance fraud, or child support investigative activity.	RCW 42.56.230(7)(c) (Personal Information)
#7d	Law Enforcement Information Sheet	Contains confidential data used for law enforcement purposes. Disclosure has no legitimate value to the public and can endanger an individual's safety. Contains specific intelligence information the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims)
#7e	Confidential Informant information	Contains identifying information which could reveal the identity of a confidential informant. Considered intelligence information, used in a confidential manner for law enforcement purposes, protected to preserve the life and personal safety of the informant and family. Specific intelligence information	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims). Ashley v. Public Disclosure <i>Comm'n</i> , 16 <i>Wn.App.</i> 830, 836 (1977).

		compiled by law enforcement, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.	
Photos			
#8a	Photos showing a deceased person	Disclosure would violate a person's right to privacy, and be highly offensive to a reasonable person.	RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#8b	Photos showing highly sensitive material	Disclosure would violate a person's right to privacy, and be highly offensive to a reasonable person.	RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#8c	Photo Montages	Disclosure would violate a person's right to privacy, and be highly offensive to a reasonable person.	RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
Protected by Law			
#9	Medical Records	Medical records consist of confidential and privileged information highly personal and restricted. The disclosure of medical records is regulated by state and federal law and not public information. Right to Privacy: Disclosure would be highly offensive to a reasonable person.	RCW 42.56.360 (Health care), 70.02.005 (Findings) and HIPPA (45 CFR 164.502). RCW 42.56.050 (Invasion of privacy) RCW 42.56.230 (Personal information), 42.56.250 (Employment and licensing), 42.56.210(1) (Certain personal and other records exempt)
#10a	Jail records	This redaction contains the records of a person confined in jail and is being protected pursuant to state law, as this information is only available to criminal justice agencies as defined in RCW 43.43.705.	RCW 70.48.100 (Jail register)
#10b	Jail booking photos	This redaction contains the records of a person confined in jail and is being protected pursuant to state law, as this information is only available to criminal justice agencies as defined	RCW 70.48.100 (Jail register)

		in RCW 43.43.705.	
#11	Autopsies, postmortems	Reports and records of autopsies or postmortems are confidential and exempt from public disclosure, but certain officials with authority to examine and obtain copies of such reports may access.	RCW 68.50.105 (Autopsies, postmortems – Reports and records confidential)
#12	Confidential Attorney Client Communications	This redaction protects confidential communications between an attorney and his/her client.	RCW 5.60.060(2)(a) (Privileged communications) <i>Hangartner v. Seattle</i> , 151 Wn.2d 439 (2004).
#13a	<u>Name/Identity</u> of accused police officers	This redaction protects names/identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13b	<u>Date of birth</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13c	<u>Personal work, home, or cell phone number</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13d	<u>Residential address</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#13e	<u>E-mail address</u> of accused police officers	This redaction protects the identities of accused officers in Internal Affairs Investigations and Inquiries, if the findings are not Sustained.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
#14	Information concerning Mental Health Services	This redaction contains confidential information concerning services to either voluntary or involuntary recipients of mental health services. Such information, if disclosed, would invade an individual's privacy and possibly cause unintended consequences for that individual.	RCW 71.05.390 (Confidential information and records)

Use of force IA No: F13-113 Received: Sep 22, 2013

Incident No: 13-321665

Type of service being performed at time of incident: Call For Service

Reason for use-of-force: Assaulting Officer

Officer assessment of citizen condition: Alcohol and unknown drugs

Citizen was injured: Yes

Citizen was taken to hospital: No

Citizen was charged/arrested in relation to the incident: Yes Officer was injured: Yes

Officer was taken to hospital: No

Distance Officer was from Involved Citizen: 1 feet to 3 feet

Involved Citizen Build: Large

Involved Citizen Height: 5'7" to 5'9"

Involved citizen:

Ricardo Joseph Rubio

Resistance(s):

Assaultive

Injuries/conditions:

Treatment at Scene

Charges against citizen in relation to the incident:

Arrest - Felony

Officers involved:

SPO Paul W Buchmann [735/]

Officer current info:

Bureau: Operations

Unit: Uniform Operations

Assignment: Patrol

Snapshot - officer information at time of incident:

Badge/ID no: 735

Bureau: Operations

Unit: Uniform Operations

Assignment: Patrol

Not Used: Team 11 - Power - S

Rank/title: SPO

Age: 34 Years of employment: 11 Years with unit:

Off duty: Off duty employed:

Use(s) Of Force:

Taser: Effective

Less-lethal/CED force-related

Accidental discharge: No
Device was displayed only:
Arc display: No
Citizen painted with laser: Yes
Direct/drive stun contact:
of drive stuns: 0
Injury caused:
Location of injury:
Projectile/probe contact: Yes
air cartridges used: 1
cycles through probes: 3
dart hits: 2
Total # darts fired: 2
Injury caused: Yes
Darts penetrated subject's skin: Yes
Subject wearing heavy clothing: No
Location of projectile/probe contact:

Injuries/conditions:

nose

Witnesses:

Timothy M. Bale

Linked address(s):

Home Address: 4001 Market ST N Spokane WA 99207 -

Linked phone(s):

Cell: (509) 833-4547

Summary:

See Attachment

In Compliance with Policy per Captain Richards, 10/7/2013.

When/where:

Date/time occurred: Sep 21 2013 23:29

Incident location: 4001 Market ST N Spokane WA 99207

Home Address: 4001 Market ST N Spokane WA 99207

County: Spokane County

Linked files:

Inc Reports (pdf)
CAD (pdf)
TASER Log (pdf)
Affidavit (pdf)
Sgt Kendall Narrative (docx)
Assault on Officer Buchmann - Use of Force (avi)

Status/assignment information:

Status: Completed

Opened: Assigned: Due: Completed: 10/07/2013

Disposition: In Compliance w/ Policy

Unit assigned: Un-assigned
Handled at field/unit level: No
Investigator assign: Un-assigned
Supervisor assign: Un-assigned
Source of information:

Organizational component(s):

Bureau: Operations
Unit: Uniform Operations
Assignment: Patrol
Not Used: Team 11 - Power - S

BlueTeam chain routings

Sep 27, 2013 23:06: Sent from Sergeant Shawn M Kendall [417/11477] to Lieutenant Dean E Sprague [093/10712]

Instructions:

UOF Incident for Buchmann

Reviewed by Lieutenant Dean E Sprague [093/10712] on Sep 28, 2013 at 19:48

Decision: Approved

Reviewer comment:

This was a justified use of Taser, well articulated for each of the 3 deployments necessary to take an assaultive, violent offender into custody. Ofc. Buchmann's account is well-documented and supported by the store's video surveillance footage. Sgt. Kendall's assessment that the use of force options employed by Ofc. Buchmann were necessary, ultimately effective, and within policy, case law and use of force guidelines.

CC(s) of this routing were sent to the following:

Sep 28, 2013 19:48: Sent from Lieutenant Dean E Sprague [093/10712] to Captain David W Richards [119/10779]

Instructions:

forward through patrol chain of command.

Reviewed by Captain David W Richards [119/10779] on Oct 01, 2013 at 11:13

Decision: Not approved
Needs further investigation

Reviewer comment:

Officer Buchmann provided the suspect very ample time to complete his business in the restaurant. He asked him numerous times to leave as the store manager advised that the store was closed and he wanted him to leave and be trespassed from the business. Officer Buchmann began with verbal tactics and eventually had to place the suspect under arrest. He began with attempting a simple handcuffing technique but the suspect escalated the situation by actively resisting and then becoming violent and assaultive by striking Officer Buchmann in the face with his fist. The suspect showed skill in preventing Officer Buchmann from taking him into custody. Probable cause now existed to also arrest the suspect for 3 degree Assault on a law enforcement officer. In response to the suspect's escalating resistance and violence, Officer Buchmann decided to deploy his taser. Officer Buchmann maintained control of his actions and warned the suspect that he would deploy the taser against the suspect if he did not comply with his directives. The suspect refused to comply and Officer Buchmann activated the taser three times. He documented the incident very well and described the reasons for the taser deployment. Additionally, he still communicated with the suspect in an attempt to take him into custody without having to use the taser again and, ultimately, possible additional force. The suspect was eventually taken into custody. The suspect declined any medical attention but besides the taser probes being removed by medics, there were no visible injury to the suspect.

There was video surveillance active at the time and Officer Buchmann attempted to gain a copy of the surveillance video as evidence for this incident. There is no indication that SPD was able to obtain the copy of the video. I will forward this use of force report back to Lt. Sprague and Sgt. Kendall to inquire about this piece of evidence. It is important to take custody of this evidence if it still available and include it as part of this review.

The force used by Officer Buchmann was reasonable considering the circumstances and within policy. Once I receive the information on the video evidence, I will forward this review.

Oct 01, 2013 11:13: Sent from Captain David W Richards [119/10779] to Lieutenant Dean E Sprague [093/10712]

Instructions:

The use of force was within policy as indicated by my review. However, from what I was able to determine by the attached documents and reviewing the available reports in On Base, it appears that SPD still doesn't have a copy of the video surveillance from the store as promised by the manager. This is an important part of the investigation. Please contact the store manager and inquire if we could obtain a copy of the surveillance footage of the incident. Once you determine the status of the evidence, forward this review back to me.

Reviewed by Lieutenant Dean E Sprague [093/10712] on Oct 03, 2013 at 21:45

Decision: Approved

Reviewer comment:

Unable to forward dvd of restaurant video, however surveillance footage has been placed on "H" drive under Alphasist, Sgts. Resource folder, Buchmann Assault. Footage is approximately a half hour, with most showing suspect's actions and about 20 minutes of a patient Ofc. Buchmann trying not to use force by availing himself of verbal communication options. Arm bar control is finally utilized, ultimately resulting in a struggle with suspect, a punch to Ofc. Buchmann's face, and 3 taser applications to a violent, resistive suspect who is both larger and heavier than Ofc. Buchmann. Use of force options were appropriate for the circumstances, and were within policy, case law and use of force guidelines.

Oct 03, 2013 21:45: Sent from Lieutenant Dean E Sprague [093/10712] to Captain David W Richards [119/10779]

Instructions:

forward through patrol chain of command.

video footage too large for an e-mail attachment, and unable to transfer to dvd due to officer technology limitations. Footage can be viewed in Sgt's Resource Folder under "Buchmann Assault", with physical portion occurring at approximately 25 minutes into the half-hour video.

Reviewed by Captain David W Richards [119/10779] on Oct 07, 2013 at 15:32

Decision: Approved

Reviewer comment:

I was able to attach the surveillance video to this report from the H drive. As documented in my earlier review of this incident, Officer Buchmann's use of force was within policy.

In viewing this surveillance video, it is clear that Officer Buchmann was very patient with the suspect. From the time Officer Buchmann arrived to the point where he advised the suspect he was under arrest, 18 to 19 minutes had elapsed. Officer Buchmann spoke to and, at times, assisted the suspect to try and get him to exit without any confrontation. When Officer Buchmann was still trying to control his movements after he was placed under arrest, Officer Buchmann can be seen talking to the suspect and would appear to be attempting to de-escalate the situation.

The suspect can clearly be seen assaulting Officer Buchmann with a strike to the face. Officer Buchmann had to deploy his taser. You can clearly see Officer Buchmann talking to the suspect between taser applications and Officer Buchmann was displaying a calm body demeanor. Officer Buchmann probably could have chosen a higher level of force due to the circumstances of being actively assaulted and being by himself. However, he chose to use the force that he did and there were no injuries to the suspect.

Entered via BlueTeam by: Sergeant Shawn M Kendall [417/11477] on Sep 22, 2013 at 03:04

INCIDENT REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER		INCIDENT NUMBER 13-321665	
INCIDENT TYPE Arrest		INCIDENT CLASSIFICATION #1 ASSAULT-SIMPLE		ATTEMPTED <input type="checkbox"/>	
		INCIDENT CLASSIFICATION #3 RESISTING ARREST		ATTEMPTED <input type="checkbox"/>	
		INCIDENT CLASSIFICATION #2 TRESPASS		ATTEMPTED <input type="checkbox"/>	
		INCIDENT CLASSIFICATION #4		ATTEMPTED <input type="checkbox"/>	
RESPONDING TO (Officer Assault) Responding to Disturbance				ASSIGNMENT (Officer Assault) One Person in Vehicle, Alone	
REPORTED ON Sat 09/21/2013 23:29	DATE/TIME	OCURRED ON Sat 09/21/2013 23:00	DATE/TIME	OCURRED TO Sun 09/22/2013 00:15	DISTRICT
DISPATCH TIME 23:46	ARRIVED TIME 23:55	CLEARED TIME 02:20	REPORT DATE 09/22/2013	REPORT TIME 02:17	EST. TOTAL PROPERTY LOSS
PRIMARY CHARGE 9A.36.031(1)(G) ASSAULT-3D(LAW ENFORCE/EMPLOY)					UCR/NIBRS CODE / 13A
ADDITIONAL CHARGES 9A.52.070 CRIMINAL TRESPASS-1ST DEG, 9A.76.040 PUB OFFICER(RESIST ARREST)					
LOCATION OF INCIDENT 4001 N Market Street, Spokane, WA 99207				LOCATION NAME (IF APPLICABLE) Jack in The Box	
SOLVABILITY FACTORS PC Affidavit Completed, Suspect Arrested, Useful Physical Evidence, Witness to Crime					
RELATED INCIDENT NUMBERS					INCIDENT XREF
ADDITIONAL REPORTING OFFICERS D. Howe					
<small> 0-Legal Guardian, D-Driver, IN-Intelligence, CV-Complainant/Victim, RO-Registered Owner, VR-Victim - Business, V-Victim-Individual, S-Suspect, RU-Runaway, M-Missing, PB-Passenger, PE-Pedestrian, PC-Pedestrian-Cyclist, O-Owner, MR-Reported, Monitored, OY-Owner of Property, A-Arrested Person, V-Damaged, W-Witness, CO-Courtesy, C-Complainant </small>					
CODE A-1	NAME: LAST, FIRST, MIDDLE Rubio, Ricardo Joseph Jr			SEX M	RACE/ETHNICITY W-White/Non-Hispanic
DATE OF BIRTH/AGE 04/27/1982 31	HEIGHT 5'09"	WEIGHT 210	BUILD Heavy	HAIR Black	EYES BRO - Brown
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP Translent, Spokane, WA 99201			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS				OCCUPATION Not employed	EMPLOYER PHONE
ADDITIONAL PHONES (Cell) (509) 654-4040					
CHARGE LEVEL Gross Misdemeanor	DESCRIPTION 9A.52.070 CRIMINAL TRESPASS-1ST DEG				UCR/NCIC CODE /90J
WARRANT #	BAIL	TYPE OF ARREST On-View of Arrest			MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>
CHARGE LEVEL Misdemeanor	DESCRIPTION 9A.76.040 PUB OFFICER(RESIST ARREST)				UCR/NCIC CODE /13A
WARRANT #	BAIL	TYPE OF ARREST On-View of Arrest			MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>
CHARGE LEVEL Felony Class C	DESCRIPTION 9A.36.031(1)(G) ASSAULT-3D(LAW ENFORCE/EMPLOY)				UCR/NCIC CODE /13A
WARRANT #	BAIL	TYPE OF ARREST On-View of Arrest			MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>

ID NO./NAME OF REPORTING OFFICER #735 - Buchmann, Paul	DISTRIBUTION
APPROVAL	DATE/TIME

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION ASSAULT-SIMPLE				ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 13-321665
CITATION #	DATE	TIME	BOOKED WHERE Spokane County Jail	DATE 09/22/2013	TIME 00:19
ARREST LOCATION 4001 N Market Street, Spokane, WA 99207				STATEMENT <input type="checkbox"/> ORAL <input type="checkbox"/> WRITTEN	CHARGES <input type="checkbox"/> ADMITTED <input type="checkbox"/> DENIED
JUV. PAR/GRD. Notified <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	NAME/RELATIONSHIP OF PERSON NOTIFIED	DATE & TIME NOTIFIED	NOTIFIED BY	DISPOSITION OF JUVENILE	
DRIVER'S LICENSE #4b	<input type="checkbox"/> FAKE STATE	SOCIAL SECURITY NO. #4a	<input type="checkbox"/> FAKE	OTHER ID #4b	
CODE VB-1	NAME: LAST, FIRST, MIDDLE JACK IN THE BOX			SEX	DATE OF BIRTH/AGE
HEIGHT	WEIGHT	BUILD	HAIR	EYES	DESCRIPTORS
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP 4001 N MARKET Avenue, Spokane, WA 99207			RESIDENTIAL STATUS	PHONE (509) 487-2586
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS			OCCUPATION	EMPLOYER PHONE	
ADDITIONAL PHONES (Business) (509) 487-2586					
RELATIONSHIP TO SUSPECT			VICTIM OF Ofns. # 9A.52.070 CRIMINAL TRESPASS-1ST DEG	OFNDR. # A-1	
CODE V-2	NAME: LAST, FIRST, MIDDLE Ofc. Paul Buchmann, W			SEX M	DATE OF BIRTH/AGE #5b
HEIGHT 5'05"	WEIGHT 150	BUILD Medium	HAIR Brown	EYES BLU - Blue	DESCRIPTORS
CONFIDENTIALITY <input checked="" type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP 1100 W Mallon Avenue, Spokane, WA 99260			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS Spokane Police Department 1100 W Mallon Avenue, Spokane, WA			OCCUPATION Employed	EMPLOYER PHONE 242-8400	
ADDITIONAL PHONES (Work-Message Phone) (509) 242-8400 x.20735					
HATE BIAS			CIRCUMSTANCES		
RELATIONSHIP TO SUSPECT			VICTIM OF Ofns. # 9A.36.031(1)(G) ASSAULT-3D(LAW ENFORCE/EMPLOY)	OFNDR. # A-1	
TYPE OF INJURY OR ILLNESS/DESCRIBE INJURIES				TYPE OF VICTIM Individual	MEDICAL RELEASE OBTAINED? <input type="checkbox"/> YES <input type="checkbox"/> NO
HOSPITAL TAKEN TO	TAKEN BY	<input type="checkbox"/> EMPLOYEE <input type="checkbox"/> ON DUTY	ATTENDING PHYSICIAN	SUICIDE NOTE FOUND? <input type="checkbox"/>	HOLD PLACED BY
NARRATIVE					

On 09-21-13 at about 2346 hours, I responded to a suspicious person call at the Jack In The Box at 4001 N. Market. The store manager, Timothy Bale, called to report that a male was in the store, acting very strange. The male, later identified as Ricardo Rubio, was sitting in the store, watching employees, coming to the counter but not ordering and fidgeting with a sweatshirt in his

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 13-321665
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hands. Bale believed the male was possibly under the influence of drugs.

The male was described as Hispanic, 27-29 years old, 5'9" with a heavy build, and longer dark hair. He was wearing a black, white and red striped sweatshirt and black shorts.

Dispatchers contacted Bale by phone about 15 minutes after the first call to get an update. Bale advised Rubio was still there and was becoming more confrontational. He said Rubio was arguing with employees, trying to come behind the counters and still had not ordered anything.

I was wearing the uniform of the day (long sleeved jumpsuit with patches, badge, and duty belt). I also drove a fully marked patrol car, which I parked directly outside of the doors of the restaurant.

I arrived at about 2355 hours and observed the described male at the counter, apparently placing an order. I also observed the sign on the door to the lobby that the store lobby closed at 0000 hours.

I entered the store and observed Rubio ordering a hamburger and drinks. He had a five dollar bill in his hand and kept changing his order, trying to get it to as close to five dollars as possible. After several minutes, he selected a burger, fountain soda and a coffee. He paid for the items and Bale got the items for him. The coffee cup lids were on a nearby counter, near the soda fountain that he needed to use to fill his cup. Rubio slowly added cream to his coffee and kept standing at the counter. I retrieved a coffee cup lid for him and a straw and lid for his soda. I gave them to him, but he refused to take them. He eventually filled his soda and took it back to the counter. I repeatedly asked him to move quickly and told him that he needed to leave the store because it was now closed. Rubio ignored my statements and kept moving very slowly. He answered and placed multiple calls on his cell phone, taking even more time.

After approximately 20 minutes from when I arrived, I confirmed with Bale that he wanted Rubio removed from the store and wanted him trespassed indefinitely from the location.

I advised Rubio that he had to leave the store immediately or he would be trespassing and would be arrested. He continued to move very slowly, asking for different straws, asking for napkins, wiping the counter and again getting his phone and dialing numbers. I attempted to escort Rubio using an escort hold, but as soon as I touched his right arm, he pulled away. I again told him that he needed to leave the store immediately or he would be arrested for trespassing. He continued moving things around, but made no attempt to leave or even move towards the doors.

Rubio was mumbling but would not talk directly to me or even look at me.

When Rubio still refused to leave and stood at the counter, I advised him that he was under

INCIDENT REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 13-321665
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arrest and took control of his right arm. I pulled his arm behind his back and he was leaning against the counter. He had his left arm in front of him and I tried to reach out to get it. As I did, he turned away from me, keeping me from getting control of his other hand. I kept him pushed against the counter to control his movement but he kept trying to pull away from me. He started being very dramatic, saying that I was breaking his arm and trying to kill him. I continued to give him verbal commands to comply and put his hands behind his back, but he did not comply.

Rubio kept turning away from me and with him against the counter, I was unable to control his other arm. There was a short wall at the end of the counter, making a small corner. I pushed Rubio into this corner to contain his movement. His back was in the corner and both of his hands came in front of him. At this time, I was able to at least grab onto both of his arms to control his hands. From this position, I was also able to access my radio and called for additional Officers to assist.

I held control of Rubio against the wall for a short time, continually giving him commands to turn around and put his hands behind his back. I also advised him at this time that he was under arrest for resisting arrest as well as Trespassing.

After a brief time, Rubio started trying to pull away from me and push me off of him. I released his right arm and attempted to do a straight arm bar takedown so that he would be on the floor and I would be able to either control him more effectively or handcuff him. As I started to direct him down, he pulled back and away from me again. It felt like he was trying to pull off his sweatshirt since I had a hold of it so that he could get away from me. Rubio then turned back towards me and swung his fist directly at my head. I started to move back, but Rubio punched me in the face, knocking my hat off of my head. I continued to try to control him, but he was pulling away. Due to the more violent struggle that he was displaying, I released his arm to gain some distance between us. He quickly pulled off his sweatshirt and threw it on the floor and got into an aggressive fighting stance (bent over, fists raised, bladed and staggered stance).

Crimes: At this point, Rubio was under arrest for Trespassing 1st Degree, Resisting Arrest and now Assault 3rd Degree (Law Enforcement).

Threat Factors: Rubio was showing signs of being under the influence of unknown substances (slow mumbled speech, distracted behavior, sweating), he was wearing a bulky sweatshirt and shorts and was behaving very strangely to the employees of the store and was being aggressive with them. At this point, he was standing next to the counter, where a freshly poured cup of very hot coffee was next to him, which I feared he might try to throw at me.

Assaultive Behavior: Rubio refused to comply with my repeated commands to leave the store, put his hands behind his back and to stop resisting. He pulled away from me when I tried to control him and then punched me in the face when I tried to take him to the ground. He now pulled away from me and removed his sweatshirt and threw it on the floor, and took up an aggressive fighting stance.

INCIDENT REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 13-321665
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Based on the above factors, I drew my X26 Taser, took it off safe, activating the laser sight, and pointed it at Rubio. I again told him he was under arrest and told him to get on the ground with his hands out or he would be tased. He backed off slightly, but only dropped down to one knee and would not comply with my commands. I repeatedly told him to get on the floor on his stomach with his hands out. He started to stand back up, so I deployed the Taser, striking him on the left side of his abdomen with both darts of the Taser. Rubio went down to the floor and began kicking his legs and swinging his arms. I tried to grab him to get control while the Taser was cycling, but he was still kicking and pulling away violently. I stepped back and allowed the cycle to finish and again directed him to put his hands behind his back. I tried to get into a prone cuffing position, but he again started moving and trying to get me off of him. I activated the Taser for a second cycle, giving Rubio commands to put his hands behind his back and to stop resisting. After the second cycle, I again tried to put his hands behind his back, but he refused. I tried to talk calmly to him, reassuring him that he would not be tased again if he complied, but he still would not listen. When he again tried to pull away and put his feet up to get me away, I activated the Taser for a third cycle. As the cycle was finishing, I lowered my shin onto Rubio's upper back, pinning his upper body to the floor. I was then able to pull his arms behind his back and place him in handcuffs (dl).

At this time, additional Officers began to arrive. Officer C. Johnson assisted me in standing Rubio up and walking him out to my patrol car. We immediately called for medics to respond to evaluate Rubio and to remove the Taser probes.

At the patrol car, we searched him and then placed him in the back seat until Medics arrived.

I requested Officer Howe contact Bale for a statement and to see if he had access to the store surveillance video.

Medics arrived a short time later and removed the Taser probes from Rubio. He declined medical attention, but they did not have any concerns of his welfare from their interaction with him.

Corporal Kakuda responded and photographed the Taser probe contacts on Rubio, clothing and items on the floor of the restaurant and a red mark on my face.

Sgt. Kendall responded to the scene and was advised of the details of the incident. He was also able to obtain a copy of the video from the store.

Bale informed me that he would be able to make DVD copies of the video to be picked up tomorrow for evidence.

I transported Rubio to the Spokane County Jail and booked him for Assault 3rd Degree.

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 13-321665
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P. Buchmann #735
Spokane Police - B341

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER		INCIDENT NUMBER 13-321665	
REPORT PURPOSE			REPORTED ON DATE Sun 09/22/2013	TIME 23:29	INCIDENT XREF
INCIDENT CLASSIFICATION #1 ASSAULT-SUB BDLY HARM		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2 TRESPASS		ATTEMPTED <input type="checkbox"/>
INCIDENT CLASSIFICATION #3		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4		ATTEMPTED <input type="checkbox"/>
DISPATCH TIME	ARRIVED TIME	CLEARED TIME		REPORT DATE 09/22/2013	REPORT TIME 01:13
PRIMARY CHARGE					UCR/NIBRS CODE
<small> VICTIM/WITNESSES/OTHERS: OW-Owner of Property, O-Other, CON-Contractor, V-Delivered, VB-Victim - Business, V-Victim - Individual, S-Suspect, RU-Runaway, RO-Registered Owner, PS-Passing, W-PE-Pretextual, A-Armed Person, G-Legal Guardian, C-Complainant, CV-Complainant is Victim, D-Driver, PC-Protection - Cyclist, IH-Institutional, M-Missing, MR-Person Mentioned, W-Witness </small>					
CODE C-1	NAME: LAST, FIRST, MIDDLE Bale, Timothy M			SEX M	RACE/ETHNICITY W-White
HEIGHT 5'10"	WEIGHT 205	BUILD Medium	HAIR Brown	EYES BRO - Brown	DATE OF BIRTH/AGE 11/19/1985 27
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP 4001 N Market Street, Spokane, WA 99207			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS			OCCUPATION		EMPLOYER PHONE
ADDITIONAL PHONES (Cell) (509) 833-4547					
DRIVER'S LICENSE <input type="checkbox"/> FAKE		STATE	SOCIAL SECURITY NO. <input type="checkbox"/> FAKE		OTHER ID
#4b		#4a			
NARRATIVE					

On 092213 (0018 hrs), I responded to 4001 N. Market, Spokane, WA to assist Ofc. Buchmann who just advised over the radio to "step it up". This is not a normal statement for Ofc. Buchmann to make and I could tell he was in dire need for back-up.

Upon arrival, I Ofc. Buchmann and Ofc. Johnson were escorting a male outside in handcuffs. See their reports for more information. I then spoke to the complainant and manager of the Jack in the Box, Timothy Bale.

Bale told me he was the one who called the police. He told me the male suspect was in the store for well over an hour and was acting "strange". He advised the male would act like he was going to order something and when they went to help him he would get very mean and aggressive and say things like, "Fuck yeah you can help me!" They would then ask what he wanted and he would walk off.

He said the suspect did this several times. He said that the suspect appeared to be high on something and appeared to be "out of his mind". He said the male's actions were so strange that he was scared to tell him to leave. Therefore he called the police.

He told me that he feared that if he caused a confrontation the suspect would try and rob him. He further advised that the suspect was carrying around a shirt that was partially taped up and he

ID NO./NAME OF REPORTING OFFICER #680 - Howe, Dustin		DISTRIBUTION
APPROVAL	DATE/TIME	

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SUB BDLY HARM	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 13-321665
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thought he may have a weapon secreted in that.

He told me that once Ofc. Buchmann arrived Ofc. Buchmann was very professional and polite. Bale told Ofc. Buchmann that he wanted the male trespassed permanently from the store.

He heard Ofc. Buchmann tell the male to leave and the male refused. He said Ofc. Buchmann was so patient with the suspect that he was shocked!. He said Ofc. Buchmann must have told the male over 20 time to leave and he was trespassed from the property.

He said that after about 1 minute of Ofc. Buchmann verbally attempting to get the male to comply Ofc. Buchmann then tried to get a little more aggressive and help the male pack up his belongings.

The male then began to struggle and Ofc. Buchmann attempted to control him. He said the next thing he saw was the suspect spin around and punch Ofc. Buchmann in the face with a hard violent closed fist punch. He said he was absolutely surprised, based on how hard and violent the suspect through the punch that Ofc. Buchmann was not knocked out and seriously injured.

He said Ofc. Buchmann then used his taser and was able to control the suspect. He advised he has video surveillance of the incident was going to burn a copy for evidence. He told me over and over again that Ofc. Buchmann was extremely professional and polite when dealing with this suspect.

I advised Sgt. Kendall of Bales's statements. See other officers additional for more information.

D. Howe #680

SUPPLEMENTAL REPORT
Spokane Police/Spokane County Sheriff

AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER	INCIDENT NUMBER 13-321665		
REPORT PURPOSE			REPORTED ON DATE Sun 09/22/2013	TIME 19:38	INCIDENT XREF
INCIDENT CLASSIFICATION #1 ASSAULT-SIMPLE		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2		ATTEMPTED <input type="checkbox"/>
INCIDENT CLASSIFICATION #3		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4		ATTEMPTED <input type="checkbox"/>
DISPATCH TIME	ARRIVED TIME	CLEARED TIME	REPORT DATE 09/23/2013	REPORT TIME 01:12	
PRIMARY CHARGE					UCR/NIBRS CODE
NARRATIVE					

On 09-22-13 at about 1938 hours, I contacted the Jack In The Box at 4001 N. Market to get a copy of the surveillance video of the incident the night before. Employees advised that Bale was not working and that the video had not yet been made. I left the incident number and phone number for crime check and requested they just call in when the video was ready to be picked up. They advised that they would pass the information on to Bale and he would call.

I booked the used Taser cartridge on property as evidence.

See original report for more information.

P. Buchmann #735
 Spokane Police - B341

ID NO./NAME OF REPORTING OFFICER #735 - Buchmann, Paul		DISTRIBUTION	
APPROVAL #206 - Gilmore, Chet	DATE/TIME 09/23/2013 02:34		



TASER Information		Downloaded By	
Serial #	<i>X00-211628</i>	Name	<i>Kendall Shawn</i>
Model #	<i>X26</i>	Dept	<i>SPD</i>
X26 Software Version	<i>15</i>	Rank	<i>Sgt</i>
Dataport CD Version	<i>17.4</i>	Windows Version	<i>Microsoft® Windows NT(TM) Service Pack 3</i>
Record Date Range	<i>All Data</i>	Report Generated	<i>09/22/13 02:51:28 (local)</i>
Computer Time Zone	<i>Pacific Standard Time *DST</i>		
Using Daylight Savings Time	<i>Yes</i>		
X26 Warranty Date	<i>09/06/07 State: Expired</i>		

Recorded Firing Data

Seq	GMT Time	Local Time	Duration	Temp	Battery
0003	08/22/06 14:56:04	08/22/06 07:56:04	5	27	99
0004	08/22/06 14:56:10	08/22/06 07:56:10	5	27	99
0005	08/22/06 14:56:16	08/22/06 07:56:16	5	28	99
0006	09/06/06 22:58:28	09/06/06 15:58:28	5	27	98
0007	08/20/07 16:16:09	08/20/07 09:16:09	1	25	96
0008	08/20/07 18:09:44	08/20/07 11:09:44	2	27	96
0009	01/03/12 19:50:42	01/03/12 11:50:42	5	26	88
0010	01/03/12 19:50:49	01/03/12 11:50:49	5	27	87
0011	01/03/12 19:54:43	01/03/12 11:54:43	2	27	87
0012	01/03/12 19:59:37	01/03/12 11:59:37	5	28	87
0013	01/05/12 01:24:04	01/04/12 17:24:04	5	21	87
Seq	GMT Time	Local Time	Duration	Temp	Battery
0016	03/19/12 23:30:04	03/19/12 16:30:04	5	27	83

0017	10/14/12 22:43:14	10/14/12 15:43:14	5	26	81
0018	11/27/12 00:14:56	11/26/12 16:14:56	5	26	79
0019	12/25/12 06:12:33	12/24/12 22:12:33	5	26	78
0020	09/20/13 23:08:11	09/20/13 16:08:11	5	26	77
0021	09/22/13 07:08:24	09/22/13 00:08:24	5	25	76
0022	09/22/13 07:08:38	09/22/13 00:08:38	5	25	76
0023	09/22/13 07:10:06	09/22/13 00:10:06	5	27	75

Recorded X26 Time Changes

Seq	GMT Time	Local Time	Change Type
0001	08/22/06 14:55:25	08/22/06 07:55:25	FROM
0002	08/22/06 14:55:25	08/22/06 07:55:25	TO
0014	03/19/12 22:46:18	03/19/12 15:46:18	FROM
0015	03/19/12 23:17:18	03/19/12 16:17:18	TO

End of Report.

This incident review was completed using Officer and witness statements, submitted reports and CAD systems as well as a review of surveillance video capturing the incident.

Incident Details:

At approx. 2329 on 9/21/13, Timothy Bale the floor manager at "Jack in the Box", N. 4001 Market, called for police assistance reference a subject in the building. Bale stated a subject, later identified as Rubio, was in the costumer area acting very strangely. He stated that Rubio was attempting to walk back into the kitchen area while holding a sweatshirt in a way that made him feel he was concealing something. He wouldn't order anything and suspected that Rubio was under the influence of something.

Ofc. Buchmann responded to the location at 2355 hrs. As Ofc. Buchmann entered the restaurant he noted a sign that stated that the costumer area closes at 0000 hrs. As he approached the counter area he observed Rubio apparently placing an order for food.

Ofc. Buchmann stood by while Rubio slowly ordered food and drink. Once he received his order he took even more time adding cream and sugar to coffee. Ofc. Buchmann attempted to assist Rubio by obtaining cup lids and straws for his drinks, one of which was hot coffee. Rubio refused to take the help. Ofc. Buchmann told him several times that the restaurant was now closed and that he needed to leave. Rubio ignored him, fidgeting with his food and drink, answering and dialing his cell phone and even cleaning the counter with napkins.

Ofc. Buchmann had now been on scene for approx. 20 minutes and Rubio was still refusing to finish his business and exit the building as directed. Ofc. Buchmann verbally asked Bale if he wanted Rubio escorted from the property and to be permanently trespassed. Bale said he did. Ofc. Buchmann advised Rubio that he must leave the property immediately or he would be arrested for 1st degree trespass. He ignored the command and continued his delay tactics asking for straws and dialing his phone.

Ofc. Buchmann obtained right arm control and attempted to escort Rubio from the property. Rubio actively resisted by twisting his upper torso and pulling his arm away from Ofc. Buchmann's escort hold. Ofc. Buchmann was alone and much smaller than Rubio. Ofc. Buchmann attempted to contain Rubio's movements by guiding this close quarter control incident into a corner of the building near the front counter. He advised Rubio he was under arrest for 1st degree trespass and also called for additional officers.

Rubio refused to comply with multiple commands to turn around and put his hands behind his back. Every attempt to move Rubio's arm behind his back for hand cuffing by Ofc. Buchmann was defeated by tense arm resistance and body readjustments. Ofc. Buchmann advised Rubio that he was now under arrest for resisting arrest.

Rubio attempted to push Ofc. Buchmann away with his arms and leg drive. They were face to face. Ofc. Buchmann attempted to transition into a straight arm bar takedown using Rubio's left arm. Rubio was able to defeat the takedown with athleticism and bodily force. Ofc. Buchmann was slightly off balance from the failed takedown. At that point Rubio punched Ofc. Buchmann on the left side of his nose and

cheek area with a closed fist. Ofc. Buchmann attempted to regain control but Rubio kept him at distance using obvious wrestling skills. Rubio placed his right hand on Buchmann's torso and his left hand was wrapped around the back of Buchmann's head. Ofc. Buchmann attempted to pull Rubio forward and down by using clothing control but this failed.

Rubio hectically removed his sweatshirt and took an obvious fighting stance. They were approx. six feet from each other at this time.

Ofc. Buchmann removed his TASER turned it on to the firing position activating the laser. He used verbal commands accompanied by a visual display of the TASER to gain compliance. Rubio partially complied. He got down to his knees near the counter. He refused to lie on the floor in the prone position as commanded.

Ofc. Buchmann chose to deploy the TASER in probe mode at this point for the following reasons:

- Crimes:
 - Ofc. Buchmann had PC to arrest Rubio for 1st Degree Trespassing, Resisting arrest and 3rd Degree Assault on an officer.
- Threats:
 - Ofc. Buchmann was the only officer on scene.
 - Rubio was much larger than Ofc. Buchmann.
 - Rubio had not been searched. It was unknown if Rubio was concealing a firearm, edged weapon or other improvised weapons.
 - There were numerous items within Rubio's reach that could be used for improvised weapons.
 - Computer monitors
 - Hot coffee
 - Display cases
 - Credit card readers
 - Broom
 - Other
 - Rubio was very athletic and skilled in close quarter grappling as observed earlier.
 - There was a civilian in the near vicinity that may fall victim to Rubio's violent behavior if not controlled.
 - Rubio had already punched Ofc. Buchmann, who was in full uniform, demonstrating that he was capable of violence.
- Resistance:
 - Rubio failed to comply with Ofc. Buchmann's commands from initial contact until placed in hand cuffs.
 - Rubio actively resisted Ofc. Buchmann's initial control techniques.
 - Rubio assaulted Ofc. Buchmann both with a closed fist strike and wrestling tie up techniques.

Ofc. Buchmann Deployed the TASER in probe mode striking Rubio on the mid left portion of his upper torso. The TASER had the desired effect and Rubio moved to the prone position. Ofc. Buchmann moved in and attempted prone cuffing position. Ofc. Buchmann obtained left arm control and placed his shin and knee across his upper torso and neck area. As the cycle ended on the TASER Rubio immediately attempted to defeat Buchmann's control by pulling his left arm back under his body and bucking Ofc. Buchmann off of his control position using leg drive and torso movement.

Ofc. Buchmann deployed a second cycle through the TASER for the listed crime and threat factors as well as the described additional resistance Rubio demonstrated.

Throughout this incident Ofc. Buchmann gave him clear concise orders on what he needed to do. When this second cycle completed Ofc. Buchmann assured him that he would not be TASED again if he complied. Rubio was on his stomach with his arms under his torso. Ofc. Buchmann wisely maintained a safe position as he explained in detail what he wanted Rubio to do. He showed great restraint as he pleaded with Rubio to comply and place his arms behind his back.

Ofc. Buchmann started placing Rubio's left arm behind his back and prepared to move into prone cuffing for a second time. Rubio immediately spun to his side giving him the ability for additional strikes or kicks. Ofc. Buchmann continued to plead with him commanding compliance and for him to lay on his stomach and place his hands on his back. Rubio refused and tensed up his left arm and torso preventing Ofc. Buchmann from applying a prone cuffing technique.

Ofc. Buchmann applied a third cycle at this point for all of the listed crime, threat and continued resistance factors.

This cycle had the desired effect and Ofc. Buchmann was able to place Rubio in hand cuffs without further incident.

Medics removed the probes from Rubio's torso. The injury was minor and consisted of two small probe punctures. The injuries were photographed.

Rubio was difficult to communicate with and appeared to be under the influence of a substance. He would only tell me that he wanted to be let go.

Ofc. Buchmann had a small cut on the left side of his nose and some slight redness on his cheek area as result of the punch by Rubio.

After review of this incident I find that Ofc. Buchmann's actions were within policy, state and federal law and met department expectations. Further I find that Ofc. Buchmann's patience and attempts at verbal de-escalation were exceptional. Watching the video of this incident shows the confidence and competence of Ofc. Buchmann's abilities as a Police Officer, SWAT operator and FTO.

As the Defensive Tactics Coordinator for Spokane PD I find that the application of the TASER would have been much more effective if Ofc. Buchmann utilized a drive stun application in combination of the properly deployed probes. Although effective, the small spread of the probes limited the full potential of

the TASER or Conducted Electronic Weapon. A drive stun application in an appropriate target would allow for more effected area and may have gained earlier compliance.

Sergeant Shawn Kendall

09/22/13 04:24:38 PRINT REQUESTED BY TERMINAL DHPD02

Incident History for: #SP130321665

Entered 09/21/13 23:29:58 BY 91107 911205
Dispatched 09/21/13 23:46:05 BY B341 735
Enroute 09/21/13 23:46:05
Onscene 09/21/13 23:55:31
Closed 09/22/13 04:23:15

Initial Type: SUSPER Final Type: SUSPER (SUSPICIOUS PERSON)

Initial Priority: 2 Final Priority: 2

Disposition: 1E Source: 9 Primary Unit: B341

Police BLK: SPB4HI

Group: P4 Beat: Map Page: 40

Loc: 4001 N MARKET ST ,SPK -- JACK IN THE BOX ,SPK btwn E GARLAND AV & N HAVEN

Name: BALE,TIMOTHY M 111985 Addr: SAME, EMPL Phone: 5098334547

/232958 (911205) ENTRY MALE INSIDE LOC KEEPS COMING UP TO REGISTER AND NOT SAYING ANYTHING. THEN STOOD BY ENTRANCE TO KITCHEN, WATCHED EMPLS. KEEPS MESSING WITH HIS SWEATSHIRT THAT HE IS HOLDING IN HIS HANDS . NO WEAPONS SEEN. POSS HIGH.

/233129 SUPP TXT: MALE: HM 27-29YO 509/HVY DARK HAIR. WEARING: BLK/WHI/RED STRIPED SHIRT, BLK PANTS. HOLDING BLK SWEATSHIRT.

/233142 (1141) HOLD

/233237 (911205) CHANGE NAM: TIMOTHY --> BALE,TIMOTHY M 111985, TXT: ###

/234235 (1141) CALLBK T/PCC05 ,PLZ CB EMPLOYEE, IS SUBJ STILL THERE?

/234433 (657) CALLBK T/PCC01 ,SUBJECT STILL INSIDE HAS NOT ORDERED AND IS GETTING ANGRY W/EMPLOYEES KEEPS TRYING TO COME BACK TO THE KITCHEN AREA... SEEMS VERY HIGH

/234605 (735) *DISPER B341 #735 BUCHMANN, PAUL

/235531 *ONSCNE B341

*** New Date: 09/22/13 ***

/001513 (1141) ASSTER B437 [4001 N MARKET ST ,SPK] #698 YINGER, BENJAMIN ,STEP IT UP

/001537 MISC B341

/001539 (750) *ASSTER F34 [4001 N MARKET ST ,SPK] #750 ANDERSON, JERRY C

/001548 (1154) *ASSTER D389 [4001 N MARKET ST ,SPK] #1154 YRIGOLLEN, KYLE #1010 WILLARD, JACOB

/001556 (730) *ASSTER C356 [4001 N MARKET ST ,SPK] #730 HANEY, SCOTT

/001602 (417) *ASSTER L205 [4001 N MARKET ST ,SPK] #417 KENDALL, SHAWN

/001610 (966) *ASSTER C453 [4001 N MARKET ST ,SPK] #966 JOHNSON, CHRISTOPHER

/001620 (681) *ASSTER TAC1 [4001 N MARKET ST ,SPK] #681 HEUETT, KYLE #688 CURTIS, JASON

/001622 (680) *ASSTER F33 [4001 N MARKET ST ,SPK] #680 HOWE, DUSTIN

/001640 (1177) *ASSTER B438 [4001 N MARKET ST ,SPK] #1177 BRIGGS, NICK #786 NOLLMAYER, TREVOR

/001645 (938) *ASSTER A420 [4001 N MARKET ST ,SPK]

/001652	(409)	)	*ASSTER	B445	#938 POTTER, ADAM
					#950 EVERLY, JOHN
					[4001 N MARKET ST ,SPK]
/001721	(978)	)	*ASST	A414	#409 BOOTHE, ROB
					[4001 N MARKET ST ,SPK]
					#978 SPECHT, ERICK
/001723		)	*ENROUT	A414	
/001725	(991)	)	*ASSTER	A413	[4001 N MARKET ST ,SPK]
					#991 JAMIESON, RYAN
					#250368 GUZZO, ANTHONY
/001807	(1016)	)	*ASSTER	A315	[4001 N MARKET ST ,SPK]
					#1016 WILKINSON, RHIAN
/001811	(1046)	)	*ASSTER	C459	[4001 N MARKET ST ,SPK]
					#1046 ROGAN, GREGORY
					#250371 KORPI, JUSTIN
/001828	(1141)	)	ONSCNE	C453	
/001841		)	ONSCNE	F33	
/001844		)	ONSCNE	F34	
/001856		)	MISC	C453	, TAKING ONE INTO CUSTODY INSIDE THE STORE
/001905	(1046)	)	*CLEAR	C459	
/001913	(730)	)	*CLEAR	C356	
/001914	(938)	)	*PREMPT	A420	
/001914	(1016)	)	*PREMPT	A315	
/001916	(681)	)	*ONSCNE	TAC1	
/001916	(698)	)	*PREMPT	B437	
/001921	(1141)	)	CALLBK	C453	T/PCC05
					, MEDS FOR TASER APPLICATION
/001933	(657)	)	CALLBK		T/PCC01
					, FIRE ADV
/001941	(1177)	)	*PREMPT	B438	
/001941	(1141)	)	MISC	C453	, C4 UNRESTRICT
/001952	(417)	)	*ONSCNE	L205	
/001955	(409)	)	*PREMPT	B445	
/002014	(1141)	)	ASSTOS	P307	[4001 N MARKET ST ,SPK]
					#443 KAKUDA, BLAINE
/002042	(1154)	)	\$PREMPT	D389	
/002049	(991)	)	*PREMPT	A413	
/002146	(978)	)	*CLEAR	A414	
/002149	(1141)	)	ASSTER	B437	[4001 N MARKET ST ,SPK]
					#698 YINGER, BENJAMIN
/002159	(750)	)	*REMINQ	F34	
					#3a
/002338	(698)	)	*ONSCNE	B437	
/004130	(966)	)	*CLEAR	C453	, PSTAT/ASST
/004143	(750)	)	*CLEAR	F34	, PSTAT/ASST
/004219	(680)	)	*CLEAR	F33	, PSTAT/ASST PSTAT/RPT
/004537	(735)	)	*TRANS	B341	[JAIL] M/00
					, MALE
/004844	(1144)	)	\$PREMPT	TAC1	
/004844		)	PREDSP	TAC1	D486 #SP130321725 T/SUSPER [WSU BOOKIE]
/004914	(698)	)	*CLEAR	B437	, PSTAT/ASST
/004959	(417)	)	*CHGLOC	L205	[SIG 1]
/005124	(443)	)	*CLEAR	P307	, PSTAT/ASST PHOTOS
/005646	(735)	)	*TRANSC	B341	M/4.9
/005956	(417)	)	\$PREMPT	L205	
/015413	(1141)	)	OK	B341	
/015558	(735)	)	\$PREMPT	B341	
/015737		)	*DISPOS	B341	#735 BUCHMANN, PAUL
/015803		)	*NEWLOC	B341	[1]
/021912	(1141)	)	OK	B341	

/042315 (735) *CLEAR B341 DSP: 1E
,PSTAT/CFS PSTAT/RPT PSTAT/FEL PSTAT/MISD PSTA
T/MISD BOOKED RUBIO FOR ASSAULT 3RD, TRESPASS
AND RESISTING.

/042315 CLOSE B341