



SPOKANE POLICE DEPARTMENT



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)
#1f	Confidential information elicited pursuant to police Domestic Violence Protocol.	Disclosure of this information is protected under chapter 10.99 RCW. Release of this information could endanger the lives of victims or witnesses.	RCW 10.99.030(5) and 10.99.010
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 offenses.	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)
#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 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.

#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 Identity Card	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 identification card 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 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.	RCW 42.56.240(1) (Investigative, law enforcement, and crime victims). <i>Ashley v. Public Disclosure Comm'n, 16 Wn.App. 830, 836 (1977).</i>
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 in RCW 43.43.705.	RCW 70.48.100 (Jail register)
#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 the identities of officers/employee accused of sexual misconduct in Internal Affairs Investigations and Inquiries, if the findings are not Sustained. Police officers/employees have a right to privacy in their identities in connection with unsubstantiated allegations of sexual misconduct.	<i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011). <i>Bellevue John Does</i> , 164 Wash 2d at 212, 189 P.3d 139.
#13b	<u>Date of birth</u> of accused police officers/employee.	This redaction protects the identities of accused officers/employees 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/employee.	This redaction protects the identities of accused officers/employee 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/employee.	This redaction protects the identities of accused officers/employee 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/employee.	This redaction protects the identities of accused officers/employee 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)



Spokane Police Department Use Of Force Report

Incident Entered By: Sergeant Troy Teigen

Incident Details

Date Received	Date of Occurrence	Time of Occurrence
7/18/2016	7/18/2016	01:26
Record ID #	Incident No	IA No
9364	16-263144	F16-063
Date/Time Entered		
7/18/2016 20:52		

Incident Summary

Use of force report for Officer Kirby intentionally pointing a firearm and OC application on a non-compliant assault suspect apparently armed with a handgun.

In compliance with policy per Major King 09/21/16.

Incident Location

- 1823 Wabash AV, Direction: E, Spokane, WA 99207 - : Northeast

Use of Force Specific Information

Reason for Use of Force	Service Being Rendered	
Assaulting Citizen	Call for Service	
Weather Condition	Lighting Condition	Distance to Citizen
Clear	Dark	d-12-21 feet
Citizen Injured	Citizen Taken to Hospital	Citizen Arrested
Yes	No	Yes
More than 1 Citizen Involved		
No		
Citizen's Build	Citizen's Height	
Large	5'10" to 6'0"	
Officer Assessment of Citizen Condition During Incident		
Alcohol and/or Drugs		
Officer(s) Injured	Officer(s) Taken to Hospital	
No	No	

Reporting/Involved Citizen Information

Todd E Miller

DOB: 9/28/1972 Race: White Gender: Male

Address

- 385 PO Box, Wilbur, WA 99210

Phone

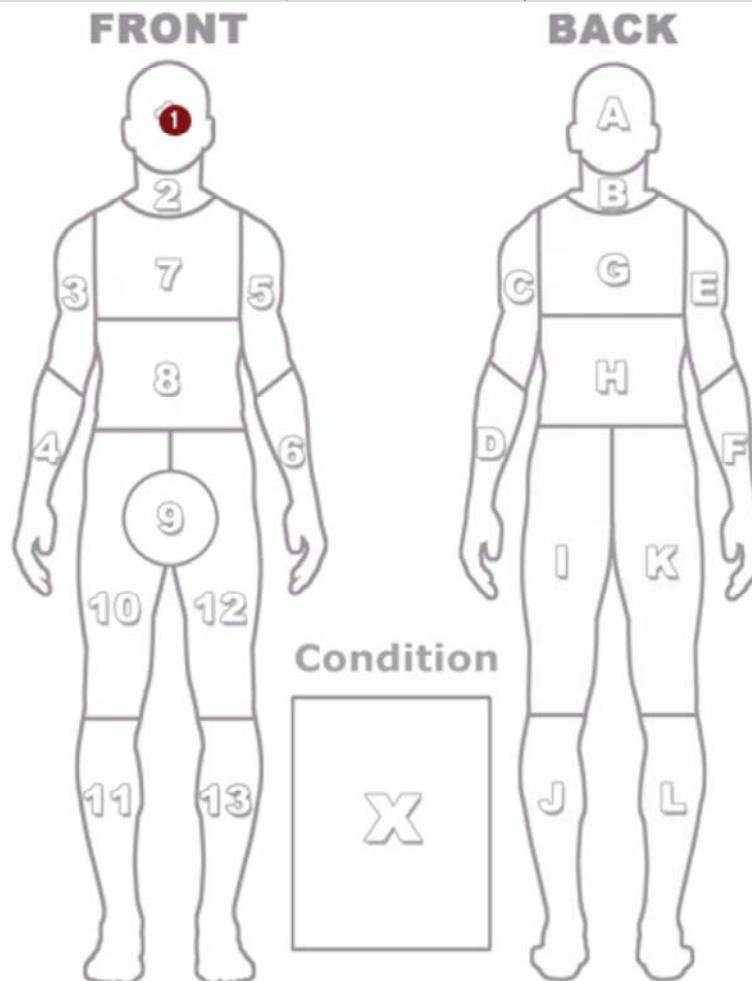
- (509) 641-0114

Types of Resistance Citizen Used Against Officer(s)

- Active Resistance
- Life Threat/Suicidal
- Assaultive

Injuries sustained by this citizen

Injury	Regions	Injury Locations
a-Complaint of Pain	1	1

**Charges against this citizen**

- Misdemeanor - Person Crime
- Obstructing

Involved Officers

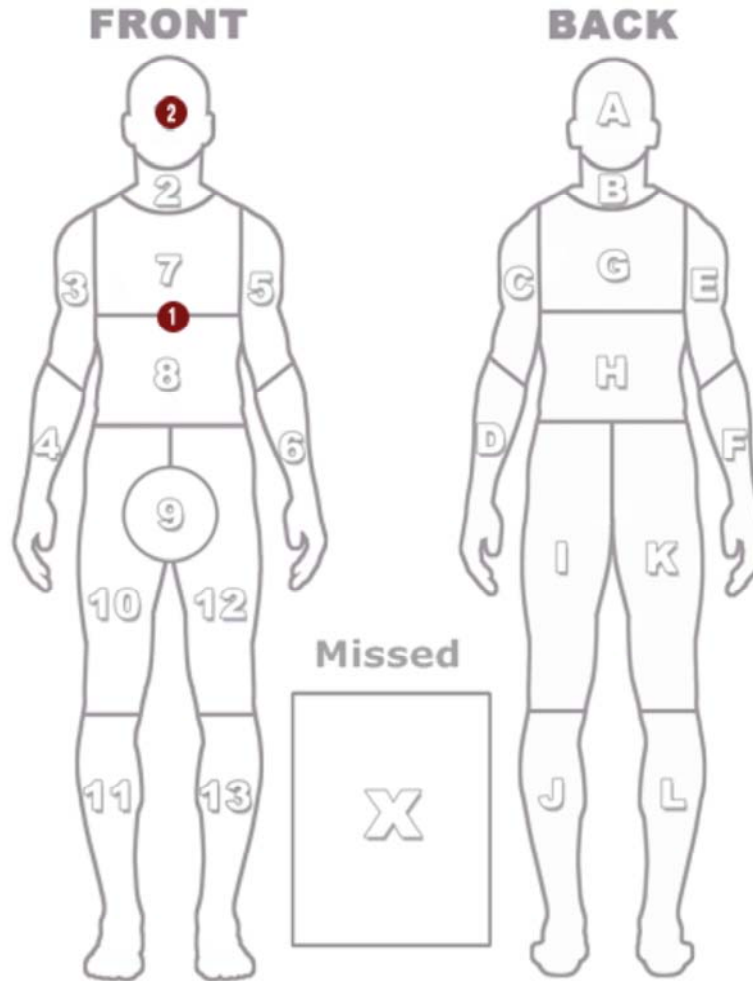
Officer Aaron Kirby - Payroll Number: 15279

Force used by this officer against the citizen

- Int Pointing of Firearm - Was force effective: Yes

- OC-Personal - Was force effective: Yes

Force Used	Effective?	Regions	Points of contact
Int Pointing of Firearm	Yes	7	1
OC-Personal	Yes	1	2



Officer Witnesses

Officer Jerry Anderson - Payroll Number: 12385

Attachments

Date Attached	Attachment Description	Attachment Type
7/18/2016	16-263144 Incident Report	pdf
7/18/2016	16-263144 CAD Report	pdf
7/18/2016	16-263144 Photo Log	pdf
7/18/2016	BWC Kirby	
7/18/2016	BWC JC Anderson 1	
7/18/2016	BWC JC Anderson 2	
7/18/2016	BWC Teigen	
7/29/2016	Use of Force Additional 16-263144	doc
8/1/2016	IMG_0001	JPG

8/1/2016	IMG_0002	JPG
8/1/2016	IMG_0003	JPG
8/1/2016	IMG_0004	JPG
8/1/2016	IMG_0005	JPG
8/1/2016	IMG_0006	JPG
8/1/2016	IMG_0007	JPG
8/1/2016	IMG_0008	JPG
8/1/2016	IMG_0009	JPG
8/1/2016	IMG_0010	JPG
8/1/2016	IMG_0011	JPG
8/1/2016	IMG_0012	JPG
8/1/2016	IMG_0013	JPG
8/1/2016	IMG_0014	JPG
8/25/2016	16-263144 Use of Force Additional page 2	pdf

Chain of Command History

Sent Dt	From	To	CC	Approved
7/29/2016	Internal Affairs	Internal Affairs	Lieutenant Joseph Walker	<input checked="" type="checkbox"/>
Sender's Instructions: Officer Kirby pointing of a firearm and OC Use of Force.				
Recipient's Comments/Response: Photographs added. Submitted to Lt. Sprague for review				
8/1/2016	Sergeant Daniel Waters	Lieutenant Dean Sprague	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: Photographs added. Submitted to Lt. Sprague for review.				
Recipient's Comments/Response: Pointing of firearm was justified with knowledge that subject was reported to have a gun, and subject was seen trying to dispose of a realistic looking one while wearing a holster when contacted. Application of OC justified when active non-compliance and confrontation required a sensory disruption allowing for hands-on control. Pointing of a firearm was only for the duration necessary to protect officer and nearby civilian. OC application was immediately followed by flushing attempts to alleviate effects. Both force applications were within policy, case law and use of force guidelines.				
8/4/2016	Lieutenant Dean Sprague	Captain Daniel Torok	(none)	<input type="checkbox"/>
Sender's Instructions: Forward through patrol chain of command.				
Recipient's Comments/Response: Lt. Sprague, the UOF additional is insufficient. Cause modifications to be made and resubmit.				
8/5/2016	Captain Daniel Torok	Lieutenant Dean Sprague	(none)	<input type="checkbox"/>
Sender's Instructions: see comments				
Recipient's Comments/Response: Please expand on UoF additional and re-submit.				
8/5/2016	Lieutenant Dean Sprague	Sergeant Troy Teigen	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: Please expand on conclusions in UoF additional.				
Recipient's Comments/Response: [Forwarded by Sergeant Troy Teigen]				
8/25/2016	Internal Affairs	Internal Affairs	Captain Daniel Torok, Lieutenant Dean Sprague	<input checked="" type="checkbox"/>
Sender's Instructions: Expanded use of force additional attached.				
Recipient's Comments/Response: [Forwarded by Sergeant Michael Carr]				
8/29/2016	Sergeant Michael Carr	Lieutenant Dean Sprague	(none)	<input checked="" type="checkbox"/>
Sender's Instructions: Lt. I believe this is suppose to go back to you?				

Recipient's Comments/Response: Additional supervisory review narrative attached for clarification. Finding of a justified use of force within policy, case law and use of force guidelines remains unchanged.

9/11/2016	Lieutenant Dean Sprague	Captain Daniel Torok	(none)	<input checked="" type="checkbox"/>
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Sender's Instructions: Additional expanded supervisory narrative attached. Forward through patrol chain of command.

Recipient's Comments/Response: The force used, OC and pointing of firearm, is consistent with case law and within policy.

9/12/2016	Captain Daniel Torok	Major Kevin King	(none)	<input checked="" type="checkbox"/>
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Sender's Instructions: for review

Recipient's Comments/Response: The pointing of a firearm and the application of OC both were in policy and state and federal guidelines. The Use of Force Review Board will address the report writing issues.

Entering Officer Signature Line

Sergeant Troy Teigen

Chain of Command Signature Lines

Sergeant Daniel Waters

Lieutenant Dean Sprague

Captain Daniel Torok

Sergeant Troy Teigen

Sergeant Michael Carr

Major Kevin King



Spokane Police Department
Internal Affairs



Use of Force
Additional

Incident #:

16-263144 (page 1 Blue Team report)

Date:

7/18/2016 (page 1 Blue Team report)

Involved Officer(s) BWC Y/N:

Yes (page 3 Blue Team report)

Reviewing Supervisor:

Sgt Teigen (page 1 & page 4 Blue Team report)

INSTRUCTIONS: *Include any information below that is not already adequately covered in the Incident Report. For information already reported refer the reader to the applicable report.*

Incident Summary:

Use of Force report for Officer Kirby intentionally pointing a firearms and OC application on a non-compliant assault suspect apparently armed with a handgun (page 1 Blue Team report and Incident Report 16-263144)

Officer Interview Summary:

Consistent with Incident Report and BWC (Incident Report 16-263144)

Subject Interview Summary:

Consistent with Incident Report and BWC (Incident Report 16-263144)

Witness Interview Summary:

Consistent with Incident report and BWC (Incident Report 16-263144)

Witness Officer Interview Summary BWC Y/N:

Consistent with Incident Report and BWC (Incident Report 16-263144)

Any Relevant Clarifying Information and Observations:

None (Incident Report 16-263144)

Sergeant Findings:

Within Policy



Spokane Police Department
Internal Affairs



Use of Force
Additional

Incident #:

16-263144 (page 1 Blue Team report)

Date:

7/18/2016 (page 1 Blue Team report)

Involved Officer(s) BWC Y/N:

Yes (page 3 Blue Team report)

Reviewing Supervisor:

Sgt. Teigen (page 1 & page 4 Blue Team report)

INSTRUCTIONS: *Include any information below that is not already adequately covered in the Incident Report. For information already reported refer the reader to the applicable report.*

Incident Summary:

Use of Force report for Officer Kirby intentionally pointing a firearms and OC application on a non-compliant assault suspect apparently armed with a handgun (page 1 Blue Team report and Incident Report 16-263144)

Officer Interview Summary:

Officer statements were consistent with the incident report and BWC (Incident Report 16-263144). Nothing further to add.

Subject Interview Summary:

Subject was irrational and uncooperative. He refused medical treatment due to his belligerence. What comments he made were also consistent with the incident report and BWC (Incident Report 16-263144).

Witness Interview Summary:

The apparent DV victim, that may have witnessed the use of force, fled from the scene and was not identified. Neighbor statements were consistent with incident report and BWC (Incident Report 16-263144).

Witness Officer Interview Summary BWC Y/N:

No officers witnessed the use of force. Information is consistent with the incident report and BWC (Incident Report 16-263144).

Any Relevant Clarifying Information and Observations:

None (Incident Report 16-263144)

Sergeant Findings:

The pointing of firearm was justified with knowledge that the suspect was reported to have a gun, and the suspect was seen drawing from a holster and attempting to hide an apparently real firearm when contacted. The pointing was temporary and only during the duration of the threat. Application of OC justified given the proximity of the apparent firearm and for active non-compliance and confrontation requiring a sensory disruption which allowed the officers to take physical control without injury to the suspect. Medical treatment was provided for alleviation of the pepper spray by medical personnel but the suspect was uncooperative. The force used was within policy.

Incident History for: #SP160263144

Entered 07/18/16 01:17:50 BY 91110 911231
 Dispatched 07/18/16 01:19:28 BY PCC01 1234
 Enroute 07/18/16 01:19:28
 Onscene 07/18/16 01:23:13
 Closed 07/18/16 03:52:48

Initial Type: DV Final Type: DV (DOMESTIC VIOLENCE)

Initial Priority: 2 Final Priority: 2

Disposition: 1E Source: 9 Primary Unit: A311

Police BLK: SPB3WH

Group: P3 Beat: Map Page: 31

Loc: N NAPA ST/E WABASH AV ,SPK <4800,1800> (V)

Loc Info: NORTHWEST CORNER

Name: 1a 1b Addr: SAME

Phone: 1c

/011750 (911231) ENTRY FEMALE OUTSIDE ARGUING WITH HER XBFRND, SOUNDS
 PHYSICAL, NO MENTION OF WEAPONS, HE IS INTOX
 /011750 \$FCSEND ,Incident data pushed to folder
 /011751 (*****) \$FCACK ,Processed Successfully
 /011804 (1234) HOLD
 /011817 (911231) SUPP TXT: MALE: UNK, TODD, WM, 40 YO, WEARING: HAT,
 GLASSES
 /011828 SUPP TXT: HE ARRIVED ON FOOT
 /011911 SUPP TXT: SOUNDS LIKE HE IS SLAMMING HER AGAINST TH
 E DOOR
 /011928 (1234) DISPER B434 #750 ANDERSON, JERRY C
 /011928 ASSTER B431 #614 ARREDONDO, JOHN
 /011930 (911231) SUPP TXT: COMP CAN NOW SEE THEM, HE HAS HER BY THE
 HAIR, POSS TRYING TO CHOKE HER
 /012006 CHANGE NAM: CHRIS --> 1a 1b ,
 TXT: FEMALE: WF, 30S, WEARING: ZIP UP SWEATSHI
 RT, BLU JEANS
 /012017 (1015) *ASSTER A311 [N NAPA ST/E WABASH AV ,SPK]
 #1015 KIRBY, AARON
 /012106 (911264) SUPP LOCI: NW CORNER,
 NAM: FEMALE,
 ADR: 1d ,
 PHO: 1c ,
 TXT: COMP IS HEARING MALE AND FEMALE YELLING A
 T EACH OTHER. SOUNDS PHYSICAL. UNK MEDICS NOT
 ADV. NO MENTION OF WEAPONS. COMP STATING THAT
 MALE IS TRYING TO GET INTO THE HOUSE, FEMALE W
 ONT LET HIM IN.
 /012113 (911231) SUPP TXT: UNK IF ANYONE ELSE OUTSIDE,
 /012141 SUPP TXT: LOC IS A BRICK DUPLEX, MALE AND FEMALE AR
 E OUTSIDE. ###
 /012151 (911264) SUPP LOCI: NW CORNER,
 ADR: 1d ,
 PHO: 1c ,
 TXT: MY COMP: 1a ###
 /012313 (1015) *ONSCNE A311
 /012459 (911264) SUPP TXT: 1a ON CB. MALE NOW HAS A GUN.
 /012535 SUPP TXT: UNK WHAT HE IS GOING WITH IT, TOO DARK TO
 SEE.
 /012540 (1234) MISC A311 ,BOTH ON THE PORCH
 /012559 (1177) *ASSTER A314 [N NAPA ST/E WABASH AV ,SPK]
 #1177 BRIGGS, NICK
 #1283 WALKER, TREVOR

/012600	(911264)	SUPP		TXT: MALE IS YELLING AT FEMALE TO COME WITH HI M.
/012612	(1234)	MISC	A311	,CELL PHONE IN HAND, DON'T SEE ANY WEAPONS
/012615	(747)	*ASSTER	B433	[N NAPA ST/E WABASH AV ,SPK] #747 BISHOP, DEREK #1280 CARRELL, REID
/012624	(1222)	*ASSTER	A319	[N NAPA ST/E WABASH AV ,SPK] #1222 HOWARD, CALEB ,RESTRICTED
/012627	(1234)	MISC	A311	
/012635	(750)	*ONSCNE	B434	
/012637	(329)	*ASSTER	L211	[N NAPA ST/E WABASH AV ,SPK] #329 TEIGEN, TROY
/012637	(911264)	SUPP		TXT: COMP STATING THAT THEY ARE WRESTLING, SEE LE, DISCONNECTED. ###
/012655	(1181)	*ASSTER	A315	[N NAPA ST/E WABASH AV ,SPK] #1181 LESSER, CHRISTOPHER
/012706	(093)	*ASSTER	L183	#093 SPRAGUE, DEAN
/012707	(1266)	*ASSTER	B435	[N NAPA ST/E WABASH AV ,SPK] #1266 BETTS, DAVID
/012731	(966)	*ASSTER	A310	[N NAPA ST/E WABASH AV ,SPK] #966 JOHNSON, CHRISTOPHER
/012734	(1243)	*ASSTER	C483	[N NAPA ST/E WABASH AV ,SPK] #1243 VALENCIA, ANDRES
/012742	(1234)	ONSCNE	B431	
/012755		MISC	B434	,NEED SUPERVISOR ADN MEDICS
/012801	(969)	*ASSTER	B436	[N NAPA ST/E WABASH AV ,SPK] #969 SPOLSKI, NICHOLAS
/012806	(1186)	*ASSTER	B437	[N NAPA ST/E WABASH AV ,SPK] #1186 BROWN, JORDAN
/012809	(1243)	*PREMPT	C483	
/012819	(1234)	CALLBK	B434	T/PCC02 ,OC APPLICATION, MEDICS
/012821	(1222)	*PREMPT	A319	
/012829	(1253)	CALLBK	A311	T/PCC01 ,MEDICS ENRT ,MALE DITCHED A GUN
/012831	(1234)	MISC	B434	
/012846	(1181)	*PREMPT	A315	
/012850	(1186)	*PREMPT	B437	
/012859	(969)	*PREMPT	B436	
/012905	(966)	*ONSCNE	A310	
/012911	(1234)	MISC	B434	,WE HAVE THE GUN
/012922	(1266)	*CLEAR	B435	
/012939	(1234)	MISC	B431	,FEM WALKED AWAY, LONG BLK HAIR TO WAIST, SHE' S THE VICT, UNK WHERE SHE WENT ,JEANS AND DARK SHIRT [AREA CHKING]
/012946		MISC	B431	
/013001		NEWLOC	A314	
/013013		REMINQ	A311	WANT,A311,,,,,,MILLER,TODD,E,1972,09,28,,,,, '''
/013026	(747)	*PREMPT	B433	
/013050	(329)	*ONSCNE	L211	
/013059	(1234)	MISC	A311	,1823 E WABASH ,III ,UNRESTRICT
/013125		MISC	A311	
/013134		MISC	A311	
/013327	(1253)	REMINQ	A311	CHRI,A311,C,AKIRBY,WOFF,160263144,,,,,,,,,,,,, ,,,75989TA9
/013340	(767)	*ASSTER	P303	[N NAPA ST/E WABASH AV ,SPK] #767 DANIEL, JEREMY
/013357	(093)	*ONSCNE	L183	
/013840	(1234)	MISC	B431	,SUSP NOT COOP
/014203	(767)	*ONSCNE	P303	

/014216	(1234	)	MISC	L183	, FEM RETURNED
/014339	(966	)	*CLEAR	A310	, PSTAT/ASST
/014505	(1177	)	*MISC	A314	, PSTAT/ASST PSTAT/VIDN NO CONTACT
/014639			*CLEAR	A314	
/014900	(093	)	*CLEAR	L183	DSP: 8D
					, PSTAT/ASST
/015243	(1234	)	MISC	B431	, TRIED CALLING ORIG COMP, WONT ANSWER
/015350	(1015	)	*CHGLOC	A311	[1]
/015352	(750	)	*TRANS	B434	[JAIL] M/0.0
					, MALE
/015447	(1253	)	CALLBK	B431	T/PCC05
					, PLEASE TRY ORIGINAL COMP, HE'S NOT ANSWERING
					FOR B431
/015548	(329	)	*CLEAR	L211	, PSTAT/ASST PSTAT/VIDY
/015840	(761	)	CALLBK	B431	T/PCC01
					, CAN'T REACH COMP
/015851	(767	)	*CLEAR	P303	, PSTAT/ASST (PICS)
/020424	(750	)	*TRANSC	B434	M/4.9
/020527	(1015	)	*ONSCNE	A311	
/020749	(614	)	*MISC	B431	, PSTAT/ASST
/020751			*CLEAR	B431	
/025619	(750	)	*CHGLOC	B434	[PROPERTY]
/032623			*MISC	B434	, PSTAT/CFS PSTAT/RPT PSTAT/VIDY
/032633			*MISC	B434	, PSTAT/MISD PSTAT/MISD
/032650			*CLEAR	B434	DSP: 8D --> 1E
/035248	(1015	)	*CLEAR	A311	, PSTAT/ASST PSTAT/RPT
/035248			CLOSE	A311	

INCIDENT REPORT

Spokane Police/Spokane County Sheriff

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AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER		INCIDENT NUMBER 16-263144	
INCIDENT TYPE Arrest, Information		INCIDENT CLASSIFICATION #1 ASSAULT-SIMPLE		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2 INTIMIDATION W/WPN
		INCIDENT CLASSIFICATION #3 OBSTRUCT OFFICER		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #4
		RESPONDING TO (Officer Assault)		ASSIGNMENT (Officer Assault)	
REPORTED ON Mon 07/18/2016 01:17		OCCURRED ON Mon 07/18/2016 03:52		OCCURRED TO Mon 07/18/2016 01:17	
DISPATCH TIME 01:17		ARRIVED TIME 01:23		EST. TOTAL PROPERTY LOSS	
PRIMARY CHARGE 9.41.270 WEAPON(INTIMIDATE WITH)		CLEARED TIME 03:52		REPORT DATE 07/18/2016	
ADDITIONAL CHARGES M-10.11.010 CITY ASSAULT, M-10.07.032 OBSTRUCTING		REPORT TIME 04:30		UCR/NIBRS CODE / 13A	
LOCATION OF INCIDENT 1823 E Wabash, Spokane, WA 99201				LOCATION NAME (IF APPLICABLE)	
SOLVABILITY FACTORS Suspect Arrested, Useful Physical Evidence, Witness to Crime					
RELATED INCIDENT NUMBERS					INCIDENT XREF
ADDITIONAL REPORTING OFFICERS Kirby					
VICTIM/WITNESSES/OTHERS <small>S-Suspect, V-Victim, I-Individual, A-Arrested Person, VB-Victim - Business, M-Missing, MIR-Person Mentioned, RD-Registered Owner, VD-Deceased, PS-Passenger, PE-Pedestrian, PC-Pedestrian, Cyclist, O-Other, C-Complainant, IN-Institutional, G-Legal Guardian, D-Driver, W-Witness, CV-Complainant is Victim, CON-Contact, RU-Runaway, OW-Owner of Property</small>					
CODE CV-1	NAME: LAST, FIRST, MIDDLE 1a			SEX F	RACE/ETHNICITY W-White
HEIGHT 5'08"	WEIGHT 163	BUILD Light	HAIR Brown	EYES BLU - Blue	DATE OF BIRTH/AGE 1b
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP 1d			RESIDENTIAL STATUS	PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS				OCCUPATION	EMPLOYER PHONE
ADDITIONAL PHONES (Cell) 1c					
RELATIONSHIP TO SUSPECT Victim Relationship Unknown			VICTIM OF Offns. # 9.41.270 WEAPON(INTIMIDATE WITH)		OFNDR. # A-1
CODE C-2 NAME: LAST, FIRST, MIDDLE 1a SEX M RACE/ETHNICITY - DATE OF BIRTH/AGE 1b HEIGHT WEIGHT BUILD HAIR EYES DESCRIPTORS CONFIDENTIALITY <input type="checkbox"/> ADDRESS: STREET, CITY STATE ZIP RESIDENTIAL STATUS PHONE 1c PLACE OF EMPLOYMENT/SCHOOL/ADDRESS OCCUPATION EMPLOYER PHONE ADDITIONAL PHONES (Home) 1c					

ID NO./NAME OF REPORTING OFFICER #750 - Anderson, Jerry C.		DISTRIBUTION Department of Corrections	
APPROVAL #950 - Everly, John		DATE/TIME 07/18/2016 06:35	

Incident Report #1

07/18/2016 20:37:47.133

INCIDENT REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SIMPLE				ATTEMPTED <input type="checkbox"/>		INCIDENT NUMBER 16-263144	
CODE A-1	NAME: LAST, FIRST, MIDDLE Miller, Todd E				SEX M	RACE/ETHNICITY W-White	DATE OF BIRTH/AGE 09/28/1972 43
HEIGHT 6'00"	WEIGHT 200	BUILD Medium	HAIR Brown	EYES BRO - Brown	DESCRIPTORS		
CONFIDENTIALITY <input type="checkbox"/>	ADDRESS: STREET, CITY STATE ZIP General Delivery, Spokane, WA 99210				RESIDENTIAL STATUS		PHONE
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS					OCCUPATION		EMPLOYER PHONE
ADDITIONAL ADDRESSES P.O. BOX 385, Wilbur, WA 99185						ADDRESS TYPE Mailing Address Only	
ADDITIONAL PHONES (Cell) 641-0114							
CHARGE LEVEL Gross Misdemeanor		DESCRIPTION 9.41.270 WEAPON(INTIMIDATE WITH)				UCR/NCIC CODE /13A	
WARRANT #		BAIL		TYPE OF ARREST On-View of Arrest		MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>	
CHARGE LEVEL Gross Misdemeanor		DESCRIPTION M-10.11.010 CITY ASSAULT				UCR/NCIC CODE /13B	
WARRANT #		BAIL		TYPE OF ARREST On-View of Arrest		MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>	
CHARGE LEVEL Gross Misdemeanor		DESCRIPTION M-10.07.032 OBSTRUCTING				UCR/NCIC CODE	
WARRANT #		BAIL		TYPE OF ARREST On-View of Arrest		MULTIPLE ARRESTEE SEGMENTS INDICATOR <input type="checkbox"/>	
CITATION # 6z0746440		DATE 07/18/2016	TIME 01:29	BOOKED WHERE Spokane County Jail		DATE 07/18/2016	TIME 01:29
ARREST LOCATION 1823 E Wabash, Spokane, WA 99201				STATEMENT <input type="checkbox"/> ORAL <input type="checkbox"/> WRITTEN	CHARGES <input type="checkbox"/> ADMITTED <input type="checkbox"/> DENIED	SUSPECT ARMED WITH	
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 <input type="checkbox"/> FAKE		STATE	SOCIAL SECURITY NO. <input type="checkbox"/> FAKE		OTHER ID		
4b							
NARRATIVE							

On 7-18-16, at approx 0119 hrs, I was dispatched to Napa/Wabash for a report of a DV. The complainant, **1a** (**1b**) called police to report that a female was arguing with her ex-boyfriend. The caller claimed it sounded as though it had been physical and the male sounded as though he was intoxicated. The caller advised 911 that the male's name was "Todd", that he arrived on foot and it sounded as though he was "slamming her against the door." As officers were responding **1a** stated that it appeared that the male had the female by the hair and possibly was trying to "choke" her.

At approx 0121 hrs, while officers were still enroute a female caller, later identified as **1a** (**1b**) called 911 to report the same incident. She further advised that the male was trying to get into the residence "a brick duplex" and the female would not let him in. She then reported that the male had a gun and that the male was "wrestling with the female."

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 16-263144
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At approx that time Ofc Kirby was onscene.

As I arrived onscene from the north I turned W/B on Wabash directly in front of the location. I illuminated the suspect Todd E Miller (09-28-72) with the spotlight in my car. Ofc Kirby was clearly issuing verbal commands for the suspect to get to the ground, but he was refusing and was trying to walk away. The suspect turned enough that I could see on his right hip was a Serpa Style Tactical holster, but it appeared empty at that time. Ofc Kirby was issuing clear and concise commands to Miller who was refusing to obey while arguing. There was a female in a dark shirt and what appeared to be jeans huddled up on the front porch of the home. It was clear that Miller was intent of hindering and delaying this investigation. Miller was belligerent and his shirt was open and appeared torn. He was clearly being aggressive and the situation was unpredictable. I had information about a gun and had no idea where it was located. It should be noted that where Miller discarded the gun was in the direction he was trying to walk away to while refusing to obey commands.

(See Ofc Kirby's report.)

Miller was on his knees after an application of OC. He was near the front steps and facing away from me. I used both hands to push Miller into a prone handcuffing position where he was handcuffed (dl). He was yelling at the female something similar to "1a tell them I didn't do anything." The female began to walk W/B on the sidewalk while we were detaining Miller. I asked her to stop where she was which she did, but when I turned my full attention back to Miller she slipped down the sidewalk. Another officer arrived shortly after and was told to locate the female but she was gone.

Miller was identified when he was searched incident to arrest and I immediately summoned medics to decontaminate Miller from the OC application. He continued arguing the It should be noted that during the decontamination process he refused to let medics finish and tried to spit at them.

I contacted 1a who made herself available. She stated that she initially heard the arguing from Miller near a vehicle parked on Napa that left. Then another vehicle was there which also left. She claimed she believed that Miller forced his way into the duplex and she heard the female yelling "get off me" and "you're hurting me". She began to walk to where she could see the male and heard him yelling "You're coming with me". 1a made verbal contact with the male who told 1a to leave. He then turned toward her and pulled his shirt to the side revealing what appeared to be a firearm in a holster. He tapped the holster and again told 1a to "get outta here". 1a stated that she did not know if he would use the gun and that it was enough to "make her shake" she yelled at her husband to call the police back about the male having a gun. Due to the circumstance at that time and place 1a believed the firearm to be real and Miller had intentionally showed it to her and

INCIDENT REPORT CONTINUED
Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 16-263144
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implied it was real.

Ofc Kirby had seen the male discard the gun and it was photographed in the flower bed. While waiting for a Cpl I looked at the gun before handling it. It appeared to be a two tone (black/silver) 1911 variant pistol. It had realistic markings, such as a serial number (#51113106) that was in white lettering. The gun had a grip (beavertail) safety and exposed hammer, which was cocked to the rear. Miller who was still in a prone position while waiting for medics was screaming at us "what weapon" and then claimed it was an airsoft. The gun appeared so realistic it was still photographed and only upon holding it could you tell it was an airsoft gun. It was of even a realistic weight as a real handgun.

Other officers could not located the female and the initial complainant (**1a**) could not be located or contacted.

Ofc Kirby advised he witnessed him assault the female and had PC for Obstructing on Miller. I believed that PC existed for Intimidation with a Weapon for Millers actions toward **1a**

He had been advised of the charges, which he continued to argue with officers and demand to be released. We could not determine if a DV relationship existed between Miller. Miller was arguing about the charges and wanted to tell me that there was no witnesses and we contacted no one. I told him there was actually more than one complainant and he made the statement that there was only the female (**1a**) that he told to leave the yard.

He was booked into jail for the aforementioned charges. The replica firearm was placed onto police property as evidence and fingerprints were requested. His holster was taken as and placed onto property.

See other officers reports for further information.

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. I WAS EQUIPPED WITH A BODY CAMERA, AND IT WAS ACTIVE DURING THIS INCIDENT.

Ofc JC Anderson #750
SPD - B434

SUPPLEMENTAL REPORT

Spokane Police/Spokane County Sheriff

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AGENCY NAME/SUBSTATION SPD		EVIDENCE NUMBER		INCIDENT NUMBER 16-263144	
REPORT PURPOSE			REPORTED ON DATE Mon 07/18/2016 01:17		INCIDENT XREF
INCIDENT CLASSIFICATION #1 ASSAULT-SIMPLE		ATTEMPTED <input type="checkbox"/>	INCIDENT CLASSIFICATION #2 OBSTRUCT OFFICER		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 07/18/2016	REPORT TIME 02:43
PRIMARY CHARGE					UCR/NIBRS CODE
VICTIM/WITNESSES/OTHERS <small>O-Other, MIR-Person Mentioned, D-Driver, M-Missing, IN-Institutional, CON-Contact, CV-Complainant Is Victim, C-Complainant, A-Arrested Person, W-Witness, G-Legal Guardian, OW-Owner of Property, VB-Victim - Business, V-Victim - Individual, S-Suspect, RU-Runaway, RO-Registered Owner, PS-Passenger, V-Deceased, PE-Pedestrian, PC-Pedestrian - Cyclist</small>					
CODE V-1	NAME: LAST, FIRST, MIDDLE 1a			SEX F	RACE/ETHNICITY W-White
DATE OF BIRTH/AGE 30-40	HEIGHT	WEIGHT	BUILD	HAIR	EYES
CONFIDENTIALITY <input type="checkbox"/>			ADDRESS: STREET, CITY STATE ZIP 1d		RESIDENTIAL STATUS
PLACE OF EMPLOYMENT/SCHOOL/ADDRESS			OCCUPATION		PHONE
EMPLOYER PHONE					
NARRATIVE					

On 07-18-16 at about 0119 hours, Officers J Anderson and J Arrendondo were dispatched to a possible DV at the intersection of Napa and Wabash. The caller stated that an adult male and female were arguing outside and it sounded like a physical fight. The caller also stated that it looked like the male was pulling the female by the hair and possibly choking her.

I was near the area and responded to assist as it sounded like a physical fight in progress.

I was 1st on scene and parked off 1 block to the east. I could hear a male yelling to the west. He was a block away and I could hear his voice. He was begging for someone to come with him. I could hear a female crying continuously. I slowly approached the scene and the male continued to yell at the female. He was telling her, "Come with me" "The neighbor called the cops" "If I stay here I'm going to jail." I had snuck up to about 30 yards away from the 2 at that time. I was in the street behind a vehicle. I could see the male and female but my body camera was pointing at the vehicle I was behind.

At that time, radio advised the male had a gun. That information came from a 911 caller. I could see that the male had a cell phone in 1 hand and was pulling at the female trying to get her to come with him. She was pulling back away from him. I could hear her scream between cries. The male did not appear to have a weapon. It seemed that based on the heated argument and violence that I was witnessing, the caller was trying to get police to the location quickly.

The male then started to walk away to the east going away from me. At that time I broke cover to give chase. The male turned and walked back towards the female. He was completely unaware I was in the area. I did not expect him to turn and come back because it appeared he was leaving. I

ID NO./NAME OF REPORTING OFFICER #1015 - Kirby, Aaron		DISTRIBUTION
APPROVAL	DATE/TIME	

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION
ASSAULT-SIMPLE

ATTEMPTED
☐

INCIDENT NUMBER

16-263144

was about 20 feet away at that time and had given up my position of cover and concealment. I was concerned that the male would continue his assault on the female. I yelled, "Police" to identify myself and shined my flashlight at the male. He turned back to the east and quickly went to the S/E corner of the residence. I told him to stop but he continued to the corner and drew a pistol off his right hip and quickly dropped the weapon in the bushes.

At that time, I was investigating and had witnessed an assault, probably DV related. There was information provided by radio that the suspect may be armed. I had witnessed the male draw a pistol from his right waistband area. I had drawn my pistol and had it pointed at the male as a reaction to him pulling a pistol. Although he had quickly discarded the pistol, there was still a threat as he was within 6 feet of where the gun was dropped. I was pointed in with my pistol at center mass. I directed him to lay down on the ground. He was compliant at first and went down to his knees then to his stomach. It took approximately 5 to 10 seconds for him to comply. I then switched to the low ready at that time and continued to give verbal commands.

I was still the only officer on scene. It was my fear that the male would make a move to try and recover the weapon before he was detained in handcuffs. At that time, the male told the female, "Don't tell them nothing happened." He continued to tell the female not to say anything and call her a bitch. The female was cowering down on the porch up against the door. The male then stood up to his feet and verbally began challenging me to shoot him. He told me that he did not have to listen to me. He also told me that he was going to walk away. He made it clear that he was not going to cooperate. The male was pacing around and still had the opportunity to lunge for the pistol. I heard another officer arrive on scene at that time.

Due to the fact I had witnessed an assault, the male was not compliant and following commands, verbally hostile, and still within about 6 feet of the gun he dropped I determined there was a need to use force to gain compliance. It was now safe to go hands on as another officer was on scene. I holstered my pistol, closed distance to about 6-8 feet deployed OC spray to his face. He was sprayed in the face and eyes with a 1 second burst of OC. I chose OC as it would cause vision difficulties should he try and locate the weapon he dropped or attempt to use it. The male then dropped to his knees after being sprayed and Officer Anderson pushed him down to the prone cuffing position. We then cuffed the male in the prone cuffing position. He was not completely compliant to being handcuffed and it took several seconds to get the handcuffs on.

In the time that it took us to detain the male, the female walked off. Officers responding to the area were not able to locate her.

I identified the male as Todd Miller by his WA ID. Medics responded to the location and treated him for the OC application.

The handgun he had discarded was photographed and collected as evidence. At that time, I

SUPPLEMENTAL REPORT CONTINUED

Spokane Police/Spokane County Sheriff

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INCIDENT CLASSIFICATION ASSAULT-SIMPLE	ATTEMPTED <input type="checkbox"/>	INCIDENT NUMBER 16-263144
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discovered it was a realistic looking replica of a Colt 1911 .45. The gun fired 6mm airsoft pellets from a CO2 cartridge.

Officer Anderson arrested Miller for assault, obstructing, and having a weapon capable of producing bodily harm.

A Kirby #1015

I CERTIFY (OR DECLARE) UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT. I WAS EQUIPPED WITH A BODY CAMERA, AND IT WAS ACTIVE DURING THIS INCIDENT.

[illegible]

REV 01/15