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Wednesday, June 25, 2014

Frank Straub, Chief of Police
1100 W. Mallon Ave
Spokane, Washington 99201

**RE: Recommendation to change
Spokane Police Department Policy 300.6 and 300.7**

On May 1, 2014, a Spokane Police Officer stopped an individual for multiple traffic offenses. Upon contact the situation escalated and the offending driver was forcefully removed from their vehicle and arrested for Obstructing an Officer. During the encounter, the officer used an arm bar technique to remove the driver from their vehicle. The officer then took the driver to the ground and then placed the driver in the prone cuffing position. In the process, the driver received a small cut on their forehead. The Officer described the surface the driver was placed on as a black asphalt surface with some gravel on it. The officer surmised that the driver may have struck their head on the gravel. The officer notified their sergeant and the sergeant responded. The driver was subsequently booked into Spokane County jail and the incident was documented through a police report.

On May 12, 2014, the Office of Police Ombudsman was contacted by the driver and a complaint was filed by the driver. The complaint was forwarded to the Internal Affairs Unit for follow up. After review, Sergeant Staben recommended that the complaint be classified as an Investigative Inquiry and requested my concurrence with the classification.

In reviewing Sergeant Staben's work product, I requested to review the Use of Force report. I was advised that a Use of Force report was not required in this instance because it did not meet the reporting threshold. Sergeant Staben's response was: "as per 300.5 (1) minor injuries such as a dime-sized abraded area to this subject's forehead which are consistent with prone-handcuffing do not require a Use of Force report (or immediate notification of a supervisor)".

Based on the nature of the complaint and physical injury to the complainant, I did not agree with the classification of this complaint as an Investigative Inquiry and requested that all involved officers be interviewed. Sergeant Staben and Lieutenant Lundgren indicated that the completed report was sufficient to classify the complaint as an Investigative Inquiry. The investigation remains an open investigation.

In reviewing Spokane Police Department Policy Manuel Section 300.5, I did not see the term described by Sergeant Staben anywhere in the policy. Sergeant Staben's position was reinforced by Lieutenant Lundgren. I have provided their email correspondence for your review.

In reviewing policy 300.6, it states: "prior to booking or release, medical assistance shall be obtained for any person who exhibits signs of physical distress, **who has sustained physical injury**, expresses a complaint of injury or continuing pain, or who has been rendered unconscious". In this instance, the complainant did have a visible physical injury as evidenced by the photographs taken at the time of incident.

In addition, policy 300.7, states: "complete a Use of Force report when a level II lateral neck restraint has been utilized or any level of force results in unconsciousness or **apparent/claimed injury**".

While it is apparent to me that the letter of the policy clearly requires that a Use of Force report be completed in instances like this it appears that this policy has not been strictly adhered to or enforced in the past, based upon Sergeant Staben and Lieutenant Lundgren's interpretation and response.

Anytime physical force is used by an officer to move an individual against their will or they have a visible physical injury through the actions of an officer, it is my opinion that this is a use of force, and a Use of Force report should be completed.

The Spokane Police Department reported that there were 147 Use of Force reports made in 2013. Based upon the liberal interpretation of the Use of Force policy and reporting by supervisors described above as it relates to minor injuries, it appears that the 147 instances is actually an under reported number for the actual Use of Force incidents.

I am requesting that policy be developed to provide appropriate examination and care for those injured during an encounter with police officers, and that the incident be documented through a Use of Force report and that the number be accurately documented and reported. If this complaint had not been received, this matter would have only been documented through the officer's arrest report.

Thank you for your consideration.

Sincerely,



Tim Burns
Police Ombudsman

Cc: David Condon, Mayor
Theresa Sanders, City Administrator
Nancy Isserlis, City Attorney
Ben Stuckart, City Council President

John Snyder, Public Safety Committee Chair
Tim Szambelan, OPO Attorney
Mary Muramatsu, Police Attorney
Marty Martin, Use of Force Commission Chair