

**SPOKANE POLICE DEPARTMENT  
ADDITIONAL REPORT**

DATE/TIME: 4/11/06

CASE NO.: 06-79962

CHARGE/INCIDENT: Assault

OFFICER ROBERT M. BOOTHE #409

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The following is a requested review of the techniques that were applied during a use of force incident (report #06-079962)

This review is being conducted by Officer Robert M Boothe #409 of the Spokane Police Department. I have been a lead defensive tactics instructor for both the Spokane Police Department and the Washington State Criminal Justice Training Commission (WSCJTC) for approximately 10 years. I am qualified with the WSCJTC as a Level 1 defensive tactics instructor (control tactics), Level II defensive tactics instructor (active counter measures), Lateral Vascular Neck Restraint instructor, Ground Survival Tactics instructor, Weapon Retention and Disarming instructor and Impact Weapons instructor. I am also a WSCJTC certified Master firearms instructor and have also been qualified for instructing Patrol edged weapons and advanced impacts techniques. Additionally, I am currently a member of the Spokane Police Special Weapons And Tactics (S.W.A.T) team and have been assigned to the S.W.A.T team for eight years. I am one of six operators on the team who are qualified as a sniper and have been qualified through several international training organizations. I have had several articles published in trade publications, and have written and appeared in the Spokane Police policy and procedures manual, the defensive tactics manuals and the WSCJTC Instructor manuals for Level 1 handgun, patrol rifle, police shotgun and advanced tactical handgun applications and instruction.

The review is for the purpose of defining the application of the defensive tactics/techniques used, not the appropriateness of the application of force. The application of force is based on the officer's perspective given the department's use of force model and a "reasonably objective officer" standard as defined in the department's use of force policy.

The review is based on the video from two security cameras from inside the Zip Trip store where the incident occurred and a brief overview from Detective Ferguson. Neither the video or brief overview is sufficient to determine the appropriateness of a use of force.

Some of the observations that I made from the video were that the Zip Trip aisles are very small, there were additional people inside the store whose demeanor towards the police was not known, items on the shelves of the store could be used as improvised weapons and Officer Thompson was by himself. The cameras did not record the suspect's behavior outside the store, and as he

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enters into the aisle, both of his hands are obscured from the camera views. All of these things are indicators that will influence the officer's perspective as to what type of resistor the suspect might be given the officer's training, experience and the facts and circumstances as the officer knows them. The officer knows that the circumstances when they encounter these applications of force is generally tense, uncertain and rapidly evolving.

The incident shows the suspect entering the store, and several seconds later it shows Officer Thompson enter the store behind the suspect. Officer Thompson then withdraws his baton. The drawing of a device and then using the presence of that device is referred to as "draw and direct". Officer Thompson then follows the suspect into another aisle of the store. Officer Thompson obviously felt it necessary to have his baton ready based on his knowledge of the call and years of experience.

Officer Thompson contacts the suspect in the far aisle. Officer Thompson approaches the suspect and the suspect then goes to the ground. Due to the angle and quality of the tape I could not determine the technique applied at this contact. Detective Ferguson had informed me that the straight baton was used prior to the suspect going to the ground.

With the suspect on the ground, Officer Thompson uses his body weight to keep the suspect on the ground. It appears that the suspect has rolled onto his back and has coiled his legs up and brought his hands into the center of his body. Officer Thompson is still on top of the suspect, attempting to maintain the position of advantage. It then appears that Officer Thompson deploys his Taser, a conductive energy device, as I could see the Taser's arc. Officer Thompson is demonstrating excellent control and understanding of the application of force in that he does not use just one technique, but he has transitioned to a second control device. In this case, from a straight baton to a Taser.

Impact devices and techniques (to include the straight baton) are justified to be used against an assaultive resisting suspect (non-compliance perceived as or resulting in an actual assault on an individual or officer). The application of the Taser can be used against an assaultive resistor (probe deployment) or against an active resistor (drive stun techniques).

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After the application of the Taser, the suspect gets back to his feet and then goes towards the back of the store; despite the application of the control techniques, the suspect is still mobile and non-compliant. Once the suspect gets up, it appears that Officer Thompson applies two baton strikes to the suspect. The camera does not afford the view as to where the baton strikes impacted the suspect.

The Spokane Police Department's use of force model and policy for the application of baton strikes is to be used against assaultive resistors. The department does not differentiate between primary and secondary targets with the baton or other impact devices. The only differentiation is between baton strikes to the body and baton strikes to the head and neck. Baton strikes to the head and neck are considered deadly force and must be justified by the officer at that level of force.

The video does not show Officer Thompson and the suspect for several seconds, however, we can see items on the shelves moving around as though they are being knocked around from the other side. Officer Thompson and the suspect reappear (camera angle 2) in the center aisle. Officer Thompson then applies several baton strikes; again due to the camera angle, the impact area is not seen. Officer Thompson is holding the baton in his strong hand and it appears that he is trying to hold onto the suspect with his weak hand. This would demonstrate that Officer Thompson's intent is to control the suspect. Officer Thompson then appears to attempt to pull the suspect into the prone position; the suspect is then visible on the tape. The suspect is curled up with his legs cocked in a kicking position and both of his hands are fisted. As Officer Thompson attempts to guide the suspect into the prone position, the suspect's right fist goes toward Officer Thompson's face and then his left fist does the same.

Once at the back of the store, Officer Braun enters and assists Officer Thompson. Both of the officers use their body weight on the suspect to keep him from getting to his feet and to maintain control over him and his movements. Officers Thompson and Braun can both be seen accessing their radios. After the arrival of the additional officer, and after using his portable radio, Officer Thompson then places his baton back into the belt ring. Again Officer Thompson is consciously recognizing what is occurring and is not "swept up in the heat of the moment" in that he is using an application of force, the baton,

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until the second officer shows up. Officer Thompson then transitions into another control technique as the dynamic of the situation has changed with the arrival of a second officer.

From the angle of camera 2, it appears that the officers are merely placing body weight onto the suspect and that the application of techniques has stopped. The suspect is continuing to resist. Despite two officers on top of him, the officers are moving around from the suspect's movements. The suspect's legs then lash out and strike the items on a shelf, knocking them over and onto the floor, congesting the area even more. Officer Thompson then shows the state of mind to access his radio again.

Several more officers then arrive on scene; it appears that at this point the suspect has been placed into handcuffs. Despite the presence of the additional officers, the suspect is still resisting in that his legs strike out again and the officers that are in direct contact with the suspect are moving around from the force of his body. The suspect is then placed into leg restraints. Once the leg restraints were placed onto the suspect, the officers took their weight off of the suspect. Due to the confined space of the environment and the number of officers on scene and assisting, it is hard to see each officer and any control techniques that they may be applying.

The leg restrained suspect is then able to pull against the leg restraints to the point that they become stretched out and have to be reapplied. The amount of force and resistance to pain necessary to accomplish this is extraordinary and usually is a signal that the suspect is under the influence of a mind or mood altering chemical.

Having studied the video, and with consideration of the limited information provided by Detective Ferguson, the officer's response to the suspect's actions, I conclude that the techniques and tactics applied by Officer Thompson were appropriate and reasonable in response to the subject's actions. The techniques applied were consistent with the Spokane Police Department's policy and training modules.

The techniques applied by the other officers that arrived, solely using the available videotape supplied, also appeared appropriate and reasonable to the suspect's actions. The officers on scene used only the amount of force that was

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reasonable and necessary and that application of force was used for defense and control.

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