



SANTA ANA UNIFIED SCHOOL DISTRICT POLICE DEPARTMENT



Hector Rodriguez, Ed.D., Chief of Police

TO: Board of Education Administration
FROM: Hector Rodriguez, Ed.D., Chief of Police
DATE: April 21, 2014
CC: Rick Miller, Ph.D., Superintendent
Stefanie Phillips, Ed.D., Deputy Superintendent

SUBJECT: Adams Park Use of Force Incident – Adjudication

Date of Incident: April 08, 2014
Time of occurrence: 1012 hours
Location: John Adams Park, Santa Ana, CA
Force used: Controlling Force

SYNOPSIS:

The involved officer was on-duty and in full uniform driving a marked patrol car. As he passed John Adams Park, he saw a subject tagging a park bench. The officer parked on the street, exited his patrol car and walked over to and confronted the subject. The subject then attempted to flee, causing the officer to have to restrain him. (The subject's attempt to flee is supported by witness statements.) During the struggle, the suspect bit the officer on the hand in attempt to break free from his grasp and flee. The officer responded by lying on top of the suspect, utilizing his body weight, in an attempt to prevent any further injury or escape. The suspect was taken into custody without further incident with the assistance of additional School Police officers arriving on scene.

REVIEW:

I considered the following factors in reviewing this incident, the use of force and the "Use of Force Report" submitted by the investigating officer.

The involved officer was on duty, in full uniform and easily recognizable as a sworn peace officer. The officer witnessed what he believed to be a crime in progress (vandalism) and had legal standing and authority to detain the subject to further his vandalism investigation. As he approached the subject, the officer gave a lawful command, "Police, stop, lay on the ground," clearly indicating to the subject that he (subject) was being detained and not free to leave. The subject disregarded the lawful order and attempted to flee. The officer used his hands and arms in attempt to detain the subject. The subject struggled and resisted and, at some point, bit the officer's hand. The officer used his hands to push the subject's head and mouth away from his hand to stop the subject from continuing to bite him. This is an instinctual reaction to being bit and reasonable under such circumstances. The officer continued to wrestle with the uncooperative and combative subject. During the struggle they both rolled off the park bench and onto the ground. Once on the ground, the officer used his body weight to control the subject until additional officers arrived to assist him with taking the subject into custody without further incident or injury.

The use of force by a police officer is framed and governed under both statutory law (835a CPC) and case law (Graham v. Connor). The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation.

In this incident, the officer involved was alone confronting an individual in a public park whom he believed to be in the act of committing a crime. The subject refused to cooperate with the officer's lawful order and instead resisted arrest. The officer was not given the opportunity to search the subject prior to the struggle and was concerned about a "bulge" (later determined to be marijuana) in the subject's front pocket. During the struggle, the officer used only the force which was necessary and objectively reasonable to control the subject's movement, while attempting to broadcast a call for assistance on his portable police radio. As the struggle continued, the officer saw a large, male adult advancing on him. The officer was concerned for his safety not knowing the intentions of the advancing individual. He ordered the male subject to stay back and the male complied. The male subject then began yelling to the subject in Spanish. The officer does not understand Spanish and was concerned the adult male was possibly planning some type of attack. The officer's demand to the adult male to speak English *only* is reasonable considering the officer's vulnerable circumstances at the time. As the subject still continued to fight and resist the officer, he removed his pepper spray and threatened to spray the subject with it. The threat to use or deploy pepper spray in this particular incident is reasonable and was an effective tactic in bringing about compliance from the subject. Witness statements claim that the Sergeant was choking the subject. However, the video I reviewed does not support that claim.

CONCLUSION:

After a thorough review of the facts and evidence in this case, I have determined that the actions taken by the officer in this incident are within the standards as outlined by the California Penal Code, case law, and our own policies addressing the use of force by our sworn police officers.

Chapter 15 of our Policy Manual outlines our Use of Force policy. In this case, the officer utilized "Controlling Force" which is classified as the lowest level of physical force. Based on the circumstances involving an uncooperative and combative individual, the application of Controlling Force was reasonable and appropriate. The suspect was taken into custody without injury to himself (suspect) and without the use of any other physical force. Proper post-incident reporting procedures were followed and the facts of the case were submitted to me for final review. Absent any additional information or evidence, the facts reviewed indicate that the officer's actions in this case were legal, appropriate and reasonable under the circumstances.

Respectfully,



Hector Rodriguez, Ed.D.
Chief of Police Services