

Allegation #5: Sergeant David Robinson

It is alleged that on Tuesday January 18, 2011 at approximately 1815 hours, Sergeant David Robinson did not fulfill the responsibilities of an on-duty supervisor regarding the reporting of force used during an incident regarding MPLS CAPRS Report 11-016025. If this allegation were true, it would violate the following:

5-307 SUPERVISOR FORCE REVIEW (08/17/07) (12/15/09)

On-duty Supervisor Responsibilities.

The supervisor who is notified of a Use of Force incident by any sworn MPD employee shall:

1. Instruct the involved employees to have the subject of the use of force remain on-scene until the supervisor arrives, if it is reasonable to do so.
 - a. If the subject of the use of force does not remain on-scene, the supervisor shall go to the subject's location, if necessary, to complete the investigation.
2. Respond to the incident scene and conduct a preliminary investigation of the Use of Force incident.
 - a. Determine if the incident meets the criteria for a Critical Incident.
 - If so, follow Critical Incident Policy, Section 7-810.
 - b. Debrief the employee(s) who engaged in the use of force.
 - c. Note any reported injury (actual or alleged) to any individual involved.
 - d. Photograph any visible signs of injury to any individual involved.
 - e. Note any medical aid/EMS rendered to any individual involved.
 - f. Locate and review any evidence related to the force incident (e.g. MVR, security video, private cameras, etc.). (12/15/09)
 - g. Ensure any on-scene evidence is preserved and collected.
 - h. Locate and identify witnesses to the use of force incident. (12/15/09)
 - i. Obtain statements from witnesses to the use of force incident.
 - j. Contact the Internal Affairs Unit Commander immediately by phone if the force used appears to be unreasonable or constitutes possible misconduct.
3. Complete and submit the Supervisor Use of Force Review and Summary in CAPRS as soon as practical, but prior to the end of that shift.
 - a. Ensure that all actions taken in the preliminary investigation process and the information obtained from these actions are included in the Summary and that all other relevant information is entered in the appropriate sections of the report. (12/15/09)
 - b. Include in the Summary, a specific statement that indicates based upon the totality of information available at the time of report, whether it is believed that the force used was: (12/15/09)
 - reasonable and within policy; or
 - not reasonable or not within policy

4. Review all sworn employees' CAPRS reports and supplements related to the use of force incident for completeness and accuracy.

Investigative Facts

- ✓ On Tuesday January 18, 2011 at approximately 1815 hours, Sergeant David Robinson was the on-duty supervisor responsible for the incident regarding MPLS CAPRS Report 11-016025.⁵⁰
- ✓ Sergeant Robinson spoke to each individual officer that reported the use of force during the incident regarding MPLS CAPRS Report 11-016025.⁵¹
- ✓ Officers Brandon Bartholomew, 13.43 - Personnel Data and 13.43 - Personnel Data all reported kicking AP2/Page during the apprehension process.⁵²
- ✓ Officers Bartholomew, 13.43, 13.43 and 13.43 described AP2/Page's actions as resisting officers' efforts to gain control of him. Page was not actively fighting or using deadly force against officers. Officers based their force against AP2/Page on information from a CRI that Page was seen with a gun during a controlled buy, Page was reaching toward his waistband and Page was not complying with officers' verbal commands to show his hands.⁵³
- ✓ Officers did not observe AP2/Page with a gun and / or dangerous weapon during this incident. Officers did not recover a gun and / or dangerous weapon from AP2/Page or the route in which Page traveled during the brief foot pursuit.⁵⁴
- ✓ Administrative Announcement 09-058 (AA09-058) states: Punches, kicks or higher levels of force are tactics that are acceptable when suspects are fighting with officers or when there is a legitimate, articulable threat to officer safety. Punches, kicks or higher levels of force are not appropriate when:
 1. Used on defensively resistant prone subjects absent other factors;
 2. Used against persons who are passively resisting;
 3. **Used to simply gain compliance of a defensively resistant prone subject without attempts at lesser levels of control;** and
 - a. When lesser levels of control are available;
 - b. **When there are multiple officers present.**⁵⁵
- ✓ AP2/Page sustained significant injuries to his face/head because of force used by officers.⁵⁶

⁵⁰ Robinson Statement Pg. 2 Lines 14-18

⁵¹ Robinson Statement Pg. 2 Lines 20-22

⁵² MPLS CAPRS Report 11-016025 (FORCE Reports 1, 3 & 4)

⁵³ Robinson Statement Pg. 3 Lines 12-36

⁵⁴ MPLS CAPRS Report 11-016025 all supplements / Statements of Bartholomew, 13.43, 13.43, 13.43 and Suchta

⁵⁵ Administrative Announcement 09-058 (AA09-058)

⁵⁶ MPLS CAPRS Report 11-016025 (FORCE Reports 1, 3 & 4)

- ✓ Sergeant Robinson observed the injuries sustained by AP2/Page because of force used by MPD officers. Sergeant Robinson did not think that AP2/Page required medical attention. Sergeant Robinson described AP2/Page's injuries as bumps, bruises and swelling. The injuries appeared to look bad but did not appear to be broke open or require a stitch. Sergeant Robinson did not believe that Page needed anything more than an observation.⁵⁷
- ✓ Upon entry into the Hennepin County Jail (HCJ), HCJ staff immediately requested the HCJ nurse to evaluate AP2/Page prior to entry. HCJ nurse observed and evaluated AP2/Page's injuries. HCJ nurse refused AP2/Page entry into HCJ without prior medical treatment from Hennepin County Medical Center (HCMC).⁵⁸
- ✓ Sergeant Robinson did not review Officers Bartholomew, 13.43, 13.43 and 13.43, their supplemental reports prior to completing his Supervisor's Force Review.⁵⁹

13.43 - Personnel Data

⁵⁷ Robinson Statement Pg. 5 Lines 44 – 46 & Pg. 6 Lines 1-7

⁵⁸ MPLS CAPRS Report 11-016025 Supplements 5 & 6 / HCJ Sally Port Video

⁵⁹ Robinson Statement Pg. 6 Lines 9-20

SUMMARY

Regarding allegations 1, 2, and 3, Officers Bartholomew, 13.43 and 13.43 respectively used force that appeared to be inappropriate against AP2/Page during the incident involving CAPRS Report 11-016025. After reviewing Officers Bartholomew, 13.43, 13.43, 13.43 and Suchta, their supplemental reports #'s 7, 5, 2, 6 and 1 respectively, the kicking force used by Officers Bartholomew, 13.43 and 13.43 appeared to be unreasonable.

Officers Bartholomew, 13.43 and 13.43 reported that they made the decision to use the force that they used against AP2/Page based on information from a CRI, that the CRI observed an alleged gun in the waistband of AP2/Page during two different controlled buys. Officers stated that Page was digging in his waistband during the brief foot pursuit but described Page's clothing as baggie and loose fitting. Officers stated that when Page was lying on the ground, he continued to reach for his waistband, kick his legs and swing his arms.

Officers' descriptions of AP2/Page's action were resisting officers' attempts to gain control of Page. Page was not aggressively fighting officers. Page was lying on the ground on his stomach. Page was pulling away from officers. Page was trying to roll over. Page was kicking his feet and swinging his arms while lying on the ground on his stomach.

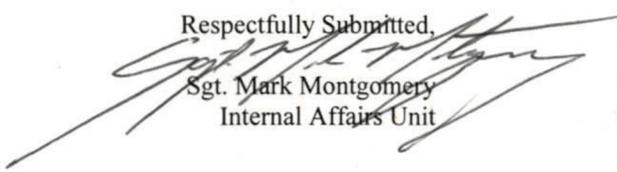
Officers need to maintain their safety using information that they obtain to heighten their awareness. Officers' actions against AP2/Page should have been based on dangers that existed at the time and not assumptions and possibilities. With five officers present and AP2/Page lying on the ground on his stomach with no apparent dangers present, kicking AP2/Page in the head, body and groin by Officers Bartholomew, 13.43 and 13.43 respectively appeared to be unreasonable.

13.43 - Personnel Data

Regarding allegation 5, Sergeant Robinson must have the capability of understanding when force appears to be unreasonable. When Officers Bartholomew, 13.43 and 13.43 informed Sergeant Robinson that they kicked AP2/Page in his head, body and groin respectively, it is prudent for Sergeant Robinson to ensure that probable cause currently existed during the use of force by officers. Officers' assumptions and possibilities do not create Probable cause.

13.43 - Personnel Data

Respectfully Submitted,


Sgt. Mark Montgomery
Internal Affairs Unit