CITY OF RIVERSIDE

COMMUNITY

POLICE REVIEW

COMMISSION

DAVID EUGENE RUSSELL II
OFFICER-INVOLVED DEATH
PUBLIC REPORT

Case Type: IN-CUSTODY DEATH

RPD Case No. P18-136590

January 22, 2020

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Date of Incident: July 22, 2019 – 1243 Hours

Location: McDonalds Restaurant 2242 University Avenue, Riverside, CA

Decedent: David Eugene Russell II

Involved Officer(s): Officer Jose Cuevas #1819

I. Preamble:

The finding of the Community Police Review Commission ("Commission") as stated in this report is based solely on the information presented to the Commission by the Riverside Police Department ("RPD") criminal investigation case files, and follow-up investigative report submitted by CPRC Independent Investigator, Mike Bumcrot of "Mike Bumcrot Consulting," Norco, California. The Commission reserves the ability to render a separate, modified, or additional finding based on its review of the Internal Affairs Administrative Investigation. Because the Administrative Investigation contains peace officer personnel information, it is confidential under State law, pursuant to CPC §832.7. Any additional finding made by the Commission that is based on the administrative investigation is also deemed confidential, and therefore cannot be made public.

II. Finding:

On September 25, 2019, by a vote of 7 to 0 (1 vacancy and 1 absence), the Commission found that the officer's actions were consistent with RPD policy (Section 300 – Use of Force Policy, and 304.2 – Handcuffing and Restraints) based on the objective facts and circumstances determined through the Commission's review and investigation.

Ortiz	Evans	Smith	Huerta	DeBrier	Berrellez	Levine	Teichert	Vacant
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III. Standard of Proof for Finding:

In coming to a finding, the Commission applies a standard of proof known as the "Preponderance of Evidence." Preponderance generally means "more likely than not," or may be considered as just the amount necessary to tip the scale. The Commission need not have certainty in their findings, nor do they need to support their finding "beyond a reasonable doubt." The Preponderance of Evidence standard of proof is the same standard applied in most civil court proceedings.

IV. Incident Summary:

On 07/22/2018, at approximately 1240 hours, Suspect David Russell walked into the McDonalds restaurant. When he entered the dining area, he immediately threatened to fight customers who were eating. Russell had his fists clenched and walked up to customers with a fighting stance and challenged customers to fight.

A male customer was sitting in the dining room eating and minding his own business when Russell approached him with clenched fists and stated, “You want some of this?” The customer told Russell to leave him alone, and Russell proceeded to start kicking him while he was still seated. In self-defense, the customer kicked back at Russell. Russell then walked away from the customer and toward the front counter.

With his fists still clenched and walking in a fighting stance, Russell went behind the counter and began punching at employees who were trying to work. A customer in the dining area saw what was happening and elected to assist the employees in subduing Russell. In his interview, the customer told police that he practices jiu-jitsu and elected to use a restraint hold that he learned in martial arts. The customer approached Russell from behind and placed him in a carotid restraint using his left arm. The customer used his body weight and sat down on the ground, bringing Russell down with him.

The customer then laid down on his back, still holding onto Russell with the carotid hold. Russell wound up on top of the customer, facing away from the customer. The customer used another hold technique by wrapping his legs around Russell’s lower body in order to control him. While on the ground, the customer applied the carotid technique and began counting out loud, “One, two, three, four, five.” The customer said Russell was close to going unconscious but did not go completely out. While the customer was attempting to hold and control Russell, he (Russell) continued to struggle and resist. The customer held Russell with this control hold until police arrived.

Officer Jorge Cuevas was the first officer to arrive at McDonalds. He immediately took over control of Russell from the customer and placed handcuffs on him (Russell). Russell was semi-conscious, so Cuevas immediately rolled him over onto his side. Cuevas used “painful stimuli” to see if he could get Russell to respond to him. When Cuevas used the painful stimuli Russell would grimace and clench his teeth but would not completely respond. Officer Cuevas could clearly see that Russell was breathing and holding his head parallel to the ground. Cuevas said that at no time was Russell unconscious. Cuevas said that Russell made noises and reacted to his attempts to get him to open his eyes and engage him for a statement. Cuevas believed that if Russell were unconscious, his head would have dropped to the floor. Nonetheless, Cuevas called for paramedics to respond.

Sergeant Medici arrived at the scene to oversee and supervise the police activities. Paramedics arrived and it was decided that Russell needed to be moved outside so that there was room enough to treat him. Russell was lying on the floor in the kitchen area and there was not much room to move. In addition, the employees were still working and serving customers. Sergeant Medici and Officer Cuevas took hold of Russell under both arms and carried him outside. Once outside, Russell was unhandcuffed and placed on a patient transportation gurney. Paramedics applied soft restraints on Russell due to his earlier violent behavior.

Once the paramedics took over with medical treatment, officers left the scene. Russell was moved into the rear of an ambulance in preparation for transportation to the hospital. While in the ambulance, paramedics continued to assess and treat Russell when he suddenly went into full cardiac arrest.

The paramedics applied life-saving medical support to Russell as he was transported to Riverside Community Hospital (RCH) for further treatment.

The paramedics advised their dispatch center that they were enroute to the hospital at 1335 hours (code 3). At 1336 hours, AMR paramedics advised their dispatch center to inform RCH that they were enroute with a 30-year old male and that CPR was being applied. Paramedics arrived at RCH at 1340 hours. 33-minutes later, at 1413 hours, Russell was pronounced deceased.

The only physical contact RPD officers had with Russell was to handcuff him when he was semi-conscious. He was carried outside by officers and the handcuffs were removed. There was no further physical contact between RPD officers and Russell. Their contact was very limited.

On 07/25/20187, an autopsy was performed on David Russell. Dr. Fajardo performed the autopsy. Dr. Fajardo stated that he did not note any obvious injuries to Russell's person. This included his head, neck, and throat areas with the hyoid bone and trachea. He also noted no petechial hemorrhages of the eyes.

The cause of death was determined to be: acute methamphetamine toxicity, with other significant conditions of cardiomegaly, physical altercation with a bystander.

The manner of death was classified as: homicide

The mode of death was determined to be: self-administered illicit substance prior to confrontation with a bystander and being taken into custody by law enforcement and treated by RFD fire/paramedics.

V. CPRC Follow-Up:

The Commission requested a cover to cover review of the Criminal Casebook by CPRC Independent Investigator Mike Bumcrot of Bumcrot Consulting, located in Norco, California. Mr. Bumcrot is a nationally recognized expert in homicide and Officer Involved Death cases. The purpose of this review is for Mr. Bumcrot to provide the CPRC with his findings based upon his experience and expertise. Mr. Bumcrot felt that the investigation conducted by the Riverside Police Department was thorough and all evidence collected and preserved was completed accordingly.

VI. Evidence:

The relevant evidence in this case evaluation consisted primarily of the testimony of three assault victims, other witnesses, RFD personnel and paramedics, the officers involved and video camera footage. In addition, a Deputy Coroner investigation and autopsy report, along with police reports and photographs, forensic examination results and a report by the independent CPRC investigator.

VII. Applicable RPD Policy(s); Penal Codes and Case Law:

RPD – Policy Manual, Policy 300	**USE OF FORCE**
Policy 300.3, Use of Force	Officers shall use only that amount of force that reasonably appears necessary given the facts and circumstances perceived by the officer at the time…
Policy 300.3.2, Use of Force Factors	(a) Immediacy and severity of the threat to officers and others; (b) conduct of the individual being confronted; (e) suspect's mental state or capacity; (f) proximity to weapons; (k) potential injury to officers, suspects and others; (l) whether person appears to be resisting, evading, or attacking; (m) risk and reasonable foreseeable consequences of escape; (q) any other exigent circumstances.

Policy 304.2 HANDCUFFING and RESTRAINTS

California Penal Code § 835a states:

"Any peace officer who has reasonable cause to believe that the person to be arrested has committed a public offense may use reasonable force to effect the arrest, to prevent escape or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his efforts by reason of the resistance or threatened resistance of the person being arrested; nor shall such officer be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance."

People v. Turner, 2 Cal.App.3d 632 (1969), the right of police officer to assure his own safety during the course of an investigation is not limited to disarming the person immediately before him. The officer may do anything reasonably necessary to neutralize the threat of physical harm.

Graham v. Connor, 490 U.S. 396 (1989), considered the reasonableness of a police officer's use of force, and instructed that the reasonableness must be judged from the perspective of a reasonable officer on scene.

VIII. Rationale for Finding – Within Policy:

In this case, David Eugene Russell II died from a drug overdose. The incident took place at the McDonald's Restaurant, located at 2242 University Avenue in Riverside, California.

At approximately 1240 hours, on July 22, 2018, Russell walked into the McDonalds talking to himself.

He immediately began threatening customers and employees. Notably, Russell had been seen by employees coming into the restaurant the week prior, acting erratically, with knives in his hands. He approached customers and employees on July 22 with his fists clenched in an obvious attempt to challenge them to fight. Russell struck people and also yelled threats such as, “You want some of this!”

A patron who had training in Jui-Jitsu witnessed Russell’s concerning behavior and sought to restrain him. The patron put Russell into a restraint that applied pressure to Russell’s Carotid artery in an attempt to “*put him out*.” The concerned citizen was careful to hold the restraint for only five seconds, and successfully prevented Russell from attacking others in the restaurant. Russell was only semi-conscious when Officer Cuevas arrived and placed him in handcuffs. At that time, however, Russell was clearly breathing and holding his head parallel to the ground. Officer Cuevas called medical aid for Russell.

The time line after the request for medical aid went as follows:

1255 Hours – RFD Squad 1 arrived at the scene

1258 Hours – AMR arrived at the scene

1304 Hours – RFD Squad 1 cleared from McDonalds

1327 Hours – AMR staff request via radio that RFD Squad 1 return since Russell went into full cardia arrest.

1329 Hours – RFD Squad 1 dispatched to return to McDonalds

1332 Hours – RFD Squad 1 arrived at McDonalds

1335 Hours – AMR advises dispatch that they are enroute to RCH

1336 Hours – AMR advises dispatch to contact RCH and inform them they have a 30-year old male. CPR in progress. AMR dispatch advises she will try. Dispatch stated they have three Code 3’s at the same time.

1340 Hours – AMR arrived at RCH

1413 Hours – Russell is pronounced deceased by medical staff

Subsequent autopsy indicated that there were no obvious injuries on Russell. Relevantly, there were no injuries that would have suggested the prior restraint or pressure to Russell’s Carotid artery was applied improperly or caused his death.
It was later determined Russell’s death was from acute methamphetamine toxicity due to his self-administration of an illicit substance prior to the altercation in the McDonalds.

After watching the BWC footage of both the responding officers who had direct contact with Russell, and the footage of the officer interviewing witnesses, we found no actions taken by RPD personnel that indicated inappropriate actions on their behalf.

Witness interviews of the McDonald's patrons clearly indicate that Russell was physically violent and irrational when he arrived at the restaurant and in his interactions with the patrons and employees. The witnesses noted that he did not cease his assaults until he was subdued in the kitchen by a patron. When RPD officers arrived, Russell was already down on the ground. Officers immediately contacted Russell, attempted to rouse him and called for medical aid. Russell remained the focus of at least one officer and was never ignored or treated forcefully.

Based on the totality of the circumstances, including witness statements, statements by the officers; and physical evidence, we conclude that the officers acted in compliance with Riverside Police Department's Policies, and that their minimal restraint of Russell, and use of force was necessary and reasonable. Russell's death did not occur as a result of any actions on the part of the officers or any other person. His death was due to the self-administration of an illicit substance prior to the altercation in the McDonalds. David Russell caused his own death by ingesting an excessive amount of methamphetamine.

Mr. Russell had been subdued by a citizen by the use of a carotid hold prior to the arrival of RPD. Simply restraining the suspect does not exceed any reasonableness standard applied to this particular situation.

The use of restraints is at the discretion of the officer (RPD Policy Section 304.4); the removal of restraints in a timely fashion to allow for medical aid is keeping in consistent application of RPD Policy Section 302.2.

After a careful review of this case, we conclude that Mr. Russell's death was not the result of actions by RPD sworn officers.

IX. Recommendations:

None.

X. Closing:

The Commission offers its empathy to the community members, police officers, and City employees who were impacted by the outcome of this incident, as any loss of life is tragic, regardless of the circumstances.

APPENDIX

Mike Bumcrot Consulting Report of Investigation **Section A**

RPD Policy 300 / Policy 300.3, Use of Force; **Policy 300.3.2**, Use of Force Factors; **Policy 304.2** HANDCUFFING and RESTRAINTS **Section B**

MIKE BUMCROT CONSULTING

REPORT OF INVESTIGATION

DATE: July 31, 2018

SUBJECT: In Custody Death of David Russell, which occurred on July 22, 2018

CASE: Riverside Police Department File #P18-136590

LOCATION: 2241 University Avenue, Riverside (McDonalds)

On July 22, 2018, I was advised by Frank Hauptmann, Consultant for the CPRC, of the in custody death of David Russell. I was asked to conduct a neighborhood canvass of the location to search for potential witnesses who had not been located by investigative personnel immediately after the incident.

On July 27, 2018, I responded to the location in an attempt to locate possible witnesses to the incident and to view the location to better understand the police reports that I will eventually review. I contacted the Manager at McDonalds, Vincent, who advised me that of the employees currently working were present at the time of the incident. He continued on stating that Mr. Russell was a known customer at the location and has been involved in disturbances on other occasions. I also contacted several residents south of the location on Eucalyptus Street but could find no one who knew about the incident.

On July 31, 2018, I attended the Executive Briefing of the in custody death, conducted by Riverside Police Homicide detectives. I also viewed video from inside the McDonalds as well as body worn cameras from Riverside Police Patrol officers who responded to the scene. The McDonalds video depicts Mr. Russell enter the restaurant

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PI LICENSE 25403

at 1226 in a very disheveled condition. He takes a seat in the lobby and eventually makes his way to a booth. He then begins to walk around appearing to harass customers and employees. Mr. Russell approaches a male customer, talking on his cell phone, and strikes him with his fist. Customers begin to run in different directions and Mr. Russell strikes several people, including women and employees, and walks behind the counter into the kitchen area. Suddenly, a male customer ran up behind Mr. Russell, and placed him in a choke hold and both of the men fell to the ground. The male customer held Mr. Russell in the hold until the police arrived several minutes later. The first responding patrol officer placed handcuffs on Mr. Russell and rolled him onto his side and attempted to converse with him with no response. Mr. Russell was treated by Riverside City Fire and ambulance personnel and transported to the hospital where he was pronounced dead. At autopsy it was noted that Mr. Russell had an enlarged heart and there was no trauma to his neck or throat. The cause of death is pending toxicology tests.

I will review the facts of the in custody death of David Russell when Riverside Police Department provides me with access to their files.

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PI LICENSE 25403

Use of Force

300.1 PURPOSE AND SCOPE

This policy provides guidelines on the reasonable use of force. While there is no way to specify the exact amount or type of reasonable force to be applied in any situation, every member of this department is expected to use these guidelines to make such decisions in a professional, impartial and reasonable manner.

300.1.1 DEFINITIONS

Definitions related to this policy include:

Deadly force - Any use of force that creates a substantial risk of causing death or serious bodily injury, including but not limited to the discharge of a firearm (Penal Code § 835a).

Force - The application of physical techniques or tactics, chemical agents, or weapons to another person. It is not a use of force when a person allows him/herself to be searched, escorted, handcuffed, or restrained.

300.2 POLICY

The use of force by law enforcement personnel is a matter of critical concern, both to the public and to the law enforcement community. Officers are involved on a daily basis in numerous and varied interactions and, when warranted, may use reasonable force in carrying out their duties.

Officers must have an understanding of, and true appreciation for, their authority and limitations. This is especially true with respect to overcoming resistance while engaged in the performance of law enforcement duties.

The Department recognizes and respects the value of all human life and dignity without prejudice to anyone. Vesting officers with the authority to use reasonable force and to protect the public welfare requires monitoring, evaluation and a careful balancing of all interests.

300.2.1 DUTY TO INTERCEDE

Any officer present and observing another officer using force that is clearly beyond that which is objectively reasonable under the circumstances shall, when in a position to do so, intercede to prevent the use of unreasonable force. An officer who observes another employee use force that exceeds the degree of force permitted by law should promptly report these observations to a supervisor.

300.3 USE OF FORCE

Officers shall use only that amount of force that reasonably appears necessary given the facts and totality of the circumstances known to or perceived by the officer at the time of the event to accomplish a legitimate law enforcement purpose (Penal Code § 835a).

The reasonableness of force will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably

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appears necessary in a particular situation, with limited information and in circumstances that are tense, uncertain, and rapidly evolving.

Given that no policy can realistically predict every possible situation an officer might encounter, officers are entrusted to use well-reasoned discretion in determining the appropriate use of force in each incident.

It is also recognized that circumstances may arise in which officers reasonably believe that it would be impractical or ineffective to use any of the tools, weapons, or methods provided by the Department. Officers may find it more effective or reasonable to improvise their response to rapidly unfolding conditions that they are confronting. In such circumstances, the use of any improvised device or method must nonetheless be objectively reasonable and utilized only to the degree that reasonably appears necessary to accomplish a legitimate law enforcement purpose.

While the ultimate objective of every law enforcement encounter is to avoid or minimize injury, nothing in this policy requires an officer to retreat or be exposed to possible physical injury before applying reasonable force.

300.3.1 USE OF FORCE TO EFFECT AN ARREST

Any peace officer may use objectively reasonable force to effect an arrest, to prevent escape, or to overcome resistance. A peace officer who makes or attempts to make an arrest need not retreat or desist from his/her efforts by reason of resistance or threatened resistance on the part of the person being arrested; nor shall an officer be deemed the aggressor or lose his/her right to self-defense by the use of reasonable force to effect the arrest, prevent escape, or to overcome resistance. Retreat does not mean tactical repositioning or other de-escalation techniques (Penal Code § 835a).

300.3.2 FACTORS USED TO DETERMINE THE REASONABLENESS OF FORCE

When determining whether to apply force and evaluating whether an officer has used reasonable force, a number of factors should be taken into consideration, as time and circumstances permit. These factors include but are not limited to:

(a) The apparent immediacy and severity of the threat to officers or others (Penal Code § 835a).

(b) The conduct of the individual being confronted, as reasonably perceived by the officer at the time.

(c) Officer/subject factors (age, size, relative strength, skill level, injuries sustained, level of exhaustion or fatigue, the number of officers available vs. subjects).

(d) The conduct of the involved officer (Penal Code § 835a).

(e) The effects of drugs or alcohol.

(f) The individual's apparent mental state or capacity (Penal Code § 835a).

(g) The individual’s apparent ability to understand and comply with officer commands (Penal Code § 835a).

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(h) Proximity of weapons or dangerous improvised devices.

(i) The degree to which the subject has been effectively restrained and his/her ability to resist despite being restrained.

(j) The availability of other reasonable and feasible options and their possible effectiveness (Penal Code § 835a).

(k) Seriousness of the suspected offense or reason for contact with the individual.

(l) Training and experience of the officer.

(m) Potential for injury to officers, suspects, and others.

(n) Whether the person appears to be resisting, attempting to evade arrest by flight, or is attacking the officer.

(o) The risk and reasonably foreseeable consequences of escape.

(p) The apparent need for immediate control of the subject or a prompt resolution of the situation.

(q) Whether the conduct of the individual being confronted no longer reasonably appears to pose an imminent threat to the officer or others.

(r) Prior contacts with the subject or awareness of any propensity for violence.

(s) Any other exigent circumstances.

300.3.3 PAIN COMPLIANCE TECHNIQUES

Pain compliance techniques may be effective in controlling a physically or actively resisting individual. Officers may only apply those pain compliance techniques for which they have successfully completed department-approved training. Officers utilizing any pain compliance technique should consider:

(a) The degree to which the application of the technique may be controlled given the level of resistance.

(b) Whether the person can comply with the direction or orders of the officer.

(c) Whether the person has been given sufficient opportunity to comply.

The application of any pain compliance technique shall be discontinued once the officer determines that compliance has been achieved.

300.3.4 CAROTID CONTROL HOLD

The proper application of the carotid control hold may be effective in restraining a violent or combative individual. However, due to the potential for injury, the use of the carotid control hold is subject to the following:

(a) The officer shall have successfully completed department-approved training in the use and application of the carotid control hold.

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Handcuffing and Restraints

304.1 PURPOSE AND SCOPE

This policy provides guidelines for the use of handcuffs and other restraints during detentions and arrests.

304.2 POLICY

The Riverside Police Department authorizes the use of restraint devices in accordance with this policy, the Use of Force Policy, and department training. Restraint devices shall not be used to punish, to display authority, or as a show of force.

304.3 USE OF RESTRAINTS

Only members who have successfully completed Riverside Police Department-approved training on the use of restraint devices described in this policy are authorized to use these devices.

When deciding whether to use any restraint, officers should carefully balance officer safety concerns with factors that include but are not limited to:

- The circumstances or crime leading to the arrest.
- The demeanor and behavior of the arrested person.
- The age and health of the person.
- Whether the person is known to be pregnant.
- Whether the person has a hearing or speaking disability. In such cases, consideration should be given, safety permitting, to handcuffing to the front in order to allow the person to sign or write notes.
- Whether the person has any other apparent disability.

304.3.1 RESTRAINT OF DETAINEES

Situations may arise where it may be reasonable to restrain a person who may, after brief investigation, be released without arrest. Unless arrested, the use of restraints on detainees should continue only for as long as is reasonably necessary to ensure the safety of officers and others. When deciding whether to remove restraints from a detainee, officers should continuously weigh the safety interests at hand against the continuing intrusion upon the detainee.

304.3.2 RESTRAINT OF PREGNANT PERSONS

Persons who are known to be pregnant should be restrained in the least restrictive manner that is effective for officer safety. Leg irons, waist chains, or handcuffs behind the body should not be used unless the officer has a reasonable suspicion that the person may resist, attempt escape, injure self or others, or damage property.

No person who is in labor, delivery, or recovery after delivery shall be handcuffed or restrained except in extraordinary circumstances and only when a supervisor makes an individualized

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determination that such restraints are necessary for the safety of the arrestee, officers, or others (Penal Code § 3407; Penal Code § 6030).

304.3.3 RESTRAINT OF JUVENILES
A juvenile under 14 years of age should not be restrained unless he/she is suspected of a dangerous felony or when the officer has a reasonable suspicion that the juvenile may resist, attempt escape, injure him/herself, injure the officer, or damage property.

304.3.4 NOTIFICATIONS
Whenever an officer transports a person with the use of restraints other than handcuffs, the officer shall inform the jail staff upon arrival at the jail that restraints were used. This notification should include information regarding any other circumstances the officer reasonably believes would be potential safety concerns or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration) that may have occurred prior to, or during, transportation to the jail.

304.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS

Handcuffs, including temporary nylon or plastic cuffs, may be used only to restrain a person's hands to ensure officer safety.

Although recommended for most arrest situations, handcuffing is discretionary and not an absolute requirement of the Department. Officers should consider handcuffing any person they reasonably believe warrants that degree of restraint. However, officers should not conclude that in order to avoid risk every person should be handcuffed, regardless of the circumstances.

In most situations, handcuffs should be applied with the hands behind the person's back. When feasible, handcuffs should be double-locked to prevent tightening, which may cause undue discomfort or injury to the hands or wrists.

In situations where one pair of handcuffs does not appear sufficient to restrain the person or may cause unreasonable discomfort due to the person's size, officers should consider alternatives, such as using an additional set of handcuffs or multiple plastic cuffs.

Handcuffs should be removed as soon as it is reasonable or after the person has been searched and is safely confined within a detention facility.

304.5 APPLICATION OF SPIT HOODS

Spit hoods are temporary protective devices designed to prevent the wearer from biting and/or transferring or transmitting fluids (saliva and mucous) to others.

Spit hoods may be placed upon persons in custody when the officer reasonably believes the person will bite or spit, either on a person or in an inappropriate place. They are generally used during application of a physical restraint, while the person is restrained, or during or after transport.

Officers utilizing spit hoods should ensure that the spit hood is fastened properly to allow for adequate ventilation and so that the restrained person can breathe normally. Officers should provide assistance during the movement of a restrained person due to the potential for impairing or

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distorting that person's vision. Officers should avoid comingling those wearing spit hoods with other detainees.

Spit hoods should not be used in situations where the restrained person is bleeding profusely from the area around the mouth or nose, or if there are indications that the person has a medical condition, such as difficulty breathing or vomiting. In such cases, prompt medical care should be obtained. If the person vomits while wearing a spit hood, the spit hood should be promptly removed and discarded. Persons who have been sprayed with oleoresin capsicum (OC) spray should be thoroughly decontaminated, including hair, head, and clothing, prior to application of a spit hood.

Those who have been placed in a spit hood should be continually monitored and shall not be left unattended until the spit hood is removed. Spit hoods shall be discarded after each use.

304.6 APPLICATION OF AUXILIARY RESTRAINT DEVICES

Auxiliary restraint devices include transport belts, waist or belly chains, transportation chains, leg irons, and other similar devices. Auxiliary restraint devices are intended for use during long-term restraint or transportation. They provide additional security and safety without impeding breathing, while permitting adequate movement, comfort, and mobility.

Only department-authorized devices may be used. Any person in auxiliary restraints should be monitored as reasonably appears necessary.

304.7 APPLICATION OF LEG RESTRAINT DEVICES

Leg restraints may be used to restrain the legs of a violent or potentially violent person when it is reasonable to do so during the course of detention, arrest, or transportation. Only restraint devices approved by the Department shall be used.

In determining whether to use the leg restraint, officers should consider:

(a) Whether the officer or others could be exposed to injury due to the assaultive or resistant behavior of a person.

(b) Whether it is reasonably necessary to protect the person from his/her own actions (e.g., hitting his/her head against the interior of the patrol vehicle, running away from the arresting officer while handcuffed, kicking at objects or officers).

(c) Whether it is reasonably necessary to avoid damage to property (e.g., kicking at windows of the patrol vehicle).

304.7.1 GUIDELINES FOR USE OF LEG RESTRAINTS

When applying leg restraints, the following guidelines should be followed:

(a) If practicable, officers should notify a supervisor of the intent to apply the leg restraint device. In all cases, a supervisor shall be notified as soon as practicable after the application of the leg restraint device.

(b) Once applied, absent a medical or other emergency, restraints should remain in place until the officer arrives at the jail or other facility or the person no longer reasonably appears to pose a threat.

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(c) Once secured, the person should be placed in a seated or upright position, secured with a seat belt, and shall not be placed on his/her stomach for an extended period, as this could reduce the person's ability to breathe.

(d) The restrained person should be continually monitored by an officer while in the leg restraint. The officer should ensure that the person does not roll onto and remain on his/her stomach.

(e) The officer should look for signs of labored breathing and take appropriate steps to relieve and minimize any obvious factors contributing to this condition.

(f) When transported by emergency medical services, the restrained person should be accompanied by an officer when requested by medical personnel. The transporting officer should describe to medical personnel any unusual behaviors or other circumstances the officer reasonably believes would be potential safety or medical risks to the person (e.g., prolonged struggle, extreme agitation, impaired respiration).

304.8 TRAINING

Subject to available resources, the Training Bureau Manager should ensure that officers receive periodic training on the proper use of handcuffs and other restraints, including:

(a) Proper placement and fit of handcuffs and other restraint devices approved for use by the Department.

(b) Response to complaints of pain by restrained persons.

(c) Options for restraining those who may be pregnant without the use of leg irons, waist chains, or handcuffs behind the body.

(d) Options for restraining amputees or those with medical conditions or other physical conditions that may be aggravated by being restrained.

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