



# OFFICE OF POLICE ACCOUNTABILITY

DIRECTOR: Jesus Jara

## CASE REVIEW

OPO16-0012

OIA16-0280

DECEMBER 2021

Prepared by:

John Meyer

Jesus Jara

### *THE SITUATION – Late Spring of 2016*

Boise Police Department (BPD) officers including Officer #1 were dispatched to a “Man with a gun” call. It was reported that the male with the gun had barricaded himself in a residence and was possibly suicidal. His physical and clothing description was provided to responding officers. Prior to the arrival of Officer #1 and other officers, information was given that the male who had been in possession of a handgun had exited the residence, however, the handgun was still missing from the residence. When Officer #1 arrived in the area, he located a male subject walking on a sidewalk that matched the description of the male with the gun. Officer #1 who was in a full BPD uniform gave commands to the male to sit down, but the male would not comply. Based on the totality of the circumstances, including the likelihood the male was suicidal and in possession of a gun endangering himself, the public in the area and officers, Officer #1 attempted to place the male on the ground using soft empty hand techniques. The male immediately physically resisted Officer #1, pulling away and pushing Officer #1. Officer #1 was able to get the male on the ground but was not able to gain control of his arms and take him in to custody. Officer #1 was holding the male when three independent witnesses observed this struggle. It was apparent to the witnesses that Officer #1 needed assistance. The witnesses assisted Officer #1 in controlling the male’s legs and arms, enabling Officer #1 to place the male in handcuffs.

One of the assisting witnesses had been riding a motorcycle nearby and his helmet was equipped with a small video camera that recorded and memorialized the assistance provided to Officer #1. The footage captured on the helmet camera clearly depicts Officer #1 struggling to hold onto the male on the ground. It then shows witnesses holding the male’s legs down and one witness pulling the male’s arms to a position behind his back, enabling the officer to handcuff the male. No other force was captured on the camera.

After the male was handcuffed, an assisting BPD officer arrived on scene and rendered further assistance to Officer #1. The male was searched, and no weapons were found. Witnesses provided their information to officers and then left the scene. The male was placed handcuffed in the back seat of a BPD vehicle as the BPD investigation continued. The male then began violently kicking the inside of the vehicle. The male was subsequently taken out of the vehicle and a hobble restraint device was placed around his legs to prevent him from damaging the vehicle or injuring himself. After the hobble restraint

was applied, the male calmed down and the hobble was removed by officers before he was taken to Ada County Jail and booked for Obstructing and Resisting an Officer.

### ***REASON FOR THE REVIEW***

BPD received a complaint alleging excessive use of force by Officer #1 in this incident. A BPD investigator completed an Internal Investigation into this allegation. The Office of Police Oversight (OPA) completed a review of this complaint and the subsequent investigation completed by BPD. I reviewed the following:

- Boise Police Department Reports
- Officer #1 Audio Recordings
- Photographs
- Dispatch Records
- Helmet Camera Video supplied by a witness

### ***DIRECTOR'S ANALYSIS & FINDINGS***

#### **PM 1.00.00 Use of Force**

It is alleged that the Officer began to use unnecessary force before Complainant had an opportunity to understand what the nature and purpose of the contact was and before the officer had properly identified the complainant. Complainant further describes the officer receiving assistance in the force used by untrained civilians.

The OPA investigation and review finds that the complainant was being sought by officers for being suicidal and armed with a weapon. These circumstances present extremely high danger to the public, officers, and the complainant himself. The responding officer in full uniform must quickly assess the situation, gain control of the complainant and ultimately secure the weapon (if any). When the complainant refuses to follow lawful commands from the uniformed officer to sit down, the totality of the circumstances become even more dangerous. The officer must utilize his training and experience to control a potentially armed subject by using minimal force that is reasonably necessary. Empty hand grasping and forcing the non-compliant subject to the grass is a reasonable use of force under these circumstances. The complainant continued to physically resist the uniformed officer's commands and physical efforts to control him. When approached by witnesses, the officer requested assistance and the assistance that was rendered amounted to minimal physical contact of grasping the complainant's arms and holding his legs down in a stationary position. This minimal assistance enabled the officer to place the complainant in handcuffs and effect a search for a weapon, ultimately bringing a safe conclusion for all to this incident. Additionally, the witness assistance provided a video memorializing this assistance for the benefit of a comprehensive review at this later time.

#### **PM 2.01.00 Arrests**

Complainant alleges that he was arrested for resisting arrest, and that there was no cause for an arrest to occur, since he had not committed a violation until the officer initiated the use of force, which the Complainant argues was unnecessary and excessive.



The OPA investigation and review finds that the complainant was arrested for obstructing and resisting the lawful orders of the uniformed BPD officer, hindering the officer in the performance of his duty by physically resisting. The complainant was not told he was under arrest at first contact until he resisted and obstructed the officer in the performance of his duty by refusal to follow lawful commands and physically resisting.

#### **PM 11.01.07 Relationship with Others and Demeanor**

Complainant alleges that the initial contact began with the involved officer giving commands to sit down without any additional conversation and without any explanation as to why contact was being made with him.

The OPA investigation and review finds that the officer contacting a potentially suicidal armed male greatly increased the urgency of this situation. This required the officer to utilize his training and experience based on the totality of the information he had received to maximize public safety by gaining control of the complainant to secure his weapon (if any). In this dynamic and fluid situation, the officer must use discretion in what information he may initially divulge to the complainant to maximize safety for all involved.

The OPA concurs with BPD IA and has determined that Officer #1's actions were consistent with BPD policy, procedures and standards.

This matter is closed with the following findings, based on the preponderance of the evidence:

#### **Officer #1**

PM 1.00.00 Use of Force – Exonerated

PM 2.01.00 Arrests - Exonerated

PM 11.01.07 Relationship with Others and Demeanor - Exonerated

**Jesus Jara**



**Director – Office of Police Accountability**

**Email – [jjara@cityofboise.org](mailto:jjara@cityofboise.org)**

**Office: (208) 972-8380**

[www.cityofboise.org/opa](http://www.cityofboise.org/opa)

