

USE OF FORCE REVIEW

Incident: Police Officer Involved Use of Force
Case Number: 2012-102556
Date of Incident: July 07, 2012
Date Report Completed: January 08, 2013
Report Completed by: Lieutenant Bradley A. Hetlet
Experience: 1986-2006 Patrol Officer
2006-2010 3rd Shift Patrol Sergeant
2010-Present 3rd Shift Patrol Lieutenant
2000-Present Defensive and Arrest Tactics Instructor
2003-2007 Taser Instructor
2007-2012 Master Taser Instructor

PURPOSE:

The purpose of this review is to determine:

1. If the officers' use of force was within Kenosha Police Department Policy and Procedure.
2. If there are any Tactical or Training considerations.

I evaluated, in a fact finding manner, each aspect of the use of force incident reported on July 07, 2012 @ 0434 hrs, under Kenosha Police Department case number 2012-102556.

The evaluation included, but was not limited to the following:

- A thorough review of the investigative reports
- A review of the in-car camera recording
- A review of the Dispatch audio recordings
- A review of the Dispatch call screen
- A review of the Kenosha Police Department Policy and Procedure Manual

- Wisconsin State Statute 947.01
- Wisconsin Dept. of Justice Defensive and Arrest Tactics Manual

I reviewed Kenosha Police Department Policy and Procedure Manual and believe that the following Policies are relevant to this incident:

- 1.3 Use of Force
- 1.8 Arrest
- 1.10 Search and Seizure
- 2.2 Law Enforcement Jurisdiction
- 21.14 Job Specification - Police Officer
- 41.10 Police Reports
- 71.1 Transporting Persons in Custody
- 81.1 Police Radio Communication

FINDINGS:

1. Whether the Use of Force was within policy, outside policy or accidental:

- Keenan Smith was actively involved in a physical fight with Tamirius Gaston
- As P.O. Ruha pulled up to the scene, Mr. Gaston was backing away from Mr. Smith and Mr. Smith was walking towards Mr. Gaston as if he wanted to continue to fight.
- P.O. Ruha perceived Mr. Smith as a threat to himself as well as Mr. Gaston so he drew his Electronic Control Device (ECD).
- Mr. Smith ignored P.O. Ruha's commands to get on the ground.
- Mr. Smith displayed early warning signs as well as pre-attack postures as described in the Wisconsin Defensive and Arrest Tactics Guide.
- P.O. Ruha's firing of his ECD constituted a use of force and was appropriate in accordance with department policy 1.3, Use of Force.
- After examination of all reports, video, and audio recordings, I find that the actions of P.O. Ruha were within Kenosha Police Department Policy and Procedures relative to the use of force.

2. Tactical and training considerations:

I find that appropriate tactics were utilized by P.O. Ruha throughout this incident. This incident took place in the 2200 block of 54th street, within the city limits of Kenosha. P.O. Ruha was operating marked squad car #3084, and was in regulation Kenosha Police Department uniform.

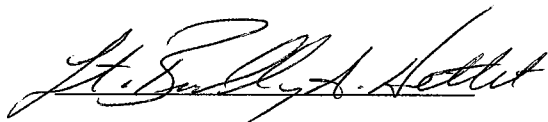
On July 07, 2012 @ 0434 hrs, P.O. Ruha and other officers were dispatched to 2227-54th street in reference to a group of six black males that appeared as though they were getting ready to fight. As P.O. Ruha approached the scene in his squad car he observed Mr. Smith and Mr. Gaston actively fighting each other in the roadway. A third male was also in the roadway. As seen in the squad video, as P.O. Ruha approached in his squad, Mr. Gaston is observed backing away from Mr. Smith. In the video it appears as if Mr. Smith was attempting to close distance on Mr. Gaston, and it appears as though Mr. Smith wanted to continue to fight. P.O. Ruha activated the squad's emergency lights in an attempt to have his presence stop Mr. Smith's aggressive behavior. This seemed to have no effect on Mr. Smith's behavior.

P.O. Ruha made an appropriate tactical assessment of the situation concluding that Mr. Smith's actions indicated that he was a threat to the safety of Mr. Gaston and to P.O. Ruha. Squad video shows as P.O. Ruha exited his squad, he immediately drew his ECD. At this time P.O. Niebuhr's marked squad arrived on scene. According to officers' reports, P.O. Ruha ordered Mr. Smith to the ground. Mr. Smith stopped his aggression towards Mr. Gaston and he was now focused on P.O. Ruha. In both officers' reports, they indicated that Mr. Smith "squared up" with P.O. Ruha and it appeared as if Mr. Smith was going to fight with P.O. Ruha. Mr. Smith ignored P.O. Ruha's repeated commands to get on the ground or he would be "tased" and just stared at P.O. Ruha. In the squad video Mr. Smith can be seen blading his body by stepping back with his left foot.

P.O. Ruha responded appropriately by deploying his ECD. In his ongoing tactical evaluation, P.O. Ruha recognized Mr. Smith's actions of "squaring up" with him, blading his body, ignoring him, and staring at him as pre-attack postures. These are all indicators that an attack may be imminent and increased P.O. Ruha's level of perceived threat. Upon P.O. Ruha deploying his ECD, Mr. Gaston obeyed P.O. Ruha's previous order to get on the ground.

Mr. Smith and Mr. Gaston were then handcuffed and placed into squad cars. Prior to being placed into the squad, Mr. Smith continued his aggressive behavior by pushing and pulling officers as they attempted to search him. Once inside the rear of the squad, Mr. Smith can be heard on the squad recording screaming obscenities such as "Bitches," "Niggers," "You Fucking Fag," "Fuckin' Asshole," "Fuckin' Pussies." He can also be heard threatening officers by screaming "Let Me Out, I'll Fuck Your Ass Up!"

In reviewing the squad video I found that the loud music could potentially drown out possible audio evidence. Officers should be instructed to turn down the AM/FM radio when responding to and on the scene of an incident. Officers should also insure that their portable microphones are synced to the Arbitrator program. In this case it would have been helpful to have an audio recording of the contact between P.O. Ruha and the suspects.

A handwritten signature in cursive script, appearing to read "Lt. Bradley A. Hetlet".

Lieutenant Bradley A. Hetlet