

Memo

To: Chief Miles DeYoung

From: Commander Ryan Holzwarth

Date: 03/27/2020

Re: Internal Investigation 20-0001

Introduction:

On Wednesday March 26, 2020, I Ryan Holzwarth (Woodland Park Patrol Commander) was made aware of an incident involving an escaped juvenile prisoner from custody at the Pikes Peak Regional Hospital. I have reviewed, interviewed and documented the incident to comply within Woodland Park Police Department (WPPD) policy and procedures.

Synopsis:

On March 24, 2020 I called [REDACTED] in regards to a time off matter. Upon speaking to [REDACTED] he was in the middle of looking for a juvenile male by the name of [REDACTED] who escaped custody of Officer [REDACTED] at the Pikes Peak Regional Hospital. [REDACTED] was brought to the hospital for a [REDACTED] [REDACTED] was going to transport him to the Spring Creek Detention facility in Colorado Springs, Colorado after the [REDACTED] [REDACTED] was not handcuffed during his initial arrest nor was he handcuffed during the transport to the hospital. The officers involved stated due to [REDACTED] demeanor they felt he did not need to be handcuffed and they had a good rapport with him.

Upon asking questions why he wasn't handcuffed, the investigating officer [REDACTED] stated he did not place [REDACTED] into custody and that [REDACTED] and MPO Shannon Everhart were the arresting officers. [REDACTED] stated that both Everhart and [REDACTED] did not place [REDACTED] into custody and they arrived at the Woodland Park Police Department and [REDACTED] was not handcuffed. [REDACTED] stated he told [REDACTED] "Why isn't he cuffed, he has two felony charges and should have been cuffed". [REDACTED] stated that [REDACTED] gave him a look as to minimize the situation. [REDACTED] transported [REDACTED] to Pikes Peak Regional Hospital due to [REDACTED] [REDACTED] transported [REDACTED] without handcuffs.

Policy Review:

The Woodland Park Police Department has Policies and Procedures pertaining to the handcuffing and restraining suspects and juvenile suspects. The following policies will be reviewed to check for compliance in this incident:

Law Enforcement Code of Ethics

As a law enforcement officer, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and the peaceful against abuse or disorder; and to respect the constitutional rights of all to liberty, equality and justice.

I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or to my agency. I will maintain courageous calm in the face of danger, scorn or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed both in my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or abuse and never accepting gratuities.

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other police officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence.

I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession . . . law enforcement.

ALL EMPLOYEES are held to the Law Enforcement Code of Ethics

319.6 INVESTIGATION OF DISCIPLINARY ALLEGATIONS

Regardless of the source of an allegation of misconduct, all such matters will be investigated pursuant to state or local law and Personnel Complaint Procedure Policy. If reasonable, the investigation should be completed

within one month of the discovery of the allegation within a reasonable time thereafter based upon the complexity or conditions of the investigation.

302.3 USE OF RESTRAINTS

Only members who have successfully completed Woodland Park 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

302.4 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 individual 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.

311.9.1 USE OF RESTRAINT DEVICES/ TEMPORARY CUSTODY OF JUVENILES

Juvenile offenders may be handcuffed in accordance with the Handcuffing and Restraints Policy. A juvenile offender may be handcuffed at the Woodland Park Police Department when the juvenile presents a heightened risk. However, non-offenders and status offenders should not be handcuffed unless they are combative or threatening.

Other restraints shall only be used after less restrictive measures have failed and with the approval of the Shift Supervisor. Restraints shall only be used so long as it reasonably appears necessary for the juvenile's protection or the protection of others.

Juveniles in restraints shall be kept away from other unrestrained individuals in custody and monitored in such a way as to protect the juvenile from abuse.

319.3.8 EFFICIENCY

- a. Neglect of duty.
- b. Unsatisfactory work performance including, but not limited to, failure, incompetence, inefficiency or delay in performing and/or carrying out proper orders, work assignments or the instructions of supervisors without a reasonable and bona fide excuse.
- c. Concealing, attempting to conceal, removing or destroying defective or incompetent work.
- d. Unauthorized sleeping during on-duty time or assignments.
- e. Failure to notify the Department within 24 hours of any change in residence address, contact telephone numbers or marital status.

319.3.9 PERFORMANCE

- a. Failure to disclose or misrepresenting material facts, or making any false or misleading statement on any application, examination form, or other official document, report or form, or during the course of any work-related investigation.
- b. The falsification of any work-related records, making misleading entries or statements with the intent to deceive or the willful and unauthorized removal, alteration, destruction and/or mutilation of any department record, public record, book, paper or document.
- c. Failure to participate in, or giving false or misleading statements, or misrepresenting or omitting material information to a supervisor or other person in a position of authority, in connection with any investigation or in the reporting of any department-related business.
- d. Being untruthful or knowingly making false, misleading or malicious statements that are reasonably calculated to harm the reputation, authority or official standing of this department or its members.

- e. Disparaging remarks or conduct concerning duly constituted authority to the extent that such conduct disrupts the efficiency of this department or subverts the good order, efficiency and discipline of this department or that would tend to discredit any of its members.
- f. Unlawful gambling or unlawful betting at any time or any place. Legal gambling or betting under any of the following conditions:
 - 1. While on department premises.
 - 2. At any work site, while on-duty or while in uniform, or while using any department equipment or system.
 - 3. Gambling activity undertaken as part of an officer's official duties and with the express knowledge and permission of a direct supervisor is exempt from this prohibition.
- g. Improper political activity including:
 - 1. Unauthorized attendance while on-duty at official legislative or political sessions.
 - 2. Solicitations, speeches or distribution of campaign literature for or against any political candidate or position while on-duty or, on department property except as expressly authorized by City policy, the collective bargaining agreement or contract, or the Chief of Police.
- h. Engaging in political activities during assigned working hours except as expressly authorized by City policy, the collective bargaining agreement or contract, or the Chief of Police.
- i. Any act on- or off-duty that brings discredit to this department.

347.2 PRISONER TRANSPORT

All prisoners will be searched by transporting officers prior to transport or at any change of custody. Whenever practicable, a custody search should be conducted by an officer of the same sex as the person being searched. If an officer of the same sex is not reasonably available, a witnessing officer should be present during the search when female prisoners are to be searched and no female officers are in the field, male officers should use a flashlight or similar object to pat down for hard objects. Portable metal detectors should be used if available.

Prisoners will be restrained during transport except when medical or physical conditions of the prisoner are such that it would cause injury or such that police restraints could not apply. Usually, prisoners will be handcuffed behind the back. Prisoners will not be handcuffed to any part of a vehicle, such as a door post.

Prisoners may be transported by officers of either gender.

When any person is transported regardless of gender or age, dispatch will record vehicle number, times of departure/arrival, mileage at departure/arrival. Officers will transmit this information via the radio.

Prisoners transported to medical, dental or psychiatric treatment facilities have an extraordinary opportunity for unauthorized contact, escape, or injury to themselves or others. Officers will remain with the prisoner unless the medical necessity prevents it. In such cases, officers will control entrances and exits from the room where the treatment occurs. Prisoners will be restrained until it is necessary for examination or treatment.

All vehicles used for transport will be examined for contraband and weapons, at the beginning and end of the shift as well as before and after each transport.

When transporting a prisoner usually only one prisoner at a time will be transported. All prisoners should be seat belted when transported in a vehicle. If multiple prisoners are needed to be transported the officer should only transport those that the vehicle is designed to seat. Transportation of prisoners should be limited to two prisoners, per vehicle, each handcuffed behind their back unless not practicable. Prisoners should be of the same gender in one patrol vehicle. Do not transport juveniles with adults. Call for additional transport units to meet this requirement if needed. If local units are not available the Teller County Sheriff's Department will be requested to assist in transport. When no other transport unit is available and members of the opposite sex must be transported together they should be handcuffed behind the back and placed in the rear seat being secured by seat belts.

During any transport do not lay the prisoner face down with hands cuffed behind their back. Remember the possibility of positional asphyxia. Have prisoners sitting upright and if leg restraints are used use them when the prisoner is in a seated position. Prisoners should not be "hog-tied" legs and arms should not be joined together during transport. Remember when transporting anyone with a medical condition or physical condition special consideration such as handcuffing in front.

1007.3 PERSONNEL COMPLAINTS

Personnel complaints include any allegation of misconduct or improper job performance that, if true, would constitute a violation of department policy or of federal, state or local law, policy or rule. Personnel complaints may be generated internally or by the public.

All reports or accusations made against members of the agency or the agency in general, from all sources, should be completely investigated in order to ensure the integrity of the agency and its members.

Inquiries about conduct or performance that, if true, would not violate department policy or federal, state or local law, policy or rule may be handled informally by a supervisor and shall not be considered a personnel complaint. Such inquiries generally include clarification regarding policy, procedures or the response to specific incidents by the Department.

END OF APPLICABLE POLICIES FOR REVIEW

Interviews:

MPO Shannon Everhart

On March 27, 2020 I, Commander Ryan Holzwarth interviewed Master Patrol Officer Shannon Everhart about WPPD Case #20-0334. I asked MPO Everhart why she did not handcuff [REDACTED] upon contacting him at the intersection of Kings Crown Rd and Ponderosa. Everhart stated she has a good rapport with [REDACTED] and that she has never had him run away from her. The information that Officer Everhart was given prior to contacting [REDACTED] was that [REDACTED] was being looked at for a trespass violation and nothing further. Officer Everhart stated she was not aware of any other charges during her contact and that since Officer [REDACTED] was present during the contact [REDACTED] proceeded with the same level of force and did not handcuff him.

On March 27, 2020 I, Commander Ryan Holzwarth interviewed [REDACTED] about WPPD Case #20-0334. [REDACTED] was shadowing [REDACTED] during this call for service. [REDACTED] stated that he was around the corner looking for [REDACTED] when he overheard Shannon and [REDACTED] say they were in contact with him. [REDACTED] stated he was enroute to their location but prior to arrival they had cleared and [REDACTED] was in enroute back to the Woodland Park Police Department with [REDACTED]. [REDACTED] stated [REDACTED] met [REDACTED] downstairs to help book [REDACTED]. At this time [REDACTED] learned of the charges [REDACTED] had on [REDACTED]. [REDACTED] stated that after [REDACTED] got his paperwork completed on [REDACTED] that [REDACTED]. [REDACTED] then had [REDACTED] transport [REDACTED] to Pikes Peak Regional Hospital for an examination and release. [REDACTED] stated [REDACTED] went alone and did not hear anything from her until he heard [REDACTED] say over the radio she had a runner. [REDACTED] stated he told [REDACTED] to stand down from chasing [REDACTED]. [REDACTED] explained that since [REDACTED] and a Huerfano County Deputy were training at Charis Bible College across the street he had them respond to get a track on [REDACTED]. After approximately 1 hour [REDACTED] stated he called off the search.

On March 27, 2020 I, Commander Ryan Holzwarth interviewed [REDACTED] about WPPD Case #20-0334. [REDACTED] stated he was investigating a burglary that occurred at a storage unit and burglary tools were located. After conducting an investigation it was learned that [REDACTED] committed the crimes and [REDACTED] was looking for [REDACTED] for Felony charges. [REDACTED] stated to Shannon that he was looking for [REDACTED] but did not relay the charges to her as he was on the phone getting a warrant signed and contacting Spring Creek Juvenile Correctional facility to see if they would take [REDACTED] due to the COVID-19 pandemic. [REDACTED] stated he overheard Shannon get into contact with him but he did not respond to her location. [REDACTED] stated he told Shannon that he had charges against him. [REDACTED] stated he overheard [REDACTED] transport [REDACTED] back to the Woodland Park Police Department. [REDACTED] stated he met [REDACTED] downstairs in the booking room as she was taking [REDACTED] out of the patrol car. [REDACTED] stated he noticed [REDACTED] was not in handcuffs and that he expressed to her that [REDACTED] had felony charges and should be in handcuffs. [REDACTED] stated [REDACTED] didn't respond but gave him a look like she understood. [REDACTED] stated he then left and went back to do his paperwork.

On March 27, 2020 I, Commander Ryan Holzwarth interviewed Officer [REDACTED] about WPPD Case #20-0334. I asked [REDACTED] why she did not handcuff [REDACTED] upon leaving the Woodland Park Police Department and transporting him to Pikes Peak Regional Hospital for a [REDACTED]. [REDACTED] stated since [REDACTED] was good with them on scene and gave her no problems both during the arrest and after he was in booking she felt that he would be compliant. I asked [REDACTED] if she had handcuffs on him during any part of his [REDACTED]. [REDACTED] stated no that she planned on handcuffing when they got outside and before she transported him to Spring Creek Correctional facility. [REDACTED] stated [REDACTED] stopped and apologized to her for running away and then took off on foot over by the Retirement Home that is next to the Hospital. [REDACTED] stated to me that she was embarrassed and felt horrible for the past few days over what had happened.

Evidence:

1. Pikes Peak Regional Hospital Security Officer Report (attached)

Conclusion:

After speaking to all of the officers involved, listening to the radio traffic and reading the report I have come to the conclusion that the lack of communication is what caused 90% of the errors in this call. I have two officers blaming one another for the way [REDACTED] was placed into custody and how he was transported to the Woodland Park Police Department. Shannon claimed [REDACTED] never responded to her numerous calls and texts to [REDACTED] to find out what was going on. [REDACTED] stated he was on the phone with the judge and Spring Creek while Shannon was calling so he could not answer. [REDACTED] stated he was under the impression when he stated to Shannon that he had charges against [REDACTED] that Shannon would have placed him into custody. Shannon stated that all she knew about [REDACTED] was the fact that he was under investigation for trespass at the storage facility not that he had two felony charges. Since there was such animosity between the officers on who did what I decided to have a meeting with everyone involved on April 8, 2020 to clear the air and to allow the officers to explain what happened and to come up with a solution so this type of communication won't continue to happen. The meeting was successful and each officer involved realized what they need to do to improve and to talk on the radio vs. cell phones so it's tracked and everyone knows what's going on. I spoke to [REDACTED] one on one and told him he cannot leave a recruit, regardless of what phase in the FTO they are in alone. If [REDACTED] was there I believe [REDACTED] would not have made this type of error on scene initially. We talked about the Shadow Phase of FTO and the need for the Training Officer to be present when the Trainee is doing anything to make sure they are up to adhering to policy and procedures. [REDACTED] and I met with [REDACTED] and went over the policy 347.2 PRISONER TRANSPORT, 311.9.1 USE OF RESTRAINT DEVICES/ TEMPORARY CUSTODY OF JUVENILES, 302.4 APPLICATION OF HANDCUFFS OR PLASTIC CUFFS. Based on our conversation with her I feel this incident won't happen again. When speaking to [REDACTED] she was attempting to emulate the interaction that Shannon had with [REDACTED]. As a young officer it is obvious [REDACTED] is trying to build a rapport with the juveniles like Shannon has and wants to create those trusting relationships as well. I explained to [REDACTED] the severity of the incident and how dangerous not handcuffing prisoners is regardless of the trust. I will be closing this investigation out as Unfounded. The initial comments and understanding were leaning towards officers being untruthful about an arrest. The acts of untruthfulness were unfounded and not sustained during our meeting. [REDACTED] has been talked to and received a verbal counseling and performance book entry as a result of the handcuffing incident.

EXHIBITS:

1. Woodland Park Police Department Police Report #20-0334
2. Woodland Park Police Department Dispatch Record (March 25,2020)
3. Pictures of Text Messages between [REDACTED] and Officer Shannon Everhart
4. Employee Notification of Internal Affairs Investigation

(All exhibits are attached to this report for reference)



Commander Ryan Holzwarth #3434

Case Final Disposition Form

DATE: 04/21/2020

TO: Officer Shannon Everhart

FROM: Commander Ryan Holzwarth

SUBJECT: Final Disposition of Case Numbered: IA 20-0001.

The complaint/allegation filed against you in the above numbered case has been thoroughly investigated. This complaint/allegation has been classified as:

X Unfounded—there is no evidence to suggest that the complaint/allegation was committed.

Exonerated—the employee's actions were found to be both lawful and proper.

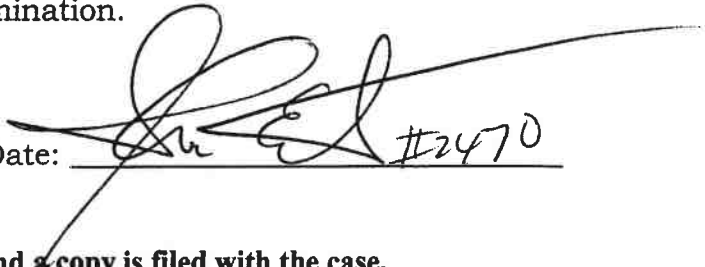
Non-Sustained—evidence suggests while an act was committed, the employee was not culpable.

Non-Criminal but Improper—while no criminal wrongdoing was shown to have occurred, the employee failed to exercise appropriate judgment. The need for remedial development is indicated.

Misconduct Found—a preponderance of evidence suggests that specific directives were violated that subject the employee to progressive discipline up to and including termination.

Criminal Wrong-Doing Found—proof beyond a reasonable doubt exists that the employee violated a criminal law and is subject to progressive discipline up to and including termination.

Employee's Signature of Receipt/Date: _____

 #2470

The original is given to the employee, and a copy is filed with the case.

