



City of Boston, Massachusetts  
Office of Police Accountability and Transparency

## **CIVILIAN REVIEW BOARD - CASE #219**

**INVESTIGATOR:** Michel Toney

**DATE OF INCIDENT:** July 17, 2023

**DATE OF FILING:** July 17, 2023

**COMPLAINANT:** Anonymous

### **COMPLAINT SUMMARY:**

Complainant alleges excessive use of force by BPD officers.

**DISTRICT:** Boston Police District E-18

### **ALLEGED VIOLATION OF RULE:**

1. BPD RULE 304, §2: USE OF NON-LETHAL FORCE:
2. BPD RULE 315 SEC.12D: HANDCUFFS

RULE 304, §2: USE OF NON-LETHAL FORCE states: The policy of the Boston Police Department is to use only that amount of force that is reasonably necessary to overcome resistance in making an arrest or subduing an attacker. The right to use non-lethal force is extended to police officers as an alternative in those situations where the potential for serious injury to an officer or civilian exists, but where the application of lethal force would be extreme. The availability of a variety of non-lethal weapons is necessary to provide the police officer with a sufficient number of alternatives when presented with a physical confrontation. However, since such force will not likely result in serious injury and the close public scrutiny that accompanies the use of deadly force, this availability may also increase the possibility for overzealous and inappropriate use of force. Therefore, application of non-lethal force will generally be limited to defensive situations where (1) an officer or other person is attacked, or (2) an officer is met with physical resistance during an encounter.



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RULE 315: SEC.12D: HANDCUFFS: Issued to establish Boston Police Department policy regarding the use of handcuffs by members of the force in the performance of their duties. Because of the variety of circumstances that may be encountered by officers, no rule can suggest definitive methods for every situation in which the use of handcuffs may be appropriate. Rather, this rule will set certain specific guidelines to provide officers with a firm basis on which to utilize sound judgment in making reasonable and prudent decisions...Handcuffing a mentally disturbed person except as a temporary measure to allow him to be secured with proper restraining devices with which he cannot injure himself.

**OPAT FINDINGS AND RECOMMENDED DISPOSITION:**

1. BPD RULE 304, §2: USE OF NON-LETHAL FORCE: **Unfounded, Exonerated**
2. BPD RULE 315: SEC.12D: HANDCUFFS: **Not Sustained**

Based on all of the evidence presented and reviewed, the CRB voted unanimously (6-0) that the complaint be considered **Unfounded and Exonerated** for BPD RULE 304, §2: USE OF NON-LETHAL FORCE, and **Not Sustained** for BPD RULE 315: SEC.12D: HANDCUFFS. Investigator Toney did not observe any of the Officers named in the complaint to be violating any rules or procedures of the Boston Police Department during this incident. After reviewing surveillance video footage and body-worn cameras, all of the officers involved acted in accordance with BPD's rules and regulations. Although the emotionally disturbed individual was properly detained by BPD two officers named in the complaint (Officers 1 and 2), both officers should have removed the individual and placed him on the steps of the Boston Fire Department or a more safe and secure location until Boston EMS Officials arrived to transport the individual to the hospital. Officer(s) 1 and 2 mentioned in their interviews with Investigator Toney that they wanted to keep the individual from further hurting themselves since he was trying to shift on and over his wrist while being handcuffed and intoxicated. Both Officers said when dealing with an emotionally disturbed person it is important to keep them stationary in one position until Boston EMS Officials arrive to further treat the individual. Officer 1 stated that the front lawn area of the Boston Fire Department on South Hampton Street is filled with needles and drug paraphernalia and did not feel it was safe to kneel down on the grass. If this was the case Officer 1 and 2 could have moved the individual from the lawn to a safer space until Boston EMS arrived.



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**OFFICER(S)/ALLEGED RULE VIOLATION(S):**

1. Officer 3  
BPD RULE 304, §2: USE OF NON-LETHAL FORCE: **Unfounded**  
BPD RULE 315: SEC.12D: HANDCUFFS: **Not Sustained**
  
2. Officer 4  
BPD RULE 304, §2: USE OF NON-LETHAL FORCE: **Unfounded**  
BPD RULE 315: SEC.12D: HANDCUFFS: **Not Sustained**
  
3. Officer 1  
BPD RULE 304, §2: USE OF NON-LETHAL FORCE: **Exonerated**  
BPD RULE 315: SEC.12D: HANDCUFFS: **Not Sustained**
  
4. Officer 2  
BPD RULE 304, §2: USE OF NON-LETHAL FORCE: **Exonerated**  
BPD RULE 315: SEC.12D: HANDCUFFS: **Not Sustained**
  
5. Officer 5  
BPD RULE 304, §2: USE OF NON-LETHAL FORCE: **Unfounded**  
BPD RULE 315: SEC.12D: HANDCUFFS: **Not Sustained**

*Discovery List:*

1. OPAT's Complainant Intake Form	3. Interviews w/Officers involved in the alleged incident
2. Surveillance footage from the alleged	4. Body Worn Camera footage of Officers



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incident location	involved in the alleged incident
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***Case Summary:***

On July 17, 2023 the Office of Police Accountability and Transparency received an anonymous complaint regarding Boston Police Officers who allegedly used excessive force during the course of an arrest.

According to the Complainant on July 17, 2023, they were driving down South Hampton Street where they encountered two Boston Police Officers arresting an individual that appeared to be a young Black man. The Complainant stated that one of the Officers had his boot on the back of the individual who was being arrested. The Complainant repeatedly stated that the Officers were using excessive force. The Complainant drove around a second time and saw the individual sitting on the curb with handcuffs. Both Officers were in full uniform and it appeared that one of the Officers noticed that the Complainant made an illegal turn down a one-way street and gave the Complainant an unpleasant look. The Complainant wants to know the outcome of the individual who was getting arrested.

***Document/Video/Other Investigation Technique Summary:***

Investigator Toney obtained surveillance footage from the Boston Fire Department of the area where the alleged incident took place. After reviewing the footage Investigator Toney was able to see the alleged incident. At approximately 7:06 PM there was an unknown black male crossing South Hampton Street, and appeared to be intoxicated. The individual can be seen stumbling across the front lawn of the Boston Fire Department on South Hampton Street. The individual was met by Boston Police Officers later to be identified as Officer 5, and officer(s) 3, 4, 1, and 2. Officer 5 momentarily detained the individual and can be seen calling for backup to have his fellow peer officers detain the individual. Officer(s) 3 and 4 were the first pair of officers to arrive on the scene, followed by Officer (s) 1 and 2 to assist Officer 5 in detaining the unknown individual. The individual was placed in handcuffs and was kept on the grass where he originally had stumbled. Once the individual was detained, officer(s) 3 and 4 can be seen leaving the scene to go back to their post, which left Officer(s) 1 and 2 as the only two officers with the unknown individual. The Complainant stated in their complaint with OPAT that they saw one of the officers place their foot on the back of the individual while they were already handcuffed. The Complainant noted that the individual was convulsing very violently, and they could not



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tell if the unknown individual was having a seizure or was trying to break free. After reviewing the footage it is unclear whether or not the officers in fact did have their foot placed on the individual's back.

Investigator Toney reviewed body-worn camera footage of the officers involved in the alleged incident. After reviewing the body-worn camera footage, all of the officers involved acted in accordance with BPD's rules and regulations. Officers 1 and 2 detained the individual who was intoxicated and waited for Boston EMS to arrive to transport the individual to Boston Medical Center for further treatment.

Investigator Toney spoke with Officer(s): 3, 4, 1, and 2 in regards to the alleged incident that took place. Officer(s) 3 and 4 stated that they were called to South Hampton Street and Atkinson Street to assist Officer 5 with detaining an emotionally disturbed individual. Upon arriving at the scene both officers stated that they saw the individual moving erratically, and they believed this individual was under the influence of narcotics. Officer(s) 3 and 4 stated that this individual was running around throwing construction cones at moving cars as well as pedestrians walking by the area, and was being a threat to the public. Officer(s) 3 and 4 momentarily detained the individual for a few minutes until Officer(s) 1 and 2 arrived seconds later. Officer(s) 3 and 4 went back to their posts to secure their location.

Officer(s) 1 and 2 both stated in their interviews with Investigator Toney that Officer 5 requested backup for detaining an emotionally disturbed individual in front of the Boston Fire Department. Prior to getting detained, both officers stated that the unknown individual was running in and out of traffic throwing construction cones at pedestrians and moving cars. Both officers stated that Officer 5 requested an ambulance for a Section 12. Officer(s) 1 and 2 stated that a Section 12 can be requested when momentarily detaining an individual who is displaying mental health issues. Officer(s) 1 and 2 detained the individual and stayed with him until Boston EMS arrived to transport the individual to Boston Medical Center. Investigator Toney asked both officers if they recall placing their foot on the individual's back and both replied no. Officer 1 stated that he had his knee knelt on the individual's back and applied minimal pressure. Officer 1 stated that the individual did not sustain any injuries by the way he was handled by officers. Officer 1 noted in his interview that the entire area by the Boston Fire Department is filled with needles and drug paraphernalia and did not feel it was safe to kneel down on the grass.



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When asked to describe the individual's demeanor, Officer 2 stated that this unknown individual was completely out of it and was not able to speak. Officer 2 did not recall placing his foot on the individual's back but did in fact place his foot in a space that was between the inside of the individual's arm, and the inside of the individual's stomach in an attempt to stop the individual from shifting on and over his wrist, and not further hurting themselves. Officer 2 stated that no pressure was placed on the individual's body itself, there was just a wedge created to stop the individual from further hurting themselves. Both officers' main goal was for the individual to not further hurt himself. Investigator Toney asked Officer 2 if there was anything he would have done differently and he stated that he could have moved his foot, and positioned his foot in a better way so that the individual could not twist and turn further.