



City of Phoenix

To: Joseph G. Yahner
Police Chief

Date: March 22, 2016

From: John Collins, Commander
Professional Standards Bureau

SC 5/16
5-5-16

Subject: INTERNAL INVESTIGATION – PSB15-0097

Internal Investigators:

Lieutenant Steve Martos (Investigative Review)
Sergeant Amy Breitzman (Primary Investigator)
Sergeant Mark Kincannon (Secondary Investigator)

Allegation #1:

On September 12, 2015, Officer Nelu Podea used excessive force during the arrest of a non-combative suspect, by applying a double knee drop, five closed fist strikes to the left rib cage and upper and lower back area, and one open palm strike to the back of the suspect's head while taking him into custody.

Findings:

Sustained

Allegation #2:

On September 12, 2015, Officer Nelu Podea and Officer Eddie Conaway engaged in conduct constituting the elements of a misdemeanor crime (assault) when they struck a non-combative suspect numerous times while taking him into custody.

Findings:

Unresolved

Allegation #3:

On September 12, 2015, Officer Nelu Podea and Officer Eddie Conaway neglected their duties when they failed to notify their supervisor of their involvement in a use of force incident.

Findings:

Sustained

Allegation #4

On September 12, 2015, Officer Eddie Conaway used excessive force during the arrest of a non-combative suspect by applying two closed fist strikes to the suspect's upper and lower back area while taking him into custody.

Findings:

Sustained

Allegation #5:

On September 12, 2015, Officer Eddie Conaway provided false information in a Departmental report through omission, when he failed to document the force used in taking a suspect into custody.

Findings:

Sustained

Employees Involved:

Officer Nelu Podea #9581
Cactus Park Precinct, 92K

Officer Eddie Conaway #7296
Cactus Park Precinct, 92J

Complainant:

Department Initiated

Attachments:

See Attachments Section

SUMMARY OF INVESTIGATION:

On September 12, 2015, Officer Nelu Podea #9581 and Officer Eddie Conaway #7296 (925M) responded to a hot call at Metrocenter Mall involving a subject who was previously trespassed from the property earlier in the evening. In the Departmental report, Officer Eddie Conaway stated when they drove up to the scene; they observed Mr. Ponti throw a large object through the glass entrance doors to the mall, breaking two of them. While taking Mr. Ponti into custody, Officer Podea applied a double knee drop on to Mr. Ponti's back. In addition, Officer Podea delivered five closed fist strikes to the left rib cage and upper and lower back area, along with one open palm strike to the back of Mr. Ponti's head. Officer Conaway delivered two closed fist strikes to Mr. Ponti's upper and lower back area while taking him into custody. Upon review of mall security video, after Mr. Ponti broke the glass doors, he laid on his stomach, crossed his feet at his ankles, and interlocked his fingers behind his head as if to surrender. During the

arrest, Mr. Ponti was not threatening, verbally abusive, or confrontational, nor did he display any active aggression toward the officers during the arrest.¹

After Mr. Ponti was handcuffed and placed in the back of the officers' patrol car, Sergeant Rother arrived on scene. Neither Officer Podea nor Officer Conaway advised Sergeant Rother of the open palm strike and multiple closed fist strikes they delivered to take Mr. Ponti into custody. Officer Podea, however, indicated he told Sergeant Rother they "Tuned him up a little bit." Sergeant Rother said there were no use of force issues presented to him out at the scene. He stated if Officer Podea had advised him they "tuned Mr. Ponti up;" he would have asked additional questions about what Officer Podea meant by that statement. In addition, Officer Conaway failed to properly document the level of force used in the Departmental Report he authored.

