



City of Seattle

City Attorney Peter S. Holmes

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Holmes: No misdemeanor charges against Cobane, Woollum

We trust sworn members of the Seattle Police Department to protect, serve and enforce the rule of law. At times we must determine whether force employed by police officers crosses the line into criminal behavior. The Seattle City Attorney's Office has been asked to make such a determination of the behavior of Police Detective Shandy Cobane and Officer Mary Woollum during the investigation of an armed robbery last spring. Though the incident was marred by an unacceptable and unnecessary racist comment, our office concludes that neither officer's conduct was criminal, and I decline to file misdemeanor charges.

The events that gave rise to this incident occurred in the early morning hours of April 17 when police officers were called to the China Harbor Restaurant on South Lake Union. During the course of the robbery investigation, officers detained Denis Garcia-Garcia, Martin Monetti and Hector Veteta-Contreras as potential suspects. As part of the detention, all three were ordered to lay face down with their hands flat on the ground extended in front of their heads.

As the officers awaited the arrival of the robbery victims for identification, Monetti, who was still prone, kept moving his legs and arms despite the numerous commands by officers. Moments later, Cobane is heard yelling, "I'm going to beat the fucking Mexican piss out of you homey. You feel me?" Shortly after Cobane's comment, Monetti, with his arms extended in front of his head, moved his right hand toward the right side of his face. Cobane used his right foot and appeared to step on Monetti's right hand and sweep it away from his face. Cobane then directed Monetti to keep his hand down. Moments later, Woollum approached Monetti's right side and stepped on his right leg for approximately 24 seconds.

Cobane then appeared to tell Monetti to keep his hands in front of him and, at one point, the detective demonstrated how the suspect should position his hands in front of his head. As the investigation continued, Monetti was ultimately assisted to his feet and escorted to a police car where additional information was obtained by officers. Monetti and Garcia-Garcia were subsequently released; Veteta-Contreras was arrested.

After King County Prosecuting Attorney Dan Satterberg found insufficient evidence to file a state hate crime against the officers, Seattle Police Chief John Diaz referred the case to the Seattle City Attorney's Office to determine whether Cobane or Woollum could be charged with the misdemeanor crime of Assault in the Fourth Degree. Criminal Division Chief Craig Sims personally reviewed the case.

RCW 9A.36.041

Assault in the fourth degree

- (1) A person is guilty of assault in the fourth degree if, under circumstances not amounting to assault in the first, second, or third degree, or custodial assault, he or she assaults another.
- (2) Assault in the fourth degree is a gross misdemeanor.

According to Washington pattern jury instructions, “an assault is an intentional touching or striking of another person with unlawful force, that is harmful or offensive, regardless of whether any physical injury is done to the person. A touching or striking is offensive if the touching or striking would offend an ordinary person who is not unduly sensitive.”

“An assault,” jury instructions state, “is also an act with unlawful force, done with intent to inflict bodily injury upon another, tending, but failing to accomplish it, and accompanied with the apparent present ability to inflict bodily injury if not prevented. It is not necessary that bodily injury be inflicted. An assault is also an act, with unlawful force, done with the intent to create in another apprehension and fear of bodily injury, and which in fact creates in another a reasonable apprehension and imminent fear of bodily injury even though the actor did not actually intend to inflict bodily injury.”

According to the Revised Code of Washington and SPD training policies, officers may, in the performance of their official duties, use only the amount of force necessary and reasonable to affect the lawful purpose intended. When determining the necessity for force and the amount of force required, officers shall consider the circumstances, including, but not limited to, the level of threat resistance presented by the subject, the danger to the community, and the seriousness of the crime. The use of force is authorized by Washington law when used lawfully.

Graham v. Conner, 490 U.S. 386, 396-397 (1989), provides that, the “reasonableness” of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than 20/20 vision of hindsight. The calculus of reasonableness must embody allowance for the fact that police are often forced to make split-second judgments -- in circumstances that are tense, uncertain, and rapidly evolving - - about the amount of force that is necessary in a particular situation.

The evidence our office examined in this investigation showed Cobane, Woollum and other officers were justified in detaining Denis Garcia-Garcia, Martin Monetti and Hector Veteta-Contreras. Further, the investigation demonstrated that the physical force and the threat of physical force used by Cobane and Woollum to gain compliance were lawful based upon the circumstances. Cobane’s use of a racial slur was not a necessary verbal tactic.

While I abhor the use of such language and remain committed to the City’s Race and Social Justice Initiative, Cobane’s comment was not unlawful under the state’s hate crime law, as Prosecuting Attorney Satterberg determined, and does not violate any city law.



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