

## Unlawful Seizure/Detention

### BACKGROUND

An Officer seized and transported a person without legal justification. The officer self-initiated contact with a subject who was thought to be a suspect in recent breaking and entering incidents.

### SCENARIO

The Officer, who was assigned to the investigation of a motor vehicle collision with injuries, noticed a subject walking by the location who resembled a person of interest in a recent string of burglaries. This individual was not part of the motor vehicle collision investigation. The Officer left the accident scene on foot and caught up to the individual approximately three blocks away. He identified himself to the subject and began questioning him. The individual had not interfered with the Officer's investigation of the motor vehicle collision nor did he provide any reasonable suspicion for the Officer to believe he was a threat to the scene, civilians, or officer safety.

The subject provided identification that showed the individual was not the person of interest; however the Officer questioned the validity of the identification based on the physical similarities between the individual and the person of interest. The Officer did not utilize all reasonable expected methods to further confirm that this individual was indeed the person of interest.

The Officer made a decision, despite being unsure and the identification that indicated the individual was not the person of interest, to take him into custody. He placed him in handcuffs and into the back of the car. During the suspect intake and process at the police department, it was determined that the person who had been detained was not the person of interest for the burglaries and was subsequently released from custody.

### OUTCOME OF THE RESPONSE ACTIVITY

An unlawful detention was made of a subject who was not the person of interest.

### EXPLANATION OF THE CONTRIBUTING FACTORS

The Officer was not aware of the correct action to take in an incident such as this. The person of interest did not agree to accompany the Officer to the station and was placed in handcuffs as if arrested. The Supervisor in this instance agreed with the Officer's actions indicating that he too did not know the proper procedure.

### LESSONS LEARNED

Search and seizure is a very critical part of the routine work performed by sworn law enforcement Officers. It is critical that they understand when they can and when they cannot affect an arrest or restrict a person's freedom. It became readily apparent that the Supervisor in this incident also did not know the proper application of law and/or policy.

### CHANGES AS A RESULT OF THE EXPERIENCE

Although the proper procedure was not known by the Officer or the Supervisor, there was no change needed in the department's policy and/or practice. The recommended changes were in the training that instructs officers that they may not stop persons without reasonable suspicion. Much more important is the lesson that if officers have questionable probable cause, they should attempt to take reasonable steps to verify whether or not the suspect is the person wanted before transporting the suspect to the station.

Questions? Ask your Supervisor or contact your CIRMA Risk Management Consultant at (203) 946-3700.