



# CITY OF MIDDLETOWN POLICE DEPARTMENT

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## *Intra Agency*

# Memo

**To: Chief Bethencourt**

**From: Lt. Metakes**

**Date: December 1, 2014**

**Re: Supervisors Investigation: Injury to defendant, Benjamin Valentin  
CM14-35119.**

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On November 26, 2014 I received a Supervisor's Investigation from Lt. Jeffry Thoelen regarding an arrestee injured during the course of an arrest.

On November 23, 2014 at approximately 2:35am, officers were dispatched to a report of a man with a knife in the area of 9 North Street. PO Ahmed Artola was the first officer to arrive on scene and called in that there was no problem at 9 North Street. PO Artola shortly after called in with a group of people in front of 90 North Street. As PO Artola was in the area of 90 North Street he observed a subject that he knows to be the bouncer at Diva's Bar 90 North Street, pointing out two male subjects who were walking away from the area and stating "it was them". A different subject could be heard yelling that one subject, a male in a white shirt, had "broken the glass". PO Artola attempted to stop the male in the white shirt, known to him previously as Benjamin Valentin, but Mr. Valentin walked away from PO Artola and began arguing with the subject who had identified him as having broken the glass. PO Artola made verbal commands to Mr. Valentin to stop, but Mr. Valentin refused to do so. PO Artola then attempted to restrain Mr. Valentin and attempted to detain him in handcuffs but Mr. Valentin tensed up and pulled his hands to his chest. PO Artola took Mr. Valentin to the ground but Mr. Valentin continued to resist handcuffing, locking his arms under his body. PO Jason Berman arrived on scene to assist and Mr. Valentin was advised that he would be "Tased" if he did not comply, but he continued to resist. PO Berman then engaged Mr. Valentin with his department issued TASER, allowing PO Artola to handcuff one wrist, but he continued to trap one wrist beneath his body. PO Berman then conducted a drive stun follow up which was effective and Mr. Valentin was placed into handcuffs.

Officers then investigated the claim that Mr. Valentin had broken a window and

viewed the doorway window to the tavern. It was discovered that there was rock salt beneath the window that appeared to be broken glass. The bouncer, Edward Villa, stated that Mr. Valentin had been punching the window very hard, and Mr. Villa believed, based on these actions and on the material beneath the window, that Mr. Valentin had broken the glass.

Mr. Valentin suffered abrasions to the right side of his face and right shoulder area. He was transported to ORMC for treatment and was released.

The issue that must be addressed is the detention of Mr. Valentin in regards to it's lawfulness and the use of force in relation to the detention. While the original factors believed to be present were determined to be inaccurate, there was reasonable cause for PO Artola, to believe that a crime had occurred. As such, the Criminal Procedure Law 140.50 states that a police officer, who has reasonable suspicion that a person is committing, has committed, or is about to commit a felony or misdemeanor defined in the Penal Law, may stop an individual and "*may demand of him his name, address and an explanation of his conduct*". PO Artola was given no opportunity to gain an explanation of Mr. Valentin's conduct due to Mr. Valentin attempting to walk away from PO Artola and by his confronting the subject who had pointed him out in regards to the "broken window". The use of force follows in suit with the detention of Mr. Valentin and is justified under Article 35.27 wherein "*A person may not use physical force to resist an arrest, whether authorized or unauthorized, which is being effected or attempted by a police officer or peace officer...*" and PL 35.30 "*A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he or she reasonable believes to have committed an offense, may use physical force when and to the extent he or she believes such to be necessary to effect the arrest...*".

There was no opportunity for PO Artola to further investigate the offense due to the defendant attempting to leave the scene of the offense and becoming confrontational with a witness.

There are no training issues to address.

Respectfully Submitted,



Lt. Gregory W. Metakes

Attachments included with this investigation:  
Memorandum of Lt. Jeffry Thoelen  
Memorandum of Sgt. Neil Kassel  
Copies of offense report and supplements  
Copies of Use of Force reports  
Copy of Digital/Analog data processing request



Copy of photo log

Copy of statement given by Edward Villa





# City of Middletown Police Department



## Memorandum

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Date: 11/27/2014  
To: Lieutenant John Ewanciw  
From: Lieutenant Jeffry Thoelen  
Subject: Defendant Injury Investigation – Benjamin Valentin, DOB  
Event #-14-35119 / Case #14-6771

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Lieutenant Ewanciw:

On Sunday, November 23, 2014, I was on-duty as the Shift Supervisor for the 12:00 AM to 8:00 AM shift. At approximately 2:35 AM, Officer Artola initiated an investigation into a possible criminal mischief incident that had occurred at Divass Bar, located at 90 North Street, Middletown. During the investigation, Officer Artola attempted to interview a male suspect, later identified as Benjamin Valentin. Upon making contact with the suspect, the suspect physically obstructed Officer's Artola's investigation, attempting to pull away from him and flee the scene. The defendant's actions resulted in his arrest on the charge of Obstructing Governmental Administration in the Second Degree; however, the defendant resisted this arrest and was subsequently tasered by Officer Jason Berman in order to gain his compliance. During the struggle to place the defendant under arrest, the defendant sustained minor abrasions to his face, as well as two puncture wounds to his back secondary to the taser deployment. As a result of these injuries and pursuant to my duties as the Shift Supervisor, I requested that the field supervisor, Sergeant Neil Kassel, conduct an investigation into the incident. The investigation has since been concluded, and I will discuss the findings of the investigation as well as my recommendations regarding the incident within this memorandum.

Sergeant Kassel provides a detailed account of the incident in his memorandum, which is attached. The facts are clearly presented and provide a clear basis for the actions taken by Officer Ahmed Artola, Officer Jason Berman, and Officer Joseph Festa. At approximately 2:35 AM, dispatch received a call through 911 for a reported man with a knife in the area of 9 North Street. Officers were immediately dispatched to that location, but were unable to locate any subjects matching the description provided via the caller. As Officer Ahmed Artola was patrolling North Street in search of the possible suspect, he observed what he described as a "small group" outside of Divass Bar, located at 90 North Street. Given the similarity between the location provided by the 911 caller (9 North Street), and Divass Bar (90 North Street), it was believed that the location of the man with the knife might have been incorrectly identified, and that the location of the man with the knife was in fact at 90 North Street. Officer Artola advised dispatch of the situation and responded to investigate the conditions at Divass Bar.

Upon exiting his patrol vehicle, Officer Artola was approached by a security guard for Divass, Edward Villa, who advised him that a male subject had been banging on a front window of the

