



D39 No Crime, No Warrant, No Charge, No Arrest, But Excessive Force

B.G. Brogdon, MD, University of South Alabama, 2451 Fillingim Street, Mobile, AL*

The goals of this presentation are to demonstrate the forensic evaluation of radiographs with reference to other evidence in determination of causation of injury.

This presentation follows the step-by-step reconstruction of such a case, copiously illustrated.

A 68-year-old male resident of a Mid-Western city suffered from progressive dementia or Alzheimer's disease. He previously had survived a cancer necessitating total removal of his left lung. Nevertheless, he was able to feed and dress himself, bathe and shave, and otherwise take care of his personal hygiene. He was able to converse, watch television, and go for walks (although he sometimes became confused or lost).

On a fall evening this elderly man walked several blocks to a neighborhood convenience store. There his activities and the subsequent actions of others were recorded by a surveillance video camera at 3 frames-per-second. He was seen to wander about the store a bit but mostly just stood around and watched other people. He didn't appear to speak to anyone or make a purchase. Apparently, after several minutes, one of the employees of the convenience store grew tired of having him around and called the city police.

Abruptly, on the surveillance tape, one sees a large officer approach the elderly man and, without warning, grasps him from behind. With arms locked around the old man's chest, the police officer lifts him off his feet, swings him around to the right, and then body-slams him to the floor. The old man lands on his right front and side with the full weight of the officer on top of him – a classic "take-down."

The officer and his patrol partner lifted the handcuffed victim to his feet and escorted him out to the patrol car where they had to help him into the back seat. The old man couldn't lift his legs into the vehicle and complained of his right shoulder. Although bleeding, he was offered no medical assistance.

The other patrolman recognized the victim, and he was driven to his home where he was assisted through a side door down three steps into a "club" basement and placed on a couch. His wife was told that he had "fallen."

After eating and drinking sparingly the old man fell asleep on the couch. Several hours later the wife found him on the floor in front of the couch, incoherent, incontinent, and short of breath. He was taken by ambulance to the hospital.

Multiple examinations revealed acute fractures of the right clavicle, the right second, third, fifth, sixth, seventh, and ninth ribs (some of them in two places), the right innominate bone, and the left transverse process of the first lumbar vertebra. A right-sided pneumothorax (undoubtedly caused by the rib-fractures) partially collapsed his only lung, thus compromising his respiratory capacity. His oxygen saturation values documented hypoxias. Finally, CT revealed a contusion and hematoma in the left lobe of his liver.

After extensive treatment the victim was discharged but was never able to go home again, being unable to care for himself, incontinent of bowel and bladder, and unable to walk or speak coherently. He has required additional hospitalizations for aggressive behavior and recurrent infections.

As a result of the above events and its sequelae, multiple complaints were entered against the police officer and the city. These charges were subsequently settled in favor of the plaintiff.

Excessive Force, Fourth Amendment Rights, Battery