



DPS TRAINING BULLETIN

LEGAL BULLETIN NO. 242

June 1, 2000

OBJECTIVE REASONABLENESS IS STANDARD ADOPTED
TO DETERMINE IF EXCESSIVE FORCE
IS USED BY POLICE EFFECTING AN ARREST

Reference:	Julia Samaniego	United States Supreme Court
	v.	Opinion No. S-8189/5275
	City of Kodiak,	P.2d
	et al.	May 19, 2000

FACTS:

Police stopped a vehicle containing four persons. The INS responded to the scene and determined two of the passengers were illegal aliens. During the course of arrest, Samaniego drove by and stopped her vehicle. She had her four children (ages 15, 14, 11 and 4) with her in the car. Samaniego called to one of the arrestees in Spanish.

The INS agent asked Samaniego where she was from and she replied, "Mexico." When asked, Samaniego told the officer that she did not have her I.D. or documents in her possession to prove she was in the U.S. legally. Apparently, she had left them at home. At one point, an officer said, "I'm going to take you all (including children) to jail until you can identify yourselves." The officer instructed Samaniego to "get out of the car and turn it off or I will do it for you." The car was parked almost in the roadway. Samaniego replied, "Okay." She then reached for the gearshift, presumably to move the car from the roadway. The officer grabbed Samaniego's arm, turned off the ignition opened the door and pulled her out. The officer assured Samaniego that she did not have to worry about not having her driver's license in her

possession and indicated she "just needed to cooperate with the INS." Samaniego said she had no problem with police but did have a problem with the INS who harass her whenever she comes to town.

At this point, Samaniego's 15-year-old daughter, Martha, got out of the car and told her mother she was going home to get the papers. The officer grabbed Martha by the arm, spun her around and caused her to stumble. The officer told her that she was not going anywhere until INS was done talking with her. Samaniego stepped between her daughter and the officer and told him not to touch her anymore. The officer then told Samaniego that she was under arrest and tried to grab her wrist, which she pulled back. She then said, "No, leave me alone."

What happened next is not fully clear. It appears, however, that her shirt went up while officers tried to take her into custody. When she tried to pull it back down, officers held her arms from behind. A stun gun was used on her about five times. She was thrown to the ground and one officer got on top of her, put his knee on her neck to cause pain and eventually handcuffed her. At one point, her head was forced onto the trunk of the police car which caused a bloody and broken nose. The stun gun had also bruised her neck. Police said a "crowd" had gathered during the arrest process and they were concerned the crowd might interfere with the arrest. The court record implies the "crowd" consisted of the four Samaniego children, two persons who were in the same vehicle as those arrested by INS and one other adult female. The officers who felt threatened by this "crowd" included two armed INS agents and three armed police officers.

Police charged Samaniego with fourth-degree assault, disorderly conduct and resisting arrest. At her trial, she was found not guilty of the assault and disorderly conduct, but was found guilty of resisting arrest. Samaniego brought a civil suit, claiming police used excessive force.

ISSUE:

Could it be reasonably found that officers used excessive force in this case?

HELD: Yes.

REASONING:

1. It is beyond dispute that police officers, in pursuit of their dangerous and important jobs, are often forced to make difficult decisions regarding use of force.
2. Our legal system, however, must not insulate police officers from liability as to allow them to violate such a fundamental human right--the right of bodily integrity. Thus, if an officer uses unreasonable force, he or she is liable for damages.
3. It cannot be said that a reasonable jury would inevitably find that officers were reasonable in thinking that the "gathering crowd" posed a threat to the five armed law enforcement officers on the scene, justifying a greater use of force than would otherwise be reasonable in arresting a five-foot-two-inch unarmed woman.
4. The Alaska Supreme Court, by this case, has announced an "objective standard" based on the privilege to use force in making arrests, which is codified in Alaska Statutes 11.81.370 and 12.25.070.

NOTE TO SUBSCRIBERS TO THE ALASKA LEGAL BRIEFS MANUAL:

Add this case to Section Q, "Miscellaneous Cases of Interest," of your Contents and Text. File Legal Bulletin No. 242 numerically under Section R of the manual.