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New York Police Criticized for Using Restraining Bag in Arrest

by Christopher Mele

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The arrest on a New York City sidewalk was so startling to a bystander that he took a video of it. And when he posted the video online with the label “Police Brutality,” some viewers denounced the officers’ tactic as disturbing and inhumane.

The video showed a man lying on the ground, his ankles and legs bound in bright orange tape, both hands secured behind his back. Four to five officers searched the pockets of his pants and jacket. They then lifted him up, dropped him onto a white bag, strapped him in and covered his head. He was carried, wrapped up like a mummy with only his feet poking out, and deposited — alive — against a wall.

“I’ve never in my entire life seen anything like this,” said the unidentified man videotaping the arrest near a subway stop at 14th Street and Seventh Avenue earlier this year.

But the scene was not that unusual, and coming amid national scrutiny of the authorities’ use of force and protests after episodes like the death of Eric Garner, who was put in a chokehold by an officer and died in police custody on Staten Island, there is no evidence that the officers involved in the arrest in Manhattan violated police policy.

For onlookers who had never witnessed a live man being strapped into what looked like a

body bag, the sight was unsettling. But the bag in the video, stenciled with “NYPD” and “ESU,” is known as a mesh restraining device. The bags are used to restrain people judged to be emotionally disturbed.

Carla Rabinowitz, an advocacy coordinator for Community Access, which helps people with mental illness, has called on the New York Police Department to stop using the ventilated bags. In a letter last month to Deputy Commissioner Susan A. Herman and Deputy Chief Theresa Tobin, she called the use of the bags “dehumanizing” and “dangerous.”

A Police Department spokeswoman declined to comment on Ms. Rabinowitz’s letter. Ms. Rabinowitz later said in an email that she had since spoken to the police and that they had defended using the restraint.

According to a criminal complaint, the man who was strapped into the ventilated bag, Johnell Muhammad, had been suspected of failing to pay the subway fare, and when officers tried to arrest him, he flailed his arms, kicked and spit at them. Mr. Muhammad struck one officer in the head with his elbow; another was injured trying to subdue him, the complaint said.

Mr. Muhammad had two pipes with crack cocaine residue, the complaint said, and he faces felony assault and other charges.

Andrew R. Miller, a lawyer for Mr. Muhammad, denounced the officers’ actions, calling them “excessive and totally unreasonable.”

“He was the victim of the assault, instead of the other way around,” Mr. Miller said.

The video, which was shot in March, highlighted a daily problem faced by officers responding to people who are out of control because of mental illness or drugs: How to defuse situations with the least amount of force while also protecting themselves, the public and the person being helped?

In response to questions about the bags, the Police Department said it had used the restraints for 25 years. The department said only “highly trained members” of the Emergency Service Unit were authorized to use them. The person being restrained is assessed while being held and afterward, and is taken by an ambulance to a hospital for medical and psychological evaluation.

From Jan. 1 through April 20 of this year, the bag was used 122 times, the police said, or about once a day. During that same period, the department said, it received more than 44,000 emergency calls about emotionally disturbed people.

Robert J. Loudon, a retired chief hostage negotiator with the Police Department and a professor emeritus of criminal justice and homeland security at Georgian Court University in New Jersey, called the restraints an “imperfect solution to very difficult situations.”

“There are no great options,” he said.

Over the years, the department has experimented with plastic shields, netting and Tasers to deal with emotionally disturbed people, Mr. Louden said. It re-evaluated its approaches starting in 1984, after an officer shot and killed Eleanor Bumpurs, an emotionally disturbed woman in the Bronx who was attacking another officer with a kitchen knife.

Eugene O'Donnell, a professor at John Jay College of Criminal Justice, said in an email that irrational people could kick, punch, grab, spit on, bite or head-butt officers, for whom the choices were "try to go slow, talk to the person who is acting out, and appear humane and measured, or act with deliberation and speed."

Chuck Wexler, the executive director of the Police Executive Research Forum, said: "You look for what is the most humane thing to do in these kinds of situations. When someone does not want to be brought to a hospital, they are not going to be easy to handle."

Gene DeSantis, chief executive of DeSantis Gunhide, a manufacturer of the bags, said his company had sold fewer than 500 to police departments across the country.

Ms. Rabinowitz, of Community Access, said she learned about them only recently. "Use of such restraint traumatizes a person in emotional distress and exacerbates the condition and experience of the crisis for the individual," she said in an email. "It is a dehumanizing tactic, and promotes stigma against people with mental health issues."

In an interview, she credited the Police Department with doing a good job in crisis intervention team training, which seeks to de-escalate confrontations between officers and people with mental illness.

But she said she worried about using the restraints on veterans who are mentally ill and might associate them with bags used in wars to transport the dead.

"If people in the mental health community find out that their fate is to be put in a body bag, they will fight even harder to not get into a body bag," she said.