



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-0361

Issued Date: 10/06/2015

| Named Employee #1 | |
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| Allegation #1 | <u>Seattle Police Department Manual</u> 8.200 - Pol -3 (4) Officers Shall Only Deploy Conducted Electrical Weapons (CEW) When Objectively Reasonable (Policy that was issued 01/01/14) |
| OPA Finding | Not Sustained (Lawful and Proper) |
| Allegation #2 | <u>Seattle Police Department Manual</u> 8.200 - Pol -3 (6) Officers Shall Issue a Verbal Warning to the Subject and Fellow Officers Prior to Deploying the CEW (Policy that was issued 01/01/14) |
| OPA Finding | Not Sustained (Training Referral) |
| Final Discipline | N/A |

INCIDENT SYNOPSIS

Officers responded to what was initially reported as a possible burglary. When officers arrived, the resident, the suspect, was at an upper window attempting to light a fire. There was a large debris pile on the shoulder of the roadway and scattered debris in the roadway. The suspect was speaking incoherently and was throwing items into the street, including an anvil and a hammer. A large police response resulted and officers tried to encourage the suspect to come down and exit the building. As there were no available Taser-equipped officers on the scene, the named employee was dispatched and assumed the position of the "less-lethal" officer. After an hour, the suspect exited the building brandishing a portable grinder and advanced toward the officers. The named employee deployed his Taser and the suspect was taken to the ground and was handcuffed by another officer. A few minutes later, several officers were standing with the suspect when he began violently kicking at the officers. The named employee attempted to

deploy his Taser in dart mode but it was not effective as the probes were too close together. The named employee then deployed his Taser in stun mode and the suspect was brought under control. The suspect was then transported to a hospital for a mental health evaluation.

COMPLAINT

The complainant, the Force Review Board, alleged that the named employee's third Taser application may have been out of policy. Additionally, it was alleged that the lack of warning prior to the first Taser application appeared to violate policy.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of complaint memo
2. Review of In-Car Video
3. Search for and review of all relevant records and other evidence
4. Interview of SPD employees

ANALYSIS AND CONCLUSION

The evidence showed that the manner in which the named employee deployed the Taser in the detention of the subject was consistent with Department training with one significant exception. Department training and policy at the time did not clearly address the use of a Taser on handcuffed suspects. The situation the named employee faced was atypical. Even though the suspect was handcuffed, he was not fully restrained or under control at the time of the named employee's third Taser deployment. New provisions of the Department's use of force policies went into effect on September 1, 2015. These provisions include the prohibition on the use of less-lethal tools on a handcuffed individual unless the situation involves at least a risk of serious physical injury to the officer or third parties. Additionally, the warning requirement for Taser usage has been changed from "if feasible" to a "warning is not required if giving the warning would compromise the safety of the officer or others."

FINDINGS

Named Employee #1

Allegation #1

The weight of the evidence showed that the named employee's use of the Taser was within policy at the time of the incident. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Officers Shall Only Deploy CEW When Objectively Reasonable*.

Allegation #2

The evidence showed that the named employee did not think it was feasible under the circumstances to give a warning before deploying the Taser; however, the policy has been clarified since the incident occurred. The named employee should be reminded of the requirement to provide a verbal warning to both subjects and fellow officers before deploying a CEW, including every activation of the CEW. In this particular incident it seems as likely as not that the named employee could have shouted "Taser" as he repositioned the CEW to make the drive stun prior to the third "activation" of the Taser. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Officers Shall Issue a Verbal Warning to the Subject and Fellow Officers Prior to Deploying the CEW.*

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.