



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1032

Issued Date: 01/05/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued September 1, 2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 8.300-POL-3 (4) Use of Force Tools: Use of Force – CEW/CONDUCTED ELECTRICAL WEAPONS (TASER): Officers Shall Only Deploy CEW When Objectively Reasonable (Policy that was issued September 1, 2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The Named Employee responded to a trespass complaint with a student officer and contacted the subject.

#### **COMPLAINT**

The complainant, a supervisor within the Department, alleged the Named Employee may have violated policy when deploying a Taser when the subject was compliant and already under officer control.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence
4. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

The complainant alleged that the Named Employee applied his Taser to a subject in violation of SPD policy that restricts the use of the Taser to circumstances in which officers are facing active resistance with a threat of harm. The Named Employee responded to a request to remove a trespasser from private property. The Named Employee and another officer made contact with the subject who refused to leave or provide identification. The officers attempted to take the subject into custody but he resisted arrest. During the struggle the subject kicked the officers and attempted to buck the officers off of him. The Named Employee stated he was concerned after nearly being thrown off the subject that, if the subject was able to get off the ground, he would assault the officers. The Named Employee pulled his Taser and gave four warnings in an attempt to gain voluntary compliance. When that failed to get the subject to comply and stop trying to get up, the Named Employee applied the Taser to the subject. After the single Taser application, the subject ceased his resistance and the officers were able to take the subject into custody. The Named Employee told OPA he applied the Taser to prevent the subject from regaining his feet and assaulting the officers. The ICV of the incident captured some but not all of the incident. The ICV was not able to show what the subject was doing while on the ground because most of the officers' and subject's bodies were blocked from ICV view behind a parked car. Absent clear evidence to the contrary, the officers' perception of the threat they faced while dealing with the subject was carefully weighed. Because the Named Employee articulated a reasonable belief that the subject was going to continue his assault on the officers and the threat of him regaining his feet posed a greater risk of harm, the OPA Director found that the application of the Taser was reasonable. Better articulation of the facts in the use-of-force report by the Named Employee may have alleviated the concerns of the supervisor during his review of this incident and provided a better record of the Named Employee's decision making.

## **FINDINGS**

### **Named Employee #1**

Allegation #1 and #2

A preponderance of the evidence showed that the application of the Taser was reasonable. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Using Force: Use of Force: When Authorized* and *Use of Force Tools: Use of Force – CEW/CONDUCTED ELECTRICAL WEAPONS (TASER): Officers Shall Only Deploy CEW When Objectively Reasonable*.

**Required Training:** The Named Employee's supervisor should review the requirements of SPD policy with the Named Employee and emphasize that the use-of-force report needs to document all the actions of the subject and other factors that contributed to the officer's decision to use force. An officer's use-of-force statement must give reviewers all relevant facts, observations and considerations so they will be able to make a determination of reasonableness from the officer's statement.

*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.*