



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1784

Issued Date: 06/08/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (3) Using Force: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force (Policy that was issued 01/01/2014)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 16.090 (6) In Car Video System: Employees Will Record Police Activity (Policy that was issued 02/01/2015)
OPA Finding	Sustained
Final Discipline	Written Reprimand

INCIDENT SYNOPSIS

The Named Employee was on patrol and had a citizen rider with him. The Named Employee observed the subject sitting on the sidewalk outside of a restaurant. He pulled into the parking lot at an angle. He did not exit his patrol car. The Named Employee engaged the subject in conversation for approximately 30 seconds before exiting his vehicle. When the Named Employee exited his vehicle, the In-Car Video audio came on. The Named Employee is heard saying "Stand up! Do you Understand?" For the next several minutes the Named Employee attempted to get the subject to stand up. The subject said she couldn't stand because of her feet. The Named Employee asked if she needed the Crisis Response Team to respond or if she needed medical attention. The Named Employee decided to call for an ambulance to transport her because she couldn't walk. As the Named Employee was speaking on the radio,

the subject suddenly got up and struck the Named Employee in the chest. The Named Employee took control of the subject, placed her on the ground and placed her under arrest.

COMPLAINT

The complainant, the Force Review Unit, alleged that the Named Employee failed to adequately de-escalate, and may have escalated, a contact with a subject regarding a “Sit an Lie” violation and which resulted in the necessity to use force when the subject assaulted the officer. OPA discovered that the Named Employee did not activate his microphone before making contact with the subject.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The OPA investigation found no evidence to suggest the Named Employee did anything to escalate the interaction. The Named Employee tried a variety of words to use in order to convince the female subject to stand up. The Force Review Board noted, when they reviewed the incident, the Named Employee did not follow trained tactics such as “Contact and Cover” which might have reduced the chance the subject would assault the Named Employee. The Named Employee also could have moved slightly away from the subject, thus using distance to reduce his exposure to an assault by her. Based on the OPA investigation, the OPA Director found this did not rise to the level of a violation of the policy regarding de-escalation.

The Named Employee was sitting in his car when he first made contact with the female subject who was sitting on the sidewalk. He spoke with her through the open car window and told her to stand up because the law did not allow her to sit there during certain hours. This conversation lasted no more than 50 seconds, perhaps as little as 30 seconds (based on the ICV and witness statements). It was not long. Once the Named Employee determined the subject was not going to obey him immediately, he got out of the police car and stood in front of her. It was at that point the Named Employee activated his In-Car Video (ICV) and audio recording began. The ICV system automatically included the previous minute of video (but no audio) so the Named Employee's subject can be seen sitting next to a tree and the Named Employee's car is seen parking nearby. The Named Employee indicated in his OPA interview that he did not activate his ICV when he first made verbal contact with the subject through the

open window because he was not planning on taking "enforcement action" until he got out of his car. Prior to February 1, 2015, the previous ICV policy contained language requiring officers to record whenever they are taking enforcement action. The policy in effect at the time of this incident, however, contains no such language. It requires audio and video recording of all police activity, including "on-view infractions and criminal activity". The moment the Named Employee, a uniformed police officer in a marked police car, drove up next to the subject and began to give her orders to stand up because the law prohibits sitting, he was addressing an on-view infraction and the Named Employee was required by policy to activate his ICV system immediately, not 30 to 40 seconds later. By not activating his ICV before beginning to speak with the subject about the need for her to stand up, the Named Employee deprived those reviewing the incident of knowing the tone and tenor of the Named Employee's opening comments to the subject.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Using Force: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force.*

Required Training: The Named Employee's supervisor should review this incident and the ICV of it with the Named Employee to identify tactics that may have lessened the potential for an assault by the subject and the subsequent use of force by the Named Employee. The Named Employee and his supervisor should focus on tactics that could be helpful in future interactions.

Allegation #2

The evidence supports that Named Employee violated the policy. Therefore a **Sustained** finding was issued for *16.090 In Car Video System 6. Employees Will Record Police Activity.*

Discipline imposed: Written Reprimand

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.