

Seattle Police Department DISCIPLINARY ACTION REPORT		FILE NUMBER OPA 17-0609	
RANK/TITLE Officer	NAME Jason Anderson	SERIAL NUMBER 8329	UNIT C020X
SUSTAINED ALLEGATION: Violation of Seattle Police Department Policy & Procedure Manual Section: <ul style="list-style-type: none"> 8.300 - Use of Force Tools POL 3, 3. Officers Who Have Been Trained and Certified to Carry a CEW and Have Been Issued One Must Carry It During Their Shift 			
<u>Specification and Policy at Issue</u> <p>On June 18, 2017, you were dispatched to a burglary call. During the response, you and another responding officer were involved in an officer-involved shooting. As with all officer-involved shootings, the Department's Force Investigation Team (FIT) responded to the scene and opened an investigation. FIT learned that you were a Taser-trained officer but were not carrying a Taser during the incident. FIT referred your failure to carry a mandatory piece of equipment to Taser to OPA for review.</p> <p>OPA's investigation focused on whether your actions violated Department Manual Policy 8.300 (3), which requires that "officers who have been trained and certified to carry a CEW (Taser) and have been issued one must carry it during their shift." Whether you violated this policy by not carrying a Taser is the sole focus of OPA case 17-0609. Neither this disciplinary action nor its underlying investigation reach the question of whether the outcome here would have been altered if you had been carrying a Taser, or whether a Taser would have been a viable or permissible option under the circumstances presented.</p> <p>The OPA investigation found that your Taser became non-operational on June 8, 2017 due to a low battery. You placed the Taser in your locker and took no action to ensure that it was operational for ten days, during which time you worked seven shifts without carrying a Taser, seeking to have its battery replaced, or returning your Taser. You did not notify your sergeant that you were no longer carrying a Taser or seek permission from anyone in authority to stop carrying one.</p>			
<u>Employee Response</u> <p>In your OPA interview, you stated that you switched from carrying a Taser and a baton to carrying OC spray (commonly referred to as pepper spray) and a baton because your Taser battery was not functioning. You stated that you put the Taser in your locker, told unnamed colleagues that you were no longer carrying it, and did not notify the Training Unit to obtain a replacement battery or seek permission to carry a non-lethal device other than a Taser. On the date of the incident, you were carrying two less lethal tools, a baton and OC spray.</p> <p>During your Loudermill meeting, you and your representatives stated that policy 8.300 (3) did not apply to this situation because your Taser was non-functional; you asserted that it is implicit in the policy that an officer's obligation to carry a Taser applies only when the equipment is functional. You identified the issue as an equipment failure and noted that replacement Taser batteries are not available at the precinct or at 3 am, when your Taser stopped operating. You stated that you always carried your assigned Taser when it worked.</p>			

Determination

As a Taser-trained officer, you were required to carry a Taser. When your Taser stopped functioning, it was incumbent upon you to act to ensure that the battery was replaced or that you received approval to carry a different less lethal device. You did not do so. Instead, you kept a non-operational Taser stowed in your locker for ten days. It is unclear what, if anything, you would have done to address the non-functioning Taser in the future had the issue not come to light from the shooting.

Where an officer's Taser is non-functional for any reason, officers are trained to notify their supervisor and the Taser coordinator. You failed to notify either, and instead unilaterally decided to keep your Taser in your locker and carry other less-lethal devices. That is not a decision within your discretion.

Again, neither this disciplinary action nor its underlying investigation finds that the outcome of this incident would have been different had you been carrying a Taser. This finding is focused exclusively on your failure to carry a mandatory piece of equipment or take action to address it not functioning, independent of outcome. Your complacency in this regard is unacceptable and added an otherwise unnecessary element to an incident already of significant public concern. The impact of your disregard for this policy on public trust should not be underestimated.

In determining the appropriate discipline in this case, I considered your employment record, including the fact that you are a newer officer without any prior discipline, along with all of the facts of this matter.

Final Disposition

Two (2) Day Suspension

DATE

2-9-2018

BY ORDER OF

Carmen Best
CHIEF OF POLICE

APPEAL OF FINAL DISPOSITION

Appeals to a Commission:

SWORN EMPLOYEES : Public Safety Civil Service Commission

Employee must file written demand within ten (10) calendar days of a suspension, demotion or discharge for a hearing to determine whether the decision to suspend, demote or discharge was made in good faith for cause. SMC 4.08.100

CIVILIAN EMPLOYEES: Civil Service Commission

Before filing an appeal with the Civil Service Commission regarding suspension, demotion, or termination an employee must first go through the Employee Grievance Procedure provided by Personnel Rule 1.4. In order to comply with Rule 1.4, the employee must file the grievance within 20 calendar days of receiving the notice of the appointing authority's decision to impose discipline. After exhausting the Employee Grievance Procedure, if the employee is still dissatisfied, the employee must file his/her appeal with the Civil Service Commission within 20 calendar days of the delivery of the Step Three grievance response. See also SMC 4.04.240, 4.04.260, and Personnel Rules 1.4.

PROBATIONARY EMPLOYEES: Pursuant to SMC 4.04.030 and 4.04.290, employees who have been appointed to a position within the classified service but who has not completed a one (1) year period of probationary employment are "probationary employees" and are subject to dismissal without just cause. An employee dismissed during their

probationary period shall not have the right to appeal the dismissal. SMC 4.04.290(c) and City of Seattle Personnel Rule 1.3.2E.

Alternative Appeal Options for Represented Employees:

SPOG Members: For employees represented by SPOG, the Disciplinary Review Board (DRB) may be an alternative appeal process for suspensions, demotions, terminations, or transfers, identified by the City as disciplinary in nature. Consult your collective bargaining agreement or SPOG representative to determine eligibility, notice periods, and details of the process. The DRB is available as an alternative only, and not in addition to an appeal to the Public Safety Civil Service Commission.

SPMA Members: For employees represented by SPMA, the grievance process may be an alternative appeal process for suspensions, demotions, or terminations. Consult your collective bargaining agreement or SPMA representative to determine eligibility, notice periods, and details of the process. The grievance process is available as an alternative only, and not in addition to an appeal to the Public Safety Civil Service Commission.

Represented Civilian Employees: Grievance and arbitration may be an alternative appeal process. Consult the applicable contract or a union representative to determine availability, notice periods, and details of process. Binding arbitration is available as an alternative only and not in addition to an appeal to the Civil Service Commission. SMC 4.04.260C