

POLICE CIVILIAN REVIEW BOARD

Investigation Report

Internal Affairs Case Number C 2016-0052

Complainant: (Race/Gender)	C- [REDACTED] (W/F)
Alleged Policy Violation:	Excessive Force
Subject Officer: (Race/Gender)	S- Off. Tyler Reinwand (W/M)
Subject Officer's Years of Service:	S- 20 years (Retired)
Date of Alleged Incident:	10/9/14
Date Investigation Requested:	7/7/16
Date Filed with Internal Affairs	7/7/16
Date Investigation Completed:	9/5/16
Panel Members:	Kevin Parke Glen Greener Roger Sandack Sandy Walsh
Date of Panel Meeting:	9/13/16
Interviews Conducted:	2

It should be noted that the narratives contained in this report are summaries that have been paraphrased from interviews. They should not be interpreted as verbatim transcripts. The narrative is intended to accurately communicate the substance of the major points in each interview.

Synopsis:

[REDACTED] herein referred to as C, is the complainant and provided the following:

C would not participate in this review and therefore did not provide any additional information. Due to the public release of the body camera footage of S, which was released without the knowledge of the SLCPD, to the media, this investigation was opened.

Off. Off Tyler Reinwand, Retired, herein referred to as S, is the subject of this matter and provided the following:

S did not provide a statement related to these allegations and due to him being retired, the SLCPD could not compel him to cooperate.

_____ herein referred to as W, is a police officer, a witness and stated:

W stated that they were initially dispatched on a “Welfare check” call, he believes originating from a neighbor who heard a mother yelling at her daughter, who was crying. W recalled that upon initial contact that C was acting strangely, was intoxicated and he felt that daughter G should not remain with C, in her condition. As he recalled, they agreed to let G go spend the rest of the night with Uncle S, who lived upstairs. *(Note: due to the length of time involved, some of the details are not recalled by any of the witnesses but in this case, it appears that the adult daughter of C had also called the police about her mother and this same adult daughter did not know “Uncle S”, so she wanted to come and get her younger sister. In reviewing the body cameras, neither W nor S would know that “Uncle S” was not in fact a relative as C and G both acted very familiar with this adult male. In fact, daughter G was very happy to see Uncle S and in retrospect, it is clear G is not only comfortable with him but likely has stayed with him previously.)*

As the officers were leaving, W warned C that if they had to come back, they would arrest her for public intoxication. W said that he then contacted the adult daughter of C, who informed him that she did not know an Uncle S, so she told them she would come over and get her sister G from the officers. This caused the officers to return to the apartment and upon arrival, W saw C standing on the balcony, who also saw him, causing her to “run inside” and extinguish the interior lights. When S arrived, W went to C’s door and knocked repeatedly on it, knowing C was inside, but she did not open the door. After a lengthy time knocking on the door, W went to get G and helped her gather up some belongings.

As W was escorting child G to their cars, W recalled seeing C approaching them on foot. As soon as C got near the officers, they placed her under arrest and put her into handcuffs.

As S approached C, who was standing near W, W recalled that C spit in the face of S, who immediately struck her, in the face. W did not know if S used an open hand or a closed fist but he said that the blow caused C to fall to the ground with S assisting her as she landed on the ground. W said he then went and got a spit mask, which he applied to C, who was on the ground.

W called for the EMTs, and noted some blood on C’s face. W believes that C refused any treatment from the medical responders. W also called for the Crime Scene Unit to respond and a Sergeant later responded to the scene.

_____ herein referred to as W1, is a police officer, a witness and stated:

W1 stated that he was dispatched to conduct the arrest check on C. He believes he got there after the ambulance had already been present and departed. W1 said that he cannot recall if C was still in the spit mask, but in any case, he would have examined her face as he was told that she had been struck by an officer. His memory of her injuries were that she had a “bloody nose”.

Upon arrival, W1 recounted that S immediately came to him and told him that he had either struck or knocked C to the ground, while C was in handcuffs, because C had spit in his face.

W1 went to C, who was seated in the police car, and asked the standard questions of her and his recall of that was that she was highly intoxicated, very verbally belligerent, rambling and cursing but at no time complained about what had occurred. This topic was explored a number of times during W1's interview and he said that at no time did C ever complain about her treatment or attempt to file a complaint against any officer.

As W1 explained, at the time of this incident, the body cameras were still fairly new and he did not know how to review the footage from one of his subordinate officers. As he recalled this incident, W1 said that nothing "major stood out to me". He did recall that S said something like "I struck her and took her to the ground because she spit in my face."

Evidence:

E: Three photographs were taken of C, post-arrest. The photographs show that C has blood on her face and it appears that blood was the result of a blow to her nose, which showed both nostrils having blood on them. There is a good amount of smeared blood on her face, likely from being placed in a "spit mask" which would ride up and down on the wearer's face, causing the blood to spread in directions not associated with her body position or gravity. In looking closely at her face, there aren't any visible injuries/strike marks, such as a swollen nose, or redness associated with a blow, but it is apparent that her nose is red and has been bleeding.

E1: Two body camera recordings were made of C on the day in question. In the first one, labeled "child abuse video", C is seen acting bizarrely towards the officers but she denies being intoxicated. *(Note: based upon her behavior, she likely was intoxicated due to alcohol or drug ingestion.)* The officers were called to her home due to a call about a possible situation involving C and her [REDACTED] daughter, G, who interacts with the officers explaining what had occurred. G's Uncle S, is summoned from his upstairs residence and he takes control of G, leading her to his home, allowing the police to interact with C. Nothing other than the normal tragedy of an apparently intoxicated adult interacting with a [REDACTED] wonderful girl was noted of interest.

The second body camera footage is labeled "public intox video", comes from the body camera of S and shows: the officers respond back to the same location where they had been earlier, captured in the earlier video, described above. W goes to the door and knocks on it, with no answer. W knocks on the door repeatedly while S eventually goes outside to look around. When he returns, W is speaking with C's child, who is staying upstairs with her Uncle, S. *(Note: although unknown to the officers, but based upon events/conversations later in this video, it seems as if Uncle S called the adult child of C to come pick up the younger daughter, G.)*

After over 16 minutes of trying to make contact with C, the officers lead daughter G outside, with some of her belongings. (16:30) Shortly thereafter, C appears to ask about her daughter and says "please don't take my daughter". (16:54) C is immediately placed under arrest with W grasping C's left arm while S takes control of her right arm. C then spits in the face of S, who instantaneously punches C in the face, knocking her to the ground. (17:50) S is heard saying to C "you little bitch, you fucking spit on me, cunt..." (18:03) S continued to call her names such as "idiot" and "bitch" all the while C is lying face down on the grass, moaning and saying "please stop". S replies to that request by saying "you deserve to have your ass kicked".

W is then seen as he places a spit mask on C's head. (19:51) C is roughly pulled to her feet, placed into W's car, at which time S goes to his own police car, gets a reddish colored rag and appears to wipe the spit from his face.

Allegations:

Due to the public release of the body camera of S, an allegation of Excessive Force was put forth by the SLCPD.

Definitions

Unfounded: The reported incident did not occur.

Exonerated: The employee's actions were reasonable under the circumstances.

No determination is possible: There is insufficient evidence to support a conclusion as to whether or not the employee violated policy.

Sustained: The employee's action(s) are in violation of the policy or procedure of the Police department.

Analysis and Recommendation:

The following is the general policy relating to the Use of Force by SLCPD officers:

III-310 FORCE, USE OF

Department policies concerning the use of force and firearms are intended to offer general guidelines so that officers can be confident in their lawful exercise of such force. This Department policy may be viewed as an administrative guide to decision-making and review. This policy shall apply to all officers of this Department when they are in the State of Utah or acting in an official capacity.

Department Policy

A police officer will never employ unnecessary force or violence and will use only such force in the discharge of duty as is reasonable in all circumstances. It is imperative that officers act within the boundaries of legal guidelines, ethics, good judgment, and accepted practices whenever using force in the course of duty.

Force should only be used with the greatest restraint and only after discussion, negotiation and persuasion have been found to be inappropriate or ineffective. While the use of force is occasionally unavoidable, every police officer will refrain from applying the unnecessary infliction of pain or suffering and will never engage in cruel, degrading or inhuman treatment of any person.

The facts of this matter show that although C did not make any type of complaint over this incident, that S used force by striking C in the face. S's body camera, which was publicly released by a third party, shows that he struck C in the face, resulting in some bleeding from her

nose, and possibly, elsewhere. Other than the blood, no related injuries were visible nor are they alleged. So, the issue becomes was the single strike to C's face, a violation of policy.

Prior to the force allegation being discussed, CRB wants to clearly state that the language used by S during his encounter with C is objectionable and unacceptable, for many reasons. S, as well as his assisting officer W, knew from their first encounter with C that she was highly intoxicated. This was reinforced when they arrested her during their second encounter that same night. Additionally, the caller to dispatch described a situation commonly associated with someone being intoxicated and it is assumed that C's adult daughter further told W about her mother's [REDACTED] as a reason she wanted to take control of her younger sister. So, as a matter of fact, there is no denying that S knew C was intoxicated and based upon his years of service, he knew, or should have known, about how highly intoxicated people act. For S to say such vulgar words to C, whom he struck while she was in handcuffs and while she was face down on the grass, demonstrates his complete lack of judgement as well as a lack of self-restraint. There can be no denying the anger he felt after being spit upon: not only due the transfer of bodily fluids, causing concern over various communicable diseases but also the insulting nature of someone spitting upon another. However, S had over 18 years of policing under his belt and so he knew, or should have known that [REDACTED] regularly do not adhere to the social norms. To react in such a guttural way to her spitting is unprofessional in every sense of the word.

The facts of this case also show that C did in fact spit at and upon S, striking him in the face. The video tape shows S striking C in the face immediately after being spit upon. In viewing the recording, the two events are definitely linked and could easily be described as "instinctive" rather than "reasoned". In other words, S retaliated by striking C in the face, due to C spitting upon him and did so immediately. S, did not opt to be interviewed, so his motivation is unknown for this single blow, but in watching the recording repeatedly, it is clear that his actions were not premeditated, the events simply happened too fast. S likely was concerned for his own safety due to the bodily fluid transfer problem and reacted to stop this action/assault by C.

However, the fact remains that C was in handcuffs, completely defenseless and was known to be highly intoxicated. It seems highly unlikely that this was the first time S had been spat upon in his career and his action, no matter what excuse he could propose had he been interviewed, was not the least amount of force he could have used, as the policy mandates. Officers all know that once a suspect is placed into handcuffs, that it would take extraordinary circumstances for any force to be used against that person. In this case, C was highly intoxicated and had been verbally challenging in the earlier encounter, and when she was secured in cuffs, it should be understood that use of force options have been highly restricted. This understanding should also be instinctive to any officer, similar to their instincts to protect themselves and others.

Panel Findings:

As to the allegation that S used "Excessive Force" by striking C in the face, the Panel makes a finding of Sustained on this allegation.

The Panel is concerned that the Sergeant wasn't more proactive in reporting this Use of Force. CRB's recommendations on the last quarterly report ensure this won't happen again.

The Panel makes a finding that this matter is in the public eye and therefore recommends that this report be made public.

Kevin Parke
Panel Chair

Date