



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1048

Issued Date: 12/08/2015

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: When Authorized (Policy that was issued 01/01/14)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: When Authorized (Policy that was issued 01/01/14)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The named employees were dispatched to a hospital for a male subject who was refusing to leave. The subject had fought with another uniformed law enforcement officer, including attempting to bite him and was now sitting down in the lobby with the officer and hospital security staff when the named employees arrived. The subject was not in handcuffs nor was he physically detained. The named employees engaged the subject in conversation and told him he had to leave. The subject refused to leave. Named employee #1 touched the subject's arm to escort him out. The subject pulled away and turned towards named employee #1. Named

employee #2 took the subject to the ground, and officers tried to handcuff the struggling subject. The subject attempted to bite named employee #1 and named employee #1 punched the subject five times in the side of the head. The subject quit struggling and was handcuffed.

COMPLAINT

The complainant, The Force Review Board, alleged that the named employee #1 had no justification for punching the suspect in the head five times. The Board found that he could have used his forearm to pin the suspect's head to the ground if he felt that the suspect may attempt to bite him. The officer needs to articulate why that level of force was necessary, and why five punches were necessary.

The complainant, The Force Review Board, alleged that the named employee #2 appeared from the hospital video to have taken the suspect down with a neck hold. The suspect's chin appears to lift back in response to the hold, indicating that it was not a shoulder hold only. This level of force requires a clear articulation for why it was necessary.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint from the Force Review Board
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Videos
4. Review of hospital security video
5. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The Force Review Board (FRB) alleged that there was "no justification" for the punches delivered to the subject's head by named employee #1. The preponderance of the evidence from the OPA investigation supports named employee #1's belief that the subject was attempting to bite him. Named employee #1 was on top of the partially prone subject's back attempting to gain control of him and prevent him from putting his hands under his body where he could access a weapon. Named employee #1 knew that the subject had previously attempted to bite another law enforcement officer and had witnessed the subject physically resist his (named employee #1's) attempts to escort the subject out of the Emergency Department. OPA found, notwithstanding any other available force options named employee #1 may have employed instead of striking the subject, his use of approximately five punches was reasonable, necessary and proportional given the immediate threat of serious injury from being bitten and the totality of the circumstances.

The FRB alleged that the hospital security video appeared to show named employee #2 “taking the suspect down with a neck hold”. Based on this assumption, the FRB concluded there was insufficient information before them to justify a “neck hold”. While it is a possibility that named employee #2’s arm may have momentarily come in contact with the subject’s neck area or chin as he (named employee #2) grabbed the subject from behind and brought him to the ground, the preponderance of the evidence from the OPA investigation supports the conclusion that named employee #2 did not apply a “neck hold” of any kind.

FINDINGS

Named Employee #1

Allegation #1

The weight of the evidence showed that the force used by named employee #1 was reasonable, necessary and proportional to take the subject into custody. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: When Authorized*.

Named Employee #2

Allegation #1

The weight of the evidence showed that named employee #2 did not use a neck hold to take the subject into custody. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: When Authorized*.

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.