



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0440

Issued Date: 01/20/2017

| Named Employee #1 and #2 | |
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| 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 | Not Sustained (Lawful and Proper) |
| Allegation #2 | <u>Seattle Police Department Manual</u> 8.200 (2) Using Force: Use of Force: When Prohibited (Policy that was issued September 1, 2015) |
| OPA Finding | Not Sustained (Lawful and Proper) |
| Final Discipline | N/A |

INCIDENT SYNOPSIS

The Named Employees obtained evidence from the complainant pursuant to a search warrant.

COMPLAINT

The complainant alleged that the Named Employees "jumped him and attacked him" causing a dislocated arm, a knot over his ribs, and "messed up" fingers.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
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

Named Employee #1 was called by Named Employee #2 to assist him at the hospital with a DUI blood draw based on a search warrant. Named Employee #1 was an experienced DUI officer and Drug Recognition Expert. The preponderance of the evidence from this investigation showed that both Named Employee #1 and Named Employee #2, along with hospital medical and security staff members, attempted several times in various ways to persuade the complainant to comply with the search warrant and not resist having his blood drawn. Once the complainant was situated on a gurney for the blood draw, the complainant attempted to move his body to prevent the blood draw. Named Employee #1 used his body weight on the complainant's right side to hold him down and prevent him from moving. Given the potential for injury to the complainant from moving while a needle was being inserted into his vein, as well as injury to others from a fight in the exam room, it was reasonable and necessary for Named Employee #1 to use a proportional amount of force to help hold the complainant still. The de minimis level of force, which did not appear to cause injury or pain to the complainant, was proportional given the totality of the circumstances.

The complainant was handcuffed while the involuntary blood draw took place and when Named Employee #1 and #2 used de minimis force to hold the complainant down. SPD Policy limits the use of force on handcuffed prisoners to those circumstances in which "the subject's actions must be immediately stopped to prevent injury, or escape, destruction of property." As was articulated above for allegation #1, the complainant had to be stabilized and prevented from moving while the needle was being inserted in his arm and the blood draw was taking place. Taking the handcuffs off the complainant would have increased his ability to resist the blood draw, opened himself to injury and presented a danger to the officers and medical personnel.

Named Employee #2 was the arresting officer and obtained a search warrant for an evidentiary sample of the complainant's blood. As articulated above for allegation #1 against Named Employee #1, some force needed to be used to stabilize the complainant and prevent him from being injured or hurting others while the blood draw was taking place. Named Employee #2 used de minimis force to hold the complainant's head so his (the complainant's) face was pointing away from where the blood draw was being performed. The purpose of this was to both stabilize the complainant and prevent him from spitting at the person conducting the blood draw.

FINDINGS

Named Employee #1 and #2

Allegation #1

A preponderance of the evidence showed that the de minimis level of force was reasonable, necessary and proportional given the totality of the circumstances. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use of Force: When Authorized*.

Allegation #2

A preponderance of the evidence showed that removing the handcuffs would have increased the complainant's ability to resist the blood draw, open himself to injury, and present a danger to the officers and medical personnel. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use of Force: When Prohibited*.

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.