



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2016OPA-0652

Issued Date: 02/23/2018

| Named Employee #1 | |
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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) |
| Final Discipline | N/A |

INCIDENT SYNOPSIS

Officers, including Named Employee #1, arrested the complainant for assault. Her arrest and the officers later interaction with her was recorded by In-Car Video (ICV).

COMPLAINT

The complainant alleged that the Named Employee "assaulted and hurt" her "grabbed (her) throat."

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Videos (ICV)
3. Search for and review of all relevant records and other evidence

ANALYSIS AND CONCLUSION

During her arrest, the complainant was combative and appeared to be intoxicated. She was handcuffed and the officers asked her identifying questions. She then attempted to kick the officers multiple times. While she was unable to do so, the officers made the decision to place her in the rear of a patrol vehicle. Prior to doing so, the complainant was searched. In order to prevent her from further kicking the officers, Named Employee #1 used force to hold her down while the search was completed, using his hand to position the complainant's head against the hood of the patrol vehicle.

When she was seated in the patrol vehicle, she continued to kick at officers. The door was closed and she began to kick the partition. Named Employee #1 and another officer opened the door and the other officer tried to fasten the complainant's seatbelt; however, she kicked that officer several times in the hand.

Named Employee #1 attempted to prevent her from doing so. Named Employee #1 reported that he extended his forearm across the complainant's face and pushed her face back. He stated that her head moved backwards and struck the back of the plastic seat. Named Employee #1 indicated that this did not appear to cause the complainant to suffer an injury and the complainant did not complain of an injury. The complainant then tried to bite Named Employee #1's arm twice. Named Employee #1 pushed her head forward until it was between her legs and held her head down until she agreed to calm down and cooperate. She eventually agreed to do so, her seatbelt was buckled, and no further force was used. The OPA Director noted that Named Employee #1's recounting of the force he used appeared to be consistent with the ICV.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." (SPD Policy 8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (See *id.*) Force is necessary where "no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose." (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

From the OPA Director's review, the force used by Named Employee #1 was reasonable, necessary, and proportional, and thus consistent with policy.

The complainant was belligerent and unreasonable and was actively trying to kick and bite officers. The involved officers, including Named Employee #1, had the lawful authority to place her under arrest. When she tried to harm them, the officers further had the lawful authority to use force to prevent her from doing so. As such, the OPA Director believed that the force was reasonable.

The force was further necessary to ensure that the complainant was properly secured and to prevent her from causing physical harm to officers.

Lastly, the force was proportional to the threat facing the officers. Force was only used when the complainant was actively trying to kick or bite officers and, even then, only the least force necessary was used. Notably, Named Employee #1 did not strike the complainant or use anything other than a low level of force. Moreover, contrary to the complainant's allegation, there was no evidence that she was "assaulted and hurt" by officers or that any officer, let alone Named Employee #1, grabbed her throat.

FINDINGS

Named Employee #1

Allegation #1

The preponderance of the evidence showed that the force used by Named Employee #1 was reasonable, necessary, and proportional. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use of 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.