



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-1501

Issued Date: 07/10/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: Use-of-Force: When Authorized (Policy that was issued January 1, 2014)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (10) Standards and Duties: Employees Shall Be Truthful and Complete In All Communication (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: Use-of-Force: When Authorized (Policy that was issued January 1, 2014)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: Use-of-Force: When Authorized (Policy that was issued January 1, 2014)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (10) Standards and Duties: Employees Shall Be Truthful and Complete In All Communication (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were working at the 2015 May Day protests.

COMPLAINT

The complainant alleged the Named Employees used excessive force during May Day 2015 when they arrested the subject. The complainant also alleged that officers made false and/or misleading statements in their Use of Force report by depicting the subject as running or getting behind or through the line and/or resisting when video seemed to indicate the subject was sitting down on a median in a passive manner.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of external videos
4. Review of Use of Force investigation documents
5. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The preponderance of evidence from the OPA investigation showed that Named Employee #1 used force on the subject. Specifically, Named Employee #1 pushed the subject either causing the subject to fall to the ground or contributing to that fall, as well as using his (Named Employee #1's) hands and body to control and secure the subject on the ground. The evidence also showed that, at the time Named Employee #1 pushed the subject, he (the subject) was attempting to escape from other officers who were in the process of arresting him and Named Employee #1 reasonably believed the subject was attempting to escape or evade arrest. The use of a hand push to throw the subject off-balance and end his flight was consistent with SPD training and was reasonable, necessary and proportionate given the totality of the circumstances. Finally, the evidence from the OPA investigations showed that, at the time Named Employee #1 used his hands and body to control and secure the subject on the ground, the subject was actively resisting the efforts of Named Employee #1 and other officers to get the subject handcuffed and lying still in a prone position on the ground. The use of control holds and/or body weight by officers to overcome physical resistance and control the movements of a person who is being lawfully detained or arrested is consistent with SPD training. Given the totality of the circumstances, the OPA Director found this use of force by Named Employee #1 to be reasonable, necessary and proportionate.

The preponderance of the evidence from the OPA investigation showed that the Use of Force statement submitted by Named Employee #1 in connection with his use of force against the subject was consistent with available video evidence and statements by other officers involved in that arrest.

The preponderance of the evidence from the OPA investigation showed that Named Employee #1 reported his use of force to a supervisor as soon as circumstances permitted and that he completed and submitted a Type 2 use of statement as required.

The preponderance of evidence from the OPA investigation showed that Named Employee #2 used force on the subject. Specifically, Named Employee #2 used her hand to push down on the back of the subject's head in order to get him to stay down on the ground. At the time Named Employee #2 did this, the subject was physically resisting the efforts of officers to get the subject to lie prone on the ground, control his movements and handcuff the subject. The use of pressure as a control tactic is trained by SPD and was reasonable, necessary and proportionate in this instance by Named Employee #2 given the totality of the circumstances.

The preponderance of evidence from the OPA investigation showed that Named Employee #3 used force on the subject. Specifically, Named Employee #3 grabbed the subject in the area of the back of his neck and pushed the subject to the ground. At the time Named Employee #3 did this, the subject was attempting to get away from other officers who were trying to arrest the subject. As the subject was attempting to flee, Named Employee #3 ordered him to stop, but the subject did not. Given the actions of the subject to attempt to flee and his failure to stop when so ordered, the actions of Named Employee #3 were consistent with SPD trained tactics.

The OPA Director found this use of force by Named Employee #3 to be reasonable, necessary and proportionate given the totality of the circumstances.

The preponderance of the evidence from the OPA investigation showed that the Use of Force statement submitted by Named Employee #3 in connection with his use of force against the subject was consistent with available video evidence and statements by other officers involved in that arrest.

The preponderance of the evidence from the OPA investigation showed that Named Employee #3 reported his use of force to a supervisor as soon as circumstances permitted and that he completed and submitted a Type 2 use of statement as required.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that given the totality of the circumstances, the use of force by Named Employee #1 was reasonable, necessary and proportionate. 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 the Use of Force statement submitted by Named Employee #1 was consistent with available video evidence and statements by other officers. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Be Truthful and Complete In All Communication*.

Allegation #3

A preponderance of the evidence showed that Named Employee #1 reported his use of force to a supervisor as soon as circumstances permitted and that he completed and submitted a Type 2 use of statement. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*.

Named Employee #2

Allegation #1

A preponderance of the evidence showed that given the totality of the circumstances, the use of force by Named Employee #2 was reasonable, necessary and proportionate. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use-of-Force: When Authorized*.

Named Employee #3

Allegation #1

A preponderance of the evidence showed that given the totality of the circumstances, the use of force by Named Employee #3 was reasonable, necessary and proportionate. 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 the Use of Force statement submitted by Named Employee #3 was consistent with available video evidence and statements by other officers. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Be Truthful and Complete In All Communication*.

Allegation #3

A preponderance of the evidence showed that Named Employee #3 reported his use of force to a supervisor as soon as circumstances permitted and that he completed and submitted a Type 2 use of statement. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*.

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.