



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0087

Issued Date: 08/10/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<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 (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 6.010 (1) Stops, Detentions and Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #4	<u>Seattle Police Department Manual</u> 6.220 (1) Terry Stops & Detentions: Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #5	<u>Seattle Police Department Manual</u> 6.220 (3) Terry Stops & Detentions: During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope (Policy that was issued August 1, 2015)

OPA Finding	Not Sustained (Unfounded)
Allegation #6	<u>Seattle Police Department Manual</u> 8.200 (6) Using Force: Following a Use-of-Force, Officers Shall Render or Request Medical Aid, if Needed or if Requested By Anyone, as Soon as Reasonably Possible (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 6.010 (1) Stops, Detentions and Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #4	<u>Seattle Police Department Manual</u> 6.220 (1) Terry Stops & Detentions: Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #5	<u>Seattle Police Department Manual</u> 6.220 (3) Terry Stops & Detentions: During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were dispatched to a disturbance.

COMPLAINT

The complainant believes that he was (1) arrested unlawfully, (2) detained with handcuffs behind his back before being unlawfully arrested, and that the handcuffing caused injury, (3) he was denied access to medical treatment by paramedics on scene at the time and that (4) all this was done due to biased behavior by the Named Employees due to his mental health history.

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 Use of Force Reports and Statements
4. Review of In-Car Video (ICV)
5. Review of Photographs
6. Interviews of SPD employees

ANALYSIS AND CONCLUSION

Prior to arriving on the scene, Named Employee #1 and Named Employee #2 learned, via dispatch, that the complainant was agitated, difficult to understand, and not making sense. In addition, dispatch informed the officers that the complainant “sounds possibly in crisis.” Both officers also knew that the complainant had previously attempted suicide; however, the officers lacked memory at their OPA interviews as to whether they learned that from dispatch or from running the complainant’s name through the Records Management System. Lastly, the officers learned, also from dispatch, that there was possibly a rifle in the residence.

Named Employee #1 reported speaking with the complainant about the past suicide attempt in order to “gauge his demeanor, and [to determine] whether or not he was fairly stable at that point in time.” Named Employee #1 further indicated that the complainant did not seem to like that question and appeared agitated, and then Named Employee #1 moved on to another topic. When asked at his OPA interview why he felt it necessary to probe the complainant’s mental health history, Named Employee #1 stated that it served a number of legitimate purposes: first, it could identify what symptoms the complainant might have been suffering from as a result of the mental health crisis; second, it could help to open up a rapport between him and the complainant; and third, if law enforcement action was eventually required, it could facilitate a referral to mental health court as opposed to being arrested, processed and booked at the King County Jail. Named Employee #1 received Crisis Intervention Team training prior to the incident.

Named Employee #1 indicated that the complainant's mental health history, as well as the fact that he may have been in crisis at the time of the incident, had no impact on his treatment by officers and on the ultimate decision to place him under arrest. This contention was supported by the evidence in the record; specifically, the fact that once there was probable cause that the complainant had committed a Domestic Violence (DV) assault, his arrest was mandatory under RCW 10.31.100.

Named Employee #1 did not use reportable force on the complainant. Named Employee #2 handcuffed the complainant during the Terry stop and the handcuffs were kept on the complainant's person by Named Employee #1 when the complainant was formally placed under arrest.

Prior to arriving at the scene of the incident, the officers were informed by dispatch of reports of multiple assaults and people screaming. Upon arrival, the officers contacted the complainant as well as two other individuals. The officers spoke with the two other individuals, both of whom indicated that they had been physically assaulted by the complainant. The officers further observed injuries on both individuals.

The officers also spoke with the complainant, who was agitated, very excited, and failed to provide direct answers to the officers' questions. Ultimately, the complainant could not and did not convey any information establishing that he was *not* the primary aggressor, as both the other individuals contended.

At that point, the OPA Director found that the officers had probable cause to believe that the complainant had assaulted both individuals. The decision was made to arrest the complainant for DV assault based on information suggesting that the two individuals were the complainant's roommates. Given this fact, the arrest of the complainant was mandated by RCW 10.31.100.

Manual Policy 6.220 instructs that a Terry stop must be supported by reasonable suspicion that a suspect has been, is, or will be involved in the commission of a crime. It further requires that the facts underlying the reasonable suspicion be documented using specific articulable information.

On the date in question, officers responded to a chaotic situation at the complainant's residence. The officers had information that there had been multiple assaults and that screams had been heard from inside the residence. The officers were further informed that there was the potential of a rifle inside the house, even though no one had reported actually seeing the weapon.

Once the officers arrived at the residence, they identified the complainant, and two other individuals as all being potential subjects of their assault investigation. In order to further investigate the circumstances of the assaults and who may have been the primary aggressor, the officers detained all three individuals. The officers were told by the two individuals that they

had been physically assaulted by the complainant. The officers further observed injuries on both individuals.

Based on the information from dispatch, coupled with what the officers observed and learned shortly after arriving on the scene, the officers had reasonable suspicion to believe, based on specific articulable facts, that the complainant had assaulted both individuals. It was thus within policy to detain the complainant in order to further investigate the incident

During the Terry Stop, Named Employee #2 made the decision to handcuff the complainant in order to ensure the safety of officers and civilians. Named Employee #1 was not present when the complainant was handcuffed.

Named Employee #1 did not apply handcuffs to the complainant and did not observe the handcuffing. However, at some point after being handcuffed, the complainant complained of pain from the handcuffs and the complaint of pain was made in Named Employee #1's presence. Pursuant to policy, the officers contacted the Seattle Fire Department and EMTs responded to the scene. The EMTs examined the complainant for any physical injuries and did not observe any redness or bruising. After answering the EMTs' initial questions concerning his physical condition and pain, the complainant refused to answer any further questions and no additional treatment was provided.

Named Employee #1 reported the complaint of pain to a Sergeant, who screened the Use of Force and took photographs to document the complainant's physical condition. From the OPA Director's review of these photographs, the complainant did not appear to have any visible injuries.

After the complainant received medical treatment and prior to transporting him to the King County Jail, Named Employee #1 gauged and double-checked the handcuffs to ensure that they were not too tight.

Named Employee #2 stated that the decision to initially handcuff the complainant had nothing to do with the complainant's mental health history. Instead, it was based on his conduct during the Terry stop and Named Employee #2's reasonable concern for the safety of himself, other officers, and civilians. The OPA Director saw no evidence in the record suggesting that any of Named Employee #2's conduct toward the complainant was motivated by bias.

Moreover, as explained more fully above, the arrest of the complainant was mandatory based on RCW 10.31.100 and his mental health history was thus irrelevant to that decision.

As discussed below, during the Terry stop of the complainant, Named Employee #2 made the decision to place the complainant in handcuffs.

Manual Policy 8.200 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.” The policy lists a number of factors that should be weighed when evaluating reasonableness. 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.” Lastly, the force used must be proportional to the threat posed to the officer. In addition, 8.200(2) prohibits the use of force on subjects in handcuffs “except in exceptional circumstances when the subject’s actions must be immediately stopped to prevent injury...”

The OPA Director found that the handcuffing of the complainant was reasonable, necessary, and proportional, as required by Manual Policy 8.200. As explained below, consistent with policy, the complainant was handcuffed based on Named Employee #2’s well-articulated concerns surrounding the complainant’s behavior. Thus the handcuffing was reasonable. The handcuffing was also necessary as there was no other force that could have been used to effectuate the lawful purpose of securing the complainant to maintain officer and civilian safety. Lastly, the force was proportional to the threat posed; only minor force was used to protect against the possible threat of harm posed by the complainant.

The OPA Director further found that Named Employee #2 took sufficient steps to ensure that the handcuffs were not applied too tightly. First, Named Employee #2 gauged the handcuffs by putting a finger in between the handcuffs and the complainant’s wrists to ensure that they were not too tight. Second, Named Employee #2 double-locked the handcuffs, which ensured that they would not become tighter during the course of the complainant’s detention.

Named Employee #1 made the decision to formally place the complainant under arrest. Named Employee #2 did not appear to have been consulted in this decision. Regardless, the OPA Director found that the complainant’s arrest was supported by probable cause.

For the reasons set forth above, the OPA Director found that the Terry Stop of the complainant was supported by reasonable suspicion and was consistent with policy.

During the Terry stop of the complaint, Named Employee #2 placed him into handcuffs. Manual Policy 6.220(3) requires that, during a Terry stop, officers limit the seizure to a reasonable scope. Where an officer handcuffs a subject during a Terry stop, the officer “must have additional articulable justification for further limiting a person’s freedom...”

Here, Named Employee #2 explained that when interacting with the complainant, he seemed agitated and very excited. The complainant stated multiple times that he wanted to go to the rear of his house to close his garage door. Those statements concerned Named Employee #2 based on his knowledge that a rifle was possibly in the house. Named Employee #2 was worried that, if allowed to go to the house, the complainant could retrieve a weapon, barricade himself in the house, and/or harm officers and civilians, including the two other individuals. Named Employee #2 asked the complainant to sit down in a chair several times, but the complainant did not comply with those requests. At that point, based on Named Employee #2’s concerns with the complainant’s behavior, demeanor and statements, as well as on the fact that

there was reasonable suspicion to believe that the complainant had committed assaults, Named Employee #2 made the decision to handcuff the complainant. The OPA Director found that this handcuffing was justified and that the further detention of the complainant was reasonable.

FINDINGS

Named Employees #1

Allegation #1

The OPA investigation found there was probable cause that the complainant had committed a DV assault, his arrest was mandatory under RCW 10.31.100. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

Allegation #2

The OPA investigation found that Named Employee #1 did not use reportable force on the complainant. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: Use of Force: When Authorized*.

Allegation #3

The OPA investigation found there was probable cause that the complainant had committed a DV assault, his arrest was mandatory under RCW 10.31.100. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Stops, Detentions and Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest*.

Allegation #4

The OPA investigation found that it was within policy to detain the complainant in order to further investigate the incident. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Terry Stops & Detentions: Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful*.

Allegation #5

The OPA investigation found that Named Employee #1 was not present when the complainant was handcuffed. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Terry Stops & Detentions: During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope*.

Allegation #6

The OPA investigation found that after the complainant received medical treatment and prior to transporting him to the King County Jail, Named Employee #1 gauged and double-checked the handcuffs to ensure that they were not too tight. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Following a Use-of-Force, Officers Shall Render or Request Medical Aid, if Needed or if Requested By Anyone, as Soon as Reasonably Possible*.

Named Employees #2

Allegation #1

The OPA investigation found no evidence to support the complainant's allegation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

Allegation #2

The OPA investigation found that Named Employee #2 took sufficient steps to ensure that the handcuffs were not applied too tightly. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use of Force: When Authorized*.

Allegation #3

The OPA investigation found the complainant's arrest was supported by probable cause. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Stops, Detentions and Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest*.

Allegation #4

The OPA investigation found the Terry stop of the complainant was supported by reasonable suspicion and was consistent with policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Terry Stops & Detentions: Terry Stops are Seizures and Must Be Based on Reasonable Suspicion in Order to be Lawful*.

Allegation #5

The OPA investigation found that the handcuffing was justified and that the further detention of the complainant was reasonable. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Terry Stops & Detentions: During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope*.

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.