



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0490

Issued Date: 12/11/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 11.020 (1) Transportation of Detainees: Officers Will Use the Transport Vehicle's Seat Belts to Secure Detainees (Policy that was issued March 1, 2017)
OPA Finding	Sustained
Allegation #2	<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	Sustained
Allegation #3	<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 (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 11.010 (17) Detainee Management in Department Facilities: Officers Will Seek Medical Assistance for Detainees (Policy that was issued December 19, 2012)
OPA Finding	Sustained
Final Discipline	Written Reprimand

INCIDENT SYNOPSIS

The Named Employee transported a subject to the precinct.

COMPLAINT

The complainant, a supervisor within the Department, alleged that Named Employee #1 failed to follow policy regarding reporting force and failed to use seat belts while transporting a detainee. During its intake process, OPA identified possible additional allegations to be investigated, including potential use of force on a handcuffed detainee confined in a police vehicle and the failure to seek medical attention for a detainee when she was potentially injured due to not being secured in the back seat of the patrol vehicle.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

SPD Policy 11.020-POL-10 requires that officers ensure that seatbelts are used for subjects that are being transported in Department vehicles. The policy provides an exception when a Department vehicle does not have seatbelts or where circumstances prevent the officer from securing the subject. In the latter scenario, the officer must document these circumstances in a later report.

When interviewed by OPA, Named Employee #1 admitted that the subject was not secured with a seatbelt when he transported her in his patrol vehicle. Named Employee #1 recognized that none of the exceptions outlined in the policy applied to this case and that the subject should have been secured. When asked why he failed to secure the subject, Named Employee #1 stated that he had “no excuse.”

While the OPA Director commended Named Employee #1 for taking responsibility for his mistake, his actions constituted a clear violation of policy. It was fortunate that the subject did not suffer any significant injuries.

While she was seated in Named Employee #1’s patrol car, the subject complained of pain three times. All three complaints were captured by the vehicle’s ICV system. The first complaint was made when the subject was seated in the patrol vehicle with the door closed and no officers were inside of the vehicle. As such, Named Employee #1 did not hear this first complaint of pain and could not have reported it. However, the second and third complaints of pain were made in Named Employee #1’s presence.

At the time she made the second complaint, the subject, while not seat-belted, slid across the backseat of the vehicle after Named Employee #1 turned his vehicle around. The subject said: "ouch, you're very rude for somebody who just decked somebody." At his OPA interview, Named Employee #1 stated that the subject was talking for much of her transport. She was, in Named Employee #1's opinion, heavily intoxicated and was making statements that were, at times, racist. At the moment the complaint of pain was made, Named Employee #1 stated that he had his earpiece in his ear and was listening to the radio because he was worried about another officer. That officer, who had remained at the scene, was not responding to radio and was not answering his cell phone. Named Employee #1's concern was substantial enough that he made the decision to turn his vehicle around and to return to the scene to verify that the officer was safe. Named Employee #1 explained that he did not know that the subject had made the second complaint of pain until he was notified by a sergeant, who had heard the complaint when reviewing Named Employee #1's ICV.

The subject made the third complaint of pain when Named Employee #1 braked and she hit her face on the divider between the front and rear seats. At that point she stated: "ouch, ohh great you just gave me a fucking black eye." When he was able to do so, Named Employee #1 pulled his vehicle over in a safe location and inspected the subject's condition. He did not observe any visible injuries at that time. As discussed more fully below, Named Employee #1 did not call for medical attention even though the subject stated that she was injured. Named Employee #1 then secured the subject with a seatbelt and drove to the precinct.

While Named Employee #1 screened his failure to apply a seatbelt to the subject, he did not initially report either complaint of pain to a supervisor. In her review of the use of force, the sergeant noted the following:

The initial screening was regarding officers violating policy by not securing [the subject] for transport. At this same time I was dealing with a large scale incident that had shut down I-5 and a City street. When I was able to sit the [Named Employee] down and ask him details pertaining to the transport he informed me about [the subject] bumping her head. This was well after [the subject] was booked into KCJ. At this point I decided to review the video.

Pursuant to SPD Policy 8.400-POL-1, a complaint of injury is investigated as a Type II use of force and must be reported to and screened in-person at the scene by a sergeant. Named Employee #1's failure to report the complaint of pain resulted in a supervisor not learning of the force until the subject had already left the precinct and had been booked at the jail. While Named Employee #1 ultimately completed paperwork with regard to the complaints of pain, he would likely not have done so if the sergeant had not spoken to him and reviewed the ICV.

While the evidence was inconclusive on whether Named Employee #1 heard the second complaint of pain that was made in his presence, his failure to report the third complaint of pain, standing alone, constituted a violation of policy.

During her interview with OPA, the subject indicated her belief that Named Employee #1 deliberately applied the brakes to his vehicle because she had been complaining about the tightness of her handcuffs. The subject asserted that, prior to Named Employee #1 applying the brakes, she had made several such complaints.

The OPA Director found that there was no evidence in the record supporting this allegation. Indeed, a review of the ICV supported Named Employee #1's assertion that the injury to the subject was the inadvertent result of his mistaken failure to secure the subject with a seatbelt and being required to quickly apply his brakes.

While the OPA Director found that Named Employee #1 should have secured the subject, should have called for medical aid after her face hit the divider, and should have reported her complaints of pain, he did not find that Named Employee #1 used any force on the subject, let alone excessive force.

SPD Policy 11.010-POL-17 requires that officers seek medical assistance for a detainee that has an observable injury or who complains of an injury.

Here, Named Employee #1 admittedly did not call for medical assistance after the subject hit her face on the divider. In explaining why he did not call for medical aid, Named Employee #1 stated the following: he was a solo officer at that time; he was trying to get to the precinct in a "timely manner"; he did not believe that the subject had suffered a "life threatening injury"; and that, if the subject was truly injured, she could receive medical treatment at the precinct.

Named Employee #1's ICV captured his conversation with the subject after her face struck the divider. Immediately after the contact, the subject complained that she just got a black eye. Named Employee #1 tried to convince the subject otherwise and told her that she was "tough." She again complained of a black eye and Named Employee #1 told her that he just wanted to get home to his kids. Named Employee #1 then asked the subject whether she was serious that she was hurt and she said yes. However, even after that extended discussion, Named Employee #1 did not call for medical attention and, after securing the subject with a seatbelt, drove to the precinct.

While the subject was certainly challenging and appeared to have been heavily intoxicated, her face did hit the divider and she repeatedly claimed an injury. This, in and of itself, should have prompted Named Employee #1 to call for medical assistance. Moreover, medical assistance should have been summoned even if the subject did not have an observable injury. Based on Named Employee #1's own statements that were captured by ICV, it appeared possible that he may not have called for medical assistance because it would have been time consuming. This was not an appropriate course of action or reason to not summon medical aid under SPD policy.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that the subject was not secured with a seatbelt when the Named Employee transported her in his patrol vehicle. Therefore a **Sustained** finding was issued for *Transportation of Detainees: Officers Will Use the Transport Vehicle's Seat Belts to Secure Detainees*.

Allegation #2

A preponderance of the evidence showed that the Named Employee's failure to report the third complaint of pain, standing alone, constituted a violation of policy. Therefore a **Sustained** finding was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*.

Allegation #3

A preponderance of the evidence showed that Named Employee #1 did not use any force on the subject, let alone excessive force. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: Use of Force: When Prohibited*.

Allegation #4

A preponderance of the evidence showed that Named Employee #1 did not call for medical attention for the subject. Therefore a **Sustained** finding was issued for *Detainee Management in Department Facilities: Officers Will Seek Medical Assistance for Detainees*.

Discipline Imposed: Written Reprimand

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.