



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0628

Issued Date: 02/23/2018

Named Employee #1	
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

Named Employee #2	
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

The Named Employees responded to multiple calls of an ongoing domestic dispute at a residence.

COMPLAINT

The complainant alleged, through a Department Sergeant, that he was subjected to excessive force by the Named Employees during his arrest.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

Among the information provided by callers regarding the ongoing domestic dispute was that the complainant had a knife and was trying to cut his brother. The officers further were informed that the complainant was “high on meth,” and callers reported hearing property damage inside the residence and someone screaming for the police.

The Named Employees were the primary unit that responded. Shortly after they arrived, a bystander identified the complainant as the suspected perpetrator. The audio of subsequent interaction between the Named Employees and the complainant was captured by In-Car Video (ICV), but it occurred outside of the view of the camera so no video was recorded.

The Named Employees approached the complainant and Named Employee #2 instructed him to get on the ground. Named Employee #2 pointed his firearm at the complainant and provided cover for Named Employee #1, who placed the complainant into handcuffs. During the handcuffing, the complainant alleged that his shoulder was hurting him. Named Employee #1, in response, gauged and double locked the handcuffs to ensure that they were as loose as possible.

The Named Employee reported the complaint of pain to their supervisor, a Sergeant, who came to the scene to screen the incident in-person. During the screening, the complainant stated that officers kicked him to the ground and, alternatively, that officers tackled him to the ground. The Sergeant ordered the Named Employees to complete Type I use of force statements, which they did. The Sergeant then referred the complainant’s allegations to OPA and the instant investigation was initiated.

In his use of force report, and again at his OPA interview, Named Employee #1 stated that he did not tackle or kick the complainant to the ground and that he observed no other officer do so. Named Employee #1 indicated that the complainant got down on his stomach in response to Named Employee #2’s orders and, when he did so, Named Employee #1 handcuffed him.

This account was consistent with the audio of the ICV. The ICV captured Named Employee #2’s multiple orders to the complainant to get on the ground and to spread his arms like an airplane. There was no indication from the ICV audio that the officers used force or that there was any struggle. The ICV reflected that an officer, who the OPA Director believed to be Named

Employee #1, told the complainant to move his arms behind his back and the complainant complained of pain (“I have a bad shoulder”). The ICV lastly captured the complainant telling the officers that both of his shoulders hurt.

There was no evidence, aside from the complainant’s assertions, that Named Employee #1 used any force other than what was needed to handcuff the complainant. Specifically, the OPA Director saw no indication that any officer kicked or tackled the complainant to the ground. Moreover, that the complainant suffered or claimed to have suffered an injury did not make the force per se out of policy. From the OPA Director’s review of the record, the force used was clearly reasonable, necessary, and proportional, and, thus, consistent with policy.

Named Employee #2 also used Type 1 force, namely he pointed his firearm at the complainant. At the time he contacted the complainant, Named Employee #2 was aware of the report that the complainant had possessed a knife. Initially, Named Employee #2 did not point his firearm at the complainant and he only did so after the complainant did not comply with multiple orders to get on the ground. Once the complainant was on the ground and secured in handcuffs, Named Employee #2 no longer pointed his firearm at him.

The OPA Director found the pointing of the firearm by Named Employee #2 to have been reasonable, necessary, and proportional. Named Employee #2 had a reasonable belief that the complainant was or had recently been in possession of a knife. This presented a risk of harm to the officers, which was exacerbated when the complainant refused to comply with the officers’ orders.

FINDINGS

Named Employee #1

Allegation #1

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

Named Employee #2

Allegation #1

A preponderance of the evidence showed that the pointing of the firearm by Named Employee #2 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.