



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1576

Issued Date: 05/10/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.240 Use of Force (Policy that was issued 03/26/10)
OPA Finding	Not Sustained (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 6.220 (VI.B.2) Social Contact, Terry Stops and Arrests: Arrests Without Warrants – Officers may make probable cause arrests for felony crimes (Policy that was issued 11/15/07)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 6.240 Use of Force (Policy that was issued 03/26/10)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation 21	<u>Seattle Police Department Manual</u> 6.220 (VI.B.2) Social Contact, Terry Stops and Arrests: Arrests Without Warrants – Officers may make probable cause arrests for felony crimes (Policy that was issued 11/15/07)

OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 6.240 Use of Force (Policy that was issued 03/26/10)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 6.220 (VI.B.2) Social Contact, Terry Stops and Arrests: Arrests Without Warrants – Officers may make probable cause arrests for felony crimes (Policy that was issued 11/15/07)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were working off-duty at a sporting event in 2012. They were attempting to arrest an intoxicated male subject at the event when a female subject objected to the arrest.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employees used excessive force and lacked probable cause related to an arrest made in 2012.

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 private video
4. Interview of witnesses
5. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The complaint was initiated after a lawsuit was filed against the Named Employees for excessive force and unlawful arrest from an incident that occurred in 2012. Named Employee #1 used *de minimis* force to keep the female subject a safe distance away from the arrest of her male companion, a legitimate law enforcement purpose. Once the female subject struck Named Employee #1, he then used trained tactics to take her to the ground and place her under arrest for potentially felonious assault on an officer. Named Employee #2 used *de minimis* force assisting with the arrest of the female subject and her male companion. The security video and testimony of witness officers and civilian witnesses are consistent with Named Employee #1's written use-of-force statement that he safely took the female subject to the ground without injury and did not repeatedly bang her head onto the floor as she had alleged. The female subject also alleged Named Employee #1 intentionally and without necessity or law enforcement purpose threw her to the ground as she was being taken to the holding cell in the precinct. There is no evidence to support this allegation. Given the dishonesty of the female subject's claim that Named Employee #1 repeatedly banged her head onto the floor when she was arrested, the OPA Director found her statement in this instance to lack credibility. At the same time, Named Employee #1 was terminated from his SPD employment for, among other things, being untruthful, the OPA Director found the statements of Named Employee #1 to be of questionable credibility. Given the absence of any other witnesses or video evidence to this second use of force near the holding cell, there was not a preponderance of evidence to either prove or disprove the female subject's allegation of excessive force. Named Employee #3 does not recall his involvement in the incident and there is insufficient evidence to prove he used any force, other than an escort hold, on either the female subject or her male companion.

FINDINGS

Named Employee #1

Allegation #1

The preponderance of evidence could neither prove nor disprove Named Employee #1 used excessive force as alleged by the female subject. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Use of Force (Policy that was issued 03/26/10)*.

Allegation #2

The weight of the evidence showed that Named Employee #1 had probable cause to arrest the female subject for felony assault after she struck him. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Social Contact, Terry Stops and Arrests: Arrests Without Warrants – Officers may make probable cause arrests for felony crimes (Policy that was issued 11/15/07)*.

Named Employee #2

Allegation #1

The preponderance of evidence supports the conclusion that the force used by Named Employee #2 was reasonable and necessary to make a lawful arrest. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Use of Force (Policy that was issued 03/26/10)*.

Allegation #2

Named Employee #2 did not make the decision to arrest the female subject or her male companion. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Social Contact, Terry Stops and Arrests: Arrests Without Warrants – Officers may make probable cause arrests for felony crimes (Policy that was issued 11/15/07)*.

Named Employee #3

Allegation #1

There is insufficient evidence to prove that Named Employee #3 used any force, other than an escort hold, on either the female or male subject. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force (Policy that was issued 03/26/10)*.

Allegation #2

Named Employee #3 did not make the decision to arrest the female subject or her male companion. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Social Contact, Terry Stops and Arrests: Arrests Without Warrants – Officers may make probable cause arrests for felony crimes (Policy that was issued 11/15/07)*.

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.