



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-1840

Issued Date: 06/09/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) De-Escalation: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 8.400-POL-1 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

<b>Named Employee #2</b>	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) De-Escalation: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 8.400-POL-1 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employees were dispatched to a call of a transient male throwing his clothing from a garbage can onto the street. They arrived at the scene and confronted the transient male, the complainant. The Named Employees determined that the complainant was not throwing garbage into the street. The Named Employees and the complainant exchanged words as the complainant walked away. The Named Employees stepped into their patrol vehicle. The complainant returned and took photos of the Named Employee while they were seated in their patrol vehicle. The Named Employees got out of their vehicle and confronted the complainant. The Named Employees broke contact and left the area.

### **COMPLAINT**

The complainant alleged that one of the Named Employees "body checked" him causing him "to go to the hospital for injuries." During a review of this complaint, OPA added allegations of De-Escalation and Professionalism.

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

Named Employee #1 and his partner, Named Employee #2, in a two-officer car had an interaction with the complainant that began with the officers contacting the complainant on the mistaken belief (due to a 911 call that was incorrect) that the complainant had strewn garbage about. By the time the two officers understood that the complainant had not spilled but was trying to pick up the garbage, the complainant was offended and hostile over having been falsely accused. Wisely, the two officers explained the source of the confusion. The complainant appeared angry and told the officers to pick the garbage up themselves. Named Employee #1 responded that he wasn't going to clean it up. The complainant said something and turned to leave. Additional words were exchanged. The officers then got back into the patrol car. They remained there and a little more than a minute later the complainant walked back to the patrol car and used his cell phone to take photos of it. Rather than just driving away, the officers got out of their car and confronted the complainant. It was apparent to both officers that the complainant was either intoxicated or impaired in some way and in an agitated state. Rather than letting it go, both officers said things that served to further agitate the complainant and missed opportunities to leave the area and remove the opportunity for the complainant to further engage with them. Named Employee #1 reported that the complainant was angry and getting too close to him for comfort. Named Employee #1 said he extended his arms to keep the complainant at a distance but did not strike or push him; rather the complainant walked into Named Employee #1's extended hands. According to Named Employee #1 and Named Employee #2, the complainant did not fall down as a result. The In-Car Video (ICV) audio does not contain any sounds or statements from any of the parties that would support the complainant's claim that he was pushed to the ground with sufficient force to cause injuries requiring later medical care. No evidence was found in this investigation to support the allegation that either Named Employee did or said anything that was a violation of the Professionalism Policy.

## **FINDINGS**

### **Named Employee #1 and #2**

#### Allegation #1

The evidence supports that the Named Employees would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *De-Escalation: When Safe Under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force.*

**Required Training:** The Named Employees should receive specific counseling and training from their supervisor, using this video as a teaching tool, on how to avoid getting into unnecessary arguments or verbal confrontations.

#### Allegation #2

The preponderance of the evidence supports the conclusion that the Named Employees did not use force on the complainant or do anything that would cause him to be injured. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: Use of Force: When Authorized.*

#### Allegation #3

The preponderance of the evidence supports the conclusion that the Named Employees did not use force on the complainant therefore they had no duty to report a use of force. 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.*

#### Allegation #4

No evidence was found in this investigation to support the allegation that either Named Employee did or said anything that was a violation of the Professionalism Policy. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Employees Shall Strive to be Professional at all Times.*

*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.*