



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1263

Issued Date: 04/24/2017

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	<b>Not Sustained</b> (Lawful and Proper)
Allegation #2	<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	<b>Not Sustained</b> (Unfounded)
Allegation #3	<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	<b>Not Sustained</b> (Unfounded)
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	<b>Not Sustained</b> (Unfounded)

Allegation #2	<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	<b>Not Sustained</b> (Unfounded)
Allegation #3	<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	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employees were working at the 2016 May Day Protests and contacted the subject.

### **COMPLAINT**

The complainant reported that the Named Employees used excessive force when taking what appeared to be a transgender person into custody during the 2016 May Day Protests.

### **INVESTIGATION**

The OPA investigation included the following actions:

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

### **ANALYSIS AND CONCLUSION**

The preponderance of the evidence from the OPA investigation showed that Named Employee #1 attempted to punch the subject after she moved aggressively toward him and swung at him with her fist. Named Employee #1 grabbed the subject in a “bear hug” and the two of them fell to the ground. Named Employee #1 then used his hands and body weight to control the subject until she could be handcuffed. Given the totality of the circumstances shown by the OPA investigation, the OPA Director found the force used by Named Employee #1 was reasonable, necessary and proportional.

The preponderance of the evidence from the OPA investigation showed that Named Employee #1 did not use force that was prohibited by SPD Policy 8.200(2). Named Employee #1 swung at the subject to defend himself after she assaulted him with her fist. There was no evidence to

support an allegation that Named Employee #1 used force to punish or retaliate against the subject, nor was force used merely because the subject verbally confronted Named Employee #1. Finally, there was no indication Named Employee #1 used force on the subject after she was handcuffed or restrained.

There was no evidence to support the allegation that Named Employee #1 or #2 engaged in bias-based policing or that their actions and decisions with respect to the subject were in any way related to her status as a transgender person.

The preponderance of the evidence from the OPA investigation showed that Named Employee #2 did not use any force on the subject.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

A preponderance of the evidence showed that the force used by Named Employee #1 was reasonable, necessary and proportional. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use of Force: When Authorized*.

#### Allegation #2

A preponderance of the evidence showed that Named Employee #1 did not use force that was prohibited by SPD Policy. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: Use of Force: When Prohibited*.

#### Allegation #3

There was no evidence to support the allegation that Named Employee #1 engaged in bias-based policing. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias - Free Policing: Officers Will Not Engage in Bias-Based Policing*.

### **Named Employee #2**

#### Allegation #1

A preponderance of the evidence showed that Named Employee #2 did not use any force on the subject. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: Use of Force: When Authorized*.

#### Allegation #2

A preponderance of the evidence showed that Named Employee #2 did not use any force on the subject. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Using Force: Use of Force: When Prohibited*.

Allegation #3

There was no evidence to support the allegation that Named Employee #2 engaged in bias-based policing. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias - Free Policing: Officers Will Not Engage in Bias-Based Policing*.

*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.*