



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0361

Issued Date: 10/24/2017

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	Not Sustained (Lawful and Proper)
Allegation #2	<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	Not Sustained (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	Not Sustained (Lawful and Proper)
Allegation #2	<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	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
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)
Allegation #2	<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	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees arrested the complainant and transported him to the precinct.

COMPLAINT

The complainant alleged that the Named Employees choked and threw him to the ground for no reason while the complainant was attempting to utilize restroom facilities in the detention area of the precinct. The complainant further claimed he was assaulted based on his race and that the Named Employees engaged in biased policing.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
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

Named Employee #1 reported grabbing the complainant's left arm in order to control his body and, in concert with the other Named Employees, taking the complainant down to the ground. (See NE#1 FIT Interview, at pp. 10-11.) Named Employee #1 further described holding the complainant down until he could be handcuffed. (See id.) Named Employee #1 reported using no other force. (See generally id.; see also NE#1 OPA Interview.) Named Employee #1 also stated that he did not choke the complainant or view any other officer do so. (NE#1 OPA Interview, at pp. 7-8.)

Manual Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” (8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (See id.) Force is necessary where “no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.” (Id.) Lastly, the force used must be proportional to the threat posed to the officer. (Id.)

Based on Named Employee #1’s description of the force used, and due to the lack of any evidence in the record contradicting his account, the OPA Director believed that the force was reasonable, necessary and proportional. At the time he was in the restroom, the complainant, who was under arrest, was not handcuffed. He was also acting aggressively towards the officers. As such, the officers, including Named Employee #1, were justified in using force to control the complainant’s body, to ensure that he did not physically assault any of the officers, and to take him to the ground and place him into handcuffs.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (Manual Policy 5.140.) This includes different treatment based on the race of the subject. (See id.)

Named Employee #1 stated to OPA that he did not use force on the complainant based on his race. (NE#1 OPA Interview, at p. 8.) In the OPA Director’s review of this case, he found no evidence indicating that Named Employee #1 engaged in biased policing. Moreover, as stated above, the OPA Director found that the officers were justified in using force on the complainant in order to control his person and place him into handcuffs.

At his OPA interview, Named Employee #2 reported using force to control the complainant’s body in order to take him down to the ground and place him into handcuffs. (NE#2 OPA Interview, at pp. 8-9.) Named Employee #2 stated that he believed the takedown to be necessary based on the fact that the complainant was not handcuffed and was behaving aggressively towards the officers. (See id.) Named Employee #2 stated that he did not strike or choke the complainant. (Id. at p. 10.) Named Employee #2 further stated that he saw no other officer choke the complainant. (Id.) Named Employee #2 told OPA that he used no other force than that needed to control and handcuff the complainant. (See id. at pp. 8-10.)

The OPA Director found no evidence indicating that Named Employee #2 used any force other than what he described. The OPA Director further found that force to have been reasonable, necessary and proportional, and thus consistent with policy.

As with the other Named Employees, there was no indication that Named Employee #2 engaged in biased policing. Named Employee #2 denied that his actions towards the complainant were based on bias. (NE#2 OPA Interview, at p. 10.) From the OPA Director’s

review of the evidence, he found that force was used on the complainant based on his conduct, not because of his race.

Named Employee #3 stated that, while in the restroom, the complainant was acting aggressively and was in a fighting stance. (NE#3 OPA Interview, at pp. 5-6.) After an attempt to de-escalate did not work, he and the other Named Employees made the decision to take the complainant down to the ground and to handcuff him. (Id.) Named Employee #3 reported placing the complainant in a modified escort hold and guiding him down to the ground. (Id.) In doing so, Named Employee #3 indicated that he grabbed the complainant's right hand and elbow. (Id.) Named Employee #3 reported using no other force. (See generally id.) Named Employee #3 further denied choking the complainant and stated that he saw no other officer do so. (Id. at p. 7.)

The OPA Director found no evidence indicating that Named Employee #3 used any force other than what he described. The OPA Director further found that force to have been reasonable, necessary and proportional, and thus consistent with policy.

Named Employee #3 indicated to OPA that the complainant's race played no part in Named Employee #3's decision to use force on him. (NE#3 OPA Interview, at pp. 7-8.) The OPA Director found no evidence in the record contradicting this assertion.

FINDINGS

Named Employees #1, #2, and #3

Allegation #1

A preponderance of the evidence showed that the force used by the Named Employees 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

There was no evidence indicating that the Named Employees engaged in biased 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.