



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-0778

Issued Date: 04/22/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: When Authorized (Policy that was issued 01/01/2014)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 8.300 (1) Use of Force Reporting: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued 01/01/2014)
OPA Finding	Sustained
Final Discipline	No Discipline, employee left SPD employment

INCIDENT SYNOPSIS

Officers were dispatched to a car prowler where a male was seen taking items out of a vehicle. Officers found a male suspect who matched the description given by an eyewitness. The suspect fled from the scene. Officer chased the suspect to an apartment building alcove where the suspect was cornered. The Named Employee used his expandable baton and struck the suspect on the legs. The suspect was handcuffed and arrested. The incident resulted in a use of force report which was reviewed by the Force Review Board.

COMPLAINT

The complainant, the Force Review Board, alleged that the Named Employee violated the Use of Force policy during this incident when he deployed his expandable baton and struck the suspect on four separate occasions.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The evidence available from this investigation showed that the Named Employee struck the subject four times with an expandable baton. These strikes were captured on private security video. Based on the video, which contradicted the written use of force statement submitted by the Named Employee, the subject was not assaulting, attempting to assault or acting in an aggressive manner toward the Named Employee when he was struck the first time. Apart from reportedly having a set of keys in one hand, the subject was not displaying a weapon or threatening the Named Employee with a weapon of any kind. Clearly the subject had already displayed a propensity to flee and attempt escape, the Named Employee and a second officer had him cornered in a building alcove at the time the Named Employee struck the subject the first time. The Named Employee's second strike came shortly after the first. While the Named Employee reported only two strikes at the subject with the expandable baton, the security video appears to show two more strikes (or attempted strikes). The OPA Director found that the first and second strike of the expandable baton by the Name Employee were not reasonable, necessary or proportional. Due to a lack of sufficient evidence, the OPA Director was unable to draw a conclusion as to whether or not the apparent third and fourth strikes were consistent with policy.

Policy 8.300 (2), states "Officers shall thoroughly document all reportable uses of force to the best of their ability, including a description of each force application. The Department recognizes the inherent limitations on perception and recall following tense and rapidly evolving circumstances." The OPA investigation showed four strikes at the subject by the Named Employee. However, in his use of force statement, the Named Employee reported striking the subject only twice. Additional inconsistencies between the Named Employee's statement and the security video were noted but could not be further explored due to the retired Named Employee's lack of cooperation with the OPA investigation.

FINDINGS

Named Employee #1

Allegation #1

The weight of the evidence showed that the Named Employee used force that was not reasonable, necessary or proportional. Therefore a **Sustained** finding was issued for *Using Force: When Authorized*.

Allegation #2

The preponderance of the evidence showed that the Named Employee's use of force statement was not thorough and he failed to describe each force application as required. Therefore a **Sustained** finding was issued for *Officers Shall Report All Uses of Force Except De Minimis Force*.

Discipline imposed: No Discipline, employee left SPD employment

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.