



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1792

Issued Date: 06/08/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 6.240 Use of Force: Officers may, in the performance of their official duties, use only the amount of force necessary and reasonable to effect the lawful purpose intended (Policy that was issued 03/26/2010)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 6.180 (2.C) Searches – General: Exceptions to the Search Warrant Requirement – Search Incident to Arrest/Custodial Search (Policy that was issued 05/16/2012)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 5.001 (VII.A.2.a) Standards & Duties: Professionalism - Courtesy (Policy that was issued 08/15/2012)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was dispatched to a Domestic Violence (DV) Assault. The Named Employee contacted the suspect in this case, who is the complainant. Officers arrested the complainant for DV Assault and property destruction. During arrest, the complainant attempted to bite and kick officers.

COMPLAINT

The complainant alleged that the Named Employee used excessive force by bending her arm back, slamming her head against the wall, and applying her handcuffs too tight. It is further alleged that the Named Employee touched her inappropriately during a pat down. This is alleged to have occurred in September 2013.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The preponderance of the evidence from the OPA investigation supports the conclusion that the Named Employee did not bend the complainant's arm back and hurt her, slam the complainant's head into a wall or put the handcuffs on too tight. The only force used by the Named Employee was *de minimis* and not-reportable. The policy says, "suspects will not be searched by officers of the opposite gender unless there is a reasonable likelihood that the suspect possess a weapon or other object capable of causing injury or which could facilitate escape." The Named Employee clearly articulated during his OPA interview why he considered it unreasonable to either wait for a female officer to conduct the pat-down search (he estimated a 30 to 40 minutes wait time) or transport the complainant to the precinct without searching her for weapons. The preponderance of the evidence supports the conclusion that it would have been unsafe and/or unreasonable to delay the search of the complainant until a female officer could respond to the scene or, in the alternative, transport the complainant to the precinct without searching her. The allegation was that the Named Employee inappropriately and without necessity used his hand to touch the complainant's crotch during his pat-down search for weapons. While the evidence clearly shows the Named Employee did perform a hand search for weapons of the outside of the complainant's clothing, other than the complainant's allegation, there is no evidence to support this allegation. None of the other officers present recalled seeing or hearing anything that would indicate this happened. In addition, the Named Employee denies touching the complainant in that area of her body.

FINDINGS

Named Employee #1

Allegation #1

The preponderance of the evidence supports that the Named Employee only used force that was *de minimis* and not-reportable. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force: Officers may, in the performance of their official duties, use only the amount of force Necessary and reasonable to effect the lawful purpose intended.*

Allegation #2

The preponderance of the evidence supports that it would have been unsafe and/or unreasonable to delay the search of the complainant by the Named Employee. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Searches – General: Exceptions to the Search Warrant Requirement – Search Incident to Arrest/Custodial Search.*

Allegation #3

The preponderance of the evidence supports the conclusion that the allegation did not occur as alleged. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards & Duties: Professionalism - Courtesy.*

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.