



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0882

Issued Date: 03/31/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department</u> 8.400 (10) Use of Force Reporting and Investigation: The Incident Commander Will Make Appropriate Notifications of Serious Officer Misconduct or Criminal Liability (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Training Referral)

Allegation #2	<u>Seattle Police Department</u> 8.400-POL-3 (3) Use of Force: The Sergeant Will Make Appropriate Notifications When He or She Believes that Criminal Conduct or Serious Misconduct May Have Occurred (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #5	
Allegation #1	<u>Seattle Police Department</u> 5.002 (6) Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct (Policy that was issued January 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were involved in the arrest of a subject.

COMPLAINT

The complainant, the Force Review Unit, alleged that Named Employee #1 may have violated policy by not properly reporting a possible out of policy use of force. Upon review of a referral from the Force Review Unit, OPA added Named Employees #2, #3, #4, and #5 for violation of policy by not properly reporting a possible out of policy use of force.

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

The preponderance of the evidence showed that Named Employee #1 concluded that the use of force was consistent with policy. Taking what Named Employee #1 knew or should have known at the time, this conclusion was not unreasonable. Based on this conclusion, Named Employee #1 was under no obligation to report series officer misconduct or criminal liability.

The preponderance of the evidence showed that Named Employee #1 was not aware of any complaint having been made by the subject concerning the force used against him. As such, Named Employee #1 had no obligation to report this.

The OPA investigation showed that the subject made statements to Named Employee #2 expressing his displeasure at having been arrested and injured by officers. The subject stated that he was in fear of his life because of how the officers treated him. While the subject never used the word "complaint," it seemed clear from the ICV of his interaction with Named Employee #2 that the subject was objecting to being struck in his face and body by the officers.

The preponderance of the evidence showed that Named Employee #2 concluded that the use of force was consistent with policy. Taking what Named Employee #2 knew or should have known at the time, this conclusion was not unreasonable. Based on this conclusion, Named Employee #2 was under no obligation to report series officer misconduct or criminal liability.

The preponderance of the evidence from this investigation showed that Named Employees #3, #4, and #5 were not aware of any complaint expressed by the subject, nor did Named

Employees have independent knowledge regarding any potential misconduct requiring them to notify their supervisor or OPA.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 was under no obligation to report serious officer misconduct or criminal liability. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: The Incident Commander Will Make Appropriate Notifications of Serious Officer Misconduct or Criminal Liability*.

Allegation #2

A preponderance of the evidence showed that Named Employee #1 was not aware of any complaint having been made by the subject concerning the force used against him. therefore a finding of **Not Sustained** (Unfounded) was issued for *Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct*.

Named Employee #2

Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct*.

Required Training: Named Employee #2's supervisor should remind Named Employee #2 of the importance of listening to what people say when screening an arrest or interviewing the subject of Type II Use of Force. Clear expressions of displeasure, anger, objection or outrage over officers' actions may be considered a complaint. If so, the 180-day investigative time limit begins at that time and it is any supervisor's obligation to refer the matter to OPA or his/her supervisor as soon as possible. When in doubt, a supervisor may contact the OPA Lieutenant to determine if the matter needs to be referred to OPA.

Allegation #2

A preponderance of the evidence showed that Named Employee #2 was under no obligation to report serious officer misconduct or criminal liability. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force: The Sergeant Will Make Appropriate Notifications When He or She Believes that Criminal Conduct or Serious Misconduct May Have Occurred*,

Named Employees #3, #4, and #5

Allegation #1

A preponderance of the evidence showed that the Named Employees were not aware of any complaint expressed by the subject, nor did the Named Employees have independent knowledge regarding any potential misconduct requiring them to notify their supervisor or OPA.

Therefore a finding of **Not Sustained** (Unfounded) was issued for *Responsibilities of Employees Concerning Complaints of Possible Misconduct: Employees Must Otherwise Report Misconduct.*

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.