



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0259

Issued Date: 11/28/2017

| Named Employee #1 | |
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| Allegation #1 | <u>Seattle Police Department Manual</u> 8.400 (3) Use of Force Reporting and Investigation: The Sergeant Will Review the Incident and Do One of the Following: (Policy that was issued September 1, 2015) |
| OPA Finding | Sustained |
| Allegation #2 | <u>Seattle Police Department Manual</u> 8.400 (POL-2. 1.) Use of Force Reporting and Investigation: Use of Force Type 1 Investigations: Sergeants Must Screen Uses of Reportable Force In-Person... (Policy that was issued September 1, 2015) |
| OPA Finding | Sustained |
| Final Discipline | 2 Day Suspension |

INCIDENT SYNOPSIS

An SPD officer arrested a subject for an outstanding SMC warrant. The officer transported the subject to the precinct and screened the arrest with the Named Employee. The officer then subsequently transported the subject to the jail. During the transport, the subject complained of handcuff pain. Upon arriving at the jail, the officer called the Named Employee to report the complaint of pain in accordance with policy. The Named Employee did not screen the reportable use-of-force in person. He wrote in his sergeant's review that he was driving home when he received the call from the officer. The Named Employee continued on to say that he attempted to reach a 2nd watch supervisor, however, all of second watch was involved in a traffic roll over the clearing of transient camps ordered by SFD and that it was impractical for him to return. He directed the officer to photograph the subject's wrists.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee received a report from a subordinate that a prisoner he had transported to jail had complained of handcuff pain. The Named Employee had left work for the day and did not direct the subordinate to request an on-duty supervisor respond to the jail as required, nor did he respond back himself to screen the force incident. The Named Employee directed the subordinate to photograph the suspect's wrists prior to returning and completing a Blue Team Type I report for handcuffing.

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

On the date in question, an SPD officer arrested a subject based on an outstanding misdemeanor warrant. (Officer Moore Type I Use of Force Report.) The officer handcuffed the subject, both gauged and double-locked the handcuffs, and transported the subject to the precinct, where the arrest was screened by Named Employee #1. (Id.) At the time of the handcuffing, during transport to the precinct, and when the arrest was screened, no complaint of pain was made. (See id.) The officer then transported the subject to the jail. During that transport, however, the subject "started moving around in the back seat and moaning." (Id.) The subject then "said that the handcuffs were too tight." (Id.) The officer initially told the subject to sit back in the indent in the seat in order to minimize discomfort, and, upon arrival at the jail, inspected the handcuffs and the subject's wrist. (Id.) The officer believed that the handcuffs were not too tight and ensured that they were double-locked. (Id.) The officer further did not observe any injuries to the subject's wrists; however, pursuant to policy, he reported the force to his sergeant, Named Employee #1. (Id.)

Manual Policy 8.400-POL-1(3) requires that upon verbal notification by an officer of a reportable use of force, a sergeant "will review the incident" and do one of the following: (1) classify the investigation as a Type I use of force; (2) classify the investigation as a Type II use of force; or (3) call the FIT captain and screen a Type III response by FIT.

The elements of the sergeant's review of an incident are set forth in Manual Policy 8.400-TSK-2, and include, among other requirements in the context of a Type I investigation: screening the incident in person, which involves an immediate response to the scene unless it would be impractical and photographing of the alleged injury or area of pain. As the OPA Director found

(as explained in detail below) that Named Employee #1 violated 8.400-POL-2, it informed his conclusion that Named Employee #1 was also in violation of 8.400-POL-1(3).

Manual Policy 8.400-POL-2 requires, among other conduct, that “sergeants must screen uses of reportable force in-person with the involved officer and the subject, unless impracticable, prior to the subject being booked or released.”

Upon the complainant stating that the handcuffs were too tight and causing him pain, the officer notified Named Employee #1 of the complaint by telephone. (See Officer Moore OPA Interview, at pp. 2-3; NE#1 OPA Interview, at p. 2.) At the time of the call, which Named Employee #1 identified as approximately 1130 hours, Named Employee #1 was in his personal vehicle driving home on the freeway. (NE#1 OPA Interview, at p. 2.) Named Employee #1 had gone off duty right after the arrest. (Id.)

During their conversation, Named Employee #1 asked the officer if there were any injuries and the officer relayed that there were not. (Officer Moore OPA Interview, at p. 3.) Named Employee #1 then instructed the officer to take photographs of the claimed injuries, to create a Type I Use of Force Blue Team entry, and to upload the photographs into the DEMS (Digital Evidence Management Software) system. (See id.) Named Employee #1 did not instruct the officer to call another supervisor to come to the scene. (See id.)

At his OPA Interview, Named Employee #1 claimed that he did not screen the force in person because it was impractical. (NE#1 OPA Interview, at p. 3.) His explanations for why it was impractical were: (1) he was off duty; and (2) he was in bumper to bumper traffic leaving the City and turning around and driving to the jail would have taken 30 to 45 minutes. (See id. at pp. 3, 4-5.)

First, at the time of the incident, Named Employee #1 was working first watch. As such, according to information provided on SPD’s website, his shift would have lasted from either approximately 0300 hours to 1200 hours or 0330 hours to 1230 hours. (See <http://www.seattle.gov/police/about-us/about-policing/patrol>.) Based on Named Employee #1’s own statements, he had thus left work at least 30 minutes early and was driving home during his shift. Moreover, and importantly, he was still technically on his shift when he received the call from the officer reporting the force.

Second, even if the OPA Director found that it was impractical for Named Employee #1, himself, to respond to the scene, he failed to take sufficient steps to ensure that another sergeant screened the force in person. During his OPA interview, Named Employee #1 claimed that, at the time the force was reported to him, there had just been a shift change coupled with a significant accident on the freeway and law enforcement action with regard to a homeless encampment. (NE#1 OPA Interview, at pp. 4-5.) As a result, Named Employee #1 claimed that he “knew [other supervisory personnel] were busy.” (Id. at p. 3.) Named Employee #1 stated in his OPA interview that, based on his presumption that everyone was “tied up,” he took no action to reach another sergeant. (Id. at p. 4.) Notably, a review of the RMS system confirmed that

while there was an accident on the freeway consistent with what Named Employee #1 described, only one sergeant was logged into the event and that sergeant did not log in until 1420 hours – nearly three hours after the force was reported to Named Employee #1.

Based on the evidence in this case and on Named Employee #1's own statements, the OPA Director found that he violated 8.400-POL-2. It is the responsibility of sergeants when notified of force to screen that force in person unless impractical. The Director concluded that, based on a preponderance standard, it was not impractical for Named Employee #1 to respond to the scene. He further concluded that Named Employee #1 failed to take any action to ensure that another supervisor screened the use of force. Instead, his officer was put in the unenviable position of having to screen the force he, himself, used, in violation of policy. The OPA Director further noted that, while not the fault of the officer, the photographs did not properly document the injuries as they failed to "allow verification of the identity of the person being photographed" and were also entered into the DEMS system incorrectly. (Lt. Drain Chain of Command Review.) This was exactly the reason why sergeants, who are trained to screen force, are required by policy to do so.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that as the Named Employee violated allegation #2, he was also in violation of this allegation. Therefore a **Sustained** finding was issued for *Use of Force Reporting and Investigation: The Sergeant Will Review the Incident and Do One of the Following:*

Allegation #2

A preponderance of the evidence showed that the Named Employee violated 8.400-POL-2. Therefore a **Sustained** finding was issued for *Use of Force Reporting and Investigation: Use of Force Type 1 Investigations: Sergeants Must Screen Uses of Reportable Force In-Person...*

Discipline Imposed: 2 Day Suspension

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.