



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number 2016OPA-0904

Issued Date: 08/07/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.400 (2) Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.400 (2) Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Training Referral)

Allegation #2	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (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 Manual</u> 8.400 (2) Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 8.400 (2) Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued September 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 did not immediately report that he had used force to a supervisor. During the OPA investigation, it was determined that Named Employee #2 was present when the arrested subject complained of handcuff pain, and that Named Employee #4 was present as well.

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 subject was arrested in a joint SPD and FBI task force operation. During the incident, a foot pursuit took place, with the subject eventually complying and getting down on the ground. Once the subject was on the ground, Named Employee #2 exited his patrol car and, along with another unknown SWAT officer, placed the subject in handcuffs. Named Employee #1 did not recall if he double locked the handcuffs or checked the gauge between the cuffs and the subject's wrists. Named Employee #2 assisted by standing the subject up and eventually re-adjusting the subject's handcuffs. At a later date, a supervisor was completing a Use of Force report due to SWAT deploying a blast ball at the subject during the foot pursuit. During his review of ICV, the supervisor heard the subject complain about the pain he was experiencing from the handcuffs. Named Employee #1 was ordered to complete a Use of Force report in which he documented that he did not hear any complaint of pain after applying the handcuffs, but did hear the subject state that the handcuffs were "hella tight." Named Employee #1 observed Named Employee #2 adjusting the handcuffs.

Named Employee #1 had an obligation to notify a supervisor that the subject had made a complaint of pain in connection with the handcuffs being placed on him. No specific word is required for a subject to indicate pain and, in this case, Named Employee #1 would have been well advised to inform a supervisor of the subject's complaint of extreme discomfort.

Named Employee #1 applied handcuffs to the subject in a manner that was observed by Named Employee #2 to potentially cause pain from the handcuffs. Named Employee #1 indicated that all he heard from the subject was that the handcuffs were "hella tight" and that he noticed the

subject was uncomfortable. While Named Employee #1 indicated he did not hear any complaints of pain from the subject, it appeared from his own entry of the incident, after the fact, that he was aware that the handcuffs were causing the subject discomfort. A subject in handcuffs need not use specific terms such as “pain” or “ouch” for this to be considered a Type 1 use of force.

The complainant alleged that Named Employee #2 failed to notify a supervisor of the subject’s complaint of pain associated with handcuffs. Named Employee #2 saw that the handcuffs had been applied incorrectly to the subject and adjusted them while they were still at the scene. As Named Employee #2 adjusted the handcuffs, he heard the subject complain about them being too tight. Named Employee #2 told OPA he did not believe he needed to screen this with a supervisor since it was not an “official complaint of pain” and a Lieutenant was nearby when the subject expressed his discomfort regarding the handcuffs. The obligation to notify a supervisor regarding a specific fact or incident is an affirmative duty and cannot be satisfied by simply noting the presence of a supervisor at a scene.

Named Employee #2 was not the officer who applied the handcuffs and was not required, other than to notify a supervisor, to report this Use of Force with a report.

Named Employee #3 was the highest ranking person on-scene during the incident. Named Employee #3 recalled observing Named Employee #2 readjusting the handcuffs for the subject, but did not know specifically why Named Employee #2 was doing that. Named Employee #3 did not apply the handcuffs and did not screen the Use of Force.

Named Employee #3 was not the officer who applied the handcuffs and did not transport the subject. Additionally, during his OPA Interview, Named Employee #3 indicated that he did not hear any complaints of pain from the subject.

Named Employee #4 was not involved in the physical arrest of the subject and did not see handcuffs being applied to the subject. He did not recall or observe any complaints of pain while the subject was being transported from the ground to the patrol car, or during his observation of the subject.

Named Employee #4 did not use any reportable force on the complainant and did not apply the handcuffs.

FINDINGS

Named Employee #1

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 *Use of Force Reporting*

and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force.

Required Training: Named Employee #1 should be reminded by his supervisor of the intent of the Use of Force policy and the need to notify a supervisor when a subject expresses pain, as well as documenting the incident with a Use of Force Report.

Allegation #2

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*

Required Training: The same as for allegation #1, above.

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 *Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force.*

Required Training: Named Employee #2 should be reminded by his supervisor and instructed on the importance of explicitly screening all force other than de minimis with a supervisor.

Allegation #2

A preponderance of the evidence showed that Named Employee #2 was not required to report this Use of Force with a report. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*

Named Employee #3

Allegation #1

A preponderance of the evidence showed that Named Employee #3 did not apply the handcuffs and did not screen the Use of Force. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force.*

Allegation #2

A preponderance of the evidence showed that Named Employee #3 did not apply the handcuffs, did not transport the subject, and did not hear any complaints of pain from the subject. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*

Named Employee #4

Allegation #1

A preponderance of the evidence showed that Named Employee #4 was not involved in the physical arrest of the subject, did not see handcuffs being applied to the subject, and did not recall or observe any complaints of pain from the subject. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force.*

Allegation #2

A preponderance of the evidence showed that Named Employee #4 did not use any reportable force on the complainant and did not apply the handcuffs. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force*

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.