



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0033

Issued Date: 07/13/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: Use of Force: When Authorized (Policy that was issued 01/01/2014)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 8.100 (2) Using Force: Use of Force: When Prohibited (Policy that was issued 01/01/2014)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 8.000 (2) Use-of-Force Core Principles: When Time, Circumstances and Safety Permit, Officers Will Take Steps to Gain Compliance and De-Escalate Conflict Without Using Physical Force (Policy that was issued 01/01/2014)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was assisting officers on a disturbance involving multiple people. A female subject was interfering at the scene. The Named Employee gave the female subject multiple commands to stay back and when she refused to follow his orders, he arrested her for obstruction. As the Named Employee escorted the female subject to the patrol car, she resisted. Reportable force was used.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee failed to use de-escalation during his arrest of a female subject when he placed her in the back of a patrol car by tossing her face down.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The complainant alleged the Named Employee used force that was not reasonable, necessary and/or proportional. The specific force used was to manually push a handcuffed female subject head-first into the back of a patrol car in such a way that she landed on her stomach or side. The arrest of this subject for obstruction took place in the middle of a highly chaotic incident involving multiple detainees and a number of officers. At the moment the Named Employee pushed the subject into the police car she was struggling to break free from the Named Employee and had already tried to kick him. Simultaneously, other officers were actively attempting to control non-compliant subjects who were nearby. Given the totality of the circumstances, including the number of officers and detainees, the increasing potential for violence by the detainees, the chaotic nature of the scene at that time and the relative inexperience of some of the officers present, the OPA Director found the force used by the Named Employee to get the female subject into the police car was reasonable, necessary and proportional.

The female subject was handcuffed at the time she was pushed head-first into the back of a patrol car in such a way that she landed on her stomach or side. Given that she was handcuffed, SPD policy prohibited the use of force against her except in “exceptional circumstances when the subject’s actions must be immediately stopped to prevent injury, escape, or destruction of property.” The evidence from the OPA investigation found that the female subject was attempting to break free from the Named Employee’s grasp by pulling and twisting as he led her to the police car after she was arrested and handcuffed. When he first attempted to place her in the back of the car, the subject used her foot to kick the side of the police car and push her and the Named Employee backwards. The Named Employee told OPA he was concerned she was trying to escape and he was worried, if she did, she would attempt to intervene in what other officers were doing. The OPA Director believed the preponderance of the evidence, including the subject’s own actions, proves the necessity for the Named Employee to take immediate action to prevent her escape. Additionally, the subject had tried to kick the Named Employee and her feet were still swinging about. The Named Employee expressed a concern about being kicked and injured by the subject if he did not get her quickly

secured inside the police car. The preponderance of the evidence, including the subject's own actions, proves the necessity for the Named Employee to take immediate action to prevent injury.

Prior to placing the female subject under arrest, the Named Employee attempted more than once to use verbal persuasion and open-hand directions to keep the female subject away from the area where the officers were engaged with several detainees. These were not effective and the Named Employee finally placed her under arrest. She immediately began resisting and struggling with the officer. Her arrest also prompted one of the male detainees to jump up and move towards the Named Employee and the female subject. The circumstances required the Named Employee to act quickly and remove the female subject from the area in hopes that the other detainees would calm down. The preponderance of the evidence from the OPA investigation shows there was no time to attempt de-escalation at that point; it would have been unsafe to do so. The course of action the Named Employee chose, to remove the female subject from the immediate vicinity of the other detainees and quickly get her inside a police car, was reasonable given the totality of the circumstances.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that the force used by the Named Employee was reasonable, necessary and proportional. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Use of Force: When Authorized*.

Allegation #2

The preponderance of the evidence, including the subject's own actions, proves the necessity for the Named Employee to take immediate action to prevent injury. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Use of Force: When Prohibited*.

Allegation #3

The preponderance of the evidence from the OPA investigation shows there was no time to attempt de-escalation at that point; it would have been unsafe to do so. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Use-of-Force Core Principles: When Time, Circumstances and Safety Permit, Officers Will Take Steps to Gain Compliance and De-Escalate Conflict Without Using Physical 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.