



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-0491

Issued Date: 03/18/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: When Authorized (Policy that was issued 01/01/2014)
OPA Finding	Not Sustained (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 8.200 (5) Use-of-Force Tools: Officers Are Prohibited From Using Less-Lethal Tools or Other Techniques in the Following Circumstances Absent Active Aggression by the Subject That Cannot be Reasonably Dealt with in Any Other Fashion (Policy that was issued 05/16/2012)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

INCIDENT SYNOPSIS

The named employee was assisting with taking an assault suspect into custody.

COMPLAINT

The complainant, the Force Review Unit, alleged that the named employee used force and used an impact weapon that may have violated policy.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The OPA investigation reviewed the force used by the named employee in this incident. The named employee placed his right foot on top of the subject's head for a brief moment and then removed it. This may have been inadvertent, the result of the named employee being off balance, not an intentional act or use of force. The named employee struck the subject multiple times with an expandable baton. The named employee struck the subject's hand and leg with the baton as the subject's hand was moving towards his pocket. In light of the subject's failure to comply with the officers command for him to get down on the ground combined with the named employee's knowledge that the subject was armed with a knife and had previously displayed it in an aggressive manner, it was determined that these two uses of the expandable baton were consistent with SPD policy. The named employee then struck the subject on the legs with the baton as other officers were attempting to get hold of the subject's arms and pull him to the ground. These uses of the expandable baton against the subject's legs while the subject was still standing were similarly consistent with the policy. The subject's active physical resistance, the fact he was known to be armed with a knife, his recent use of the knife to threaten someone constituted an on-going state of aggression by the subject. In addition, the presence of several members of the public, including a child, made it imperative this subject be brought under control so he could not harm anyone. Finally, the named employee used the expandable baton to deliver, or attempt to deliver, two shallow strikes to the subject's arm or shoulder area after the subject had been taken to the ground, but before his hands had been brought out from under his body and restrained in cuffs. As stated above, the subject's aggression and the threat posed by him continued as he actively and physically resisted the officers and kept his hands under his body in close proximity to his pocket where he had previously been observed to place a knife.

FINDINGS

Named Employee #1

Allegation #1

The evidence does not support or refute that the named employee used force in a manner not consistent with the policy. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Using Force: When Authorized*.

Allegation #2

The weight of the evidence showed that the named employee used the baton consistent with SPD policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Use-of-Force Tools: Officers Are Prohibited From Using Less-Lethal Tools or Other Techniques in the Following Circumstances Absent Active Aggression by the Subject That Cannot be Reasonably Dealt with in Any Other Fashion.*

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.