



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-1570

Issued Date: 06/10/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) 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 09/01/15)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

<b>Named Employee #4</b>	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) 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 09/01/15)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

Officers contacted a possible burglary suspect. When officers attempted to stop the suspect from leaving, the suspect assaulted one of the officers. Force was used to take the suspect into custody which resulted in injuries that required a Force Investigation Team (FIT) callout.

### **COMPLAINT**

The complainant, a supervisor within the Department, alleged that Named Employee #1 and #3 used “unprofessional language” during the incident, that Named Employee #2 failed to report his use of force in a timely manner, and that Named Employee #4 may have used force on the subject and did not complete a use of force statement.

### **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. Review of Force Investigation Team (FIT) Investigation
5. Interviews of SPD employees

### **ANALYSIS AND CONCLUSION**

Named Employee #1 was alleged to have told a subject to shut up multiple times with the use of profanity. The OPA investigation showed that Named Employee #1 admitted to using profanity in this manner. Named Employee #1 also told OPA he did not use this profanity in a derogatory manner directed at the subject, but as a means to get the subject’s attention. The circumstances surrounding Named Employee #1’s use of profanity, as shown by the preponderance of the evidence, support Named Employees #1’s claim there was a legitimate need to get the subject to stop shouting and that other methods had been tried and were unsuccessful. Nonetheless, the use of profanity such as this should be avoided when possible.

It was alleged that Named Employee #2 failed to verbally notify an on-duty supervisor about the subject's complaint of pain in connection with Named Employee #2 holding the subject's legs. Complaint of pain in connection with force, even force that is *de minimis*, is reportable force under SPD Policy. The preponderance of the evidence showed that Named Employee #2 engaged in conversation with the subject about the subject's expressions of pain in his legs at the same time Named Employee #2 was restraining the subject's legs. However, the OPA investigation was not able to produce a preponderance of evidence to either prove or disprove Named Employee #2's assertion that he did notify a supervisor. Nonetheless, Named Employee #2 bore the primary responsibility for making certain the supervisor understood he (Named Employee #2) had used force and needed to document it in a report.

Named Employee #3 was alleged to have used a derogatory term in addressing a subject. The OPA investigation showed that the offensive term was used during an interaction. However, there was insufficient evidence to form a preponderance to either prove or disprove that it was Named Employee #3 who uttered that word.

It was alleged that Named Employee #4 failed to verbally notify an on-duty supervisor about the subject's complaint of pain in connection with Named Employee #4 holding the subject's legs. Complaint of pain in connection with force, even force that is *de minimis*, is reportable force under SPD Policy. The preponderance of the evidence from this investigation showed that the subject made no complaints of pain during the limited time Named Employee #4 was holding the subject's ankle.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence supports that Named Employee #1 would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Employees Shall Strive to be Professional at all Times*.

**Required Training:** Named Employee #1 should receive counseling from his chain of command regarding the importance of using language that models the professional image of SPD and its officers and how profanity, while potentially a helpful attention-getting device, can serve to make some situations more volatile.

## **Named Employee #2**

### Allegation #1

The evidence supports that Named Employee #2 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 receive counseling from his chain of command regarding the importance of him clearly and accurately reporting to an on-duty supervisor any complaint of pain or injury associated with the use of force.

## **Named Employee #3**

### Allegation #1

There was insufficient evidence to form a preponderance to either prove or disprove that Named Employee #3 spoke unprofessionally. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Employees Shall Strive to be Professional at all Times.*

## **Named Employee #4**

### Allegation #1

The preponderance of the evidence showed the subject made no complaints of pain during the limited time Named Employee #4 was holding the subject's ankle. 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.*

*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.*