



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0645

Issued Date: 03/13/2018

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued September 1, 2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

INCIDENT SYNOPSIS

On this date in question, officers approached the Complainant and another individual in order to cite them for crossing a street against the signal.

COMPLAINT

The Complainant alleged that the Named Employees choked him and broke his arm.

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

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in

light of the circumstances surrounding the event.” (8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (See *id.*) Force is necessary where “no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

With regard to the minor force used by Named Employee #1, the OPA Director found that it was reasonable, necessary and proportional, and consistent with policy. Named Employee #1 reported using force to hold the Complainant’s body upright while walking him to the car, as well as force necessary to pull him into the patrol vehicle when he refused to place his feet inside. Once the Complainant was handcuffed and under arrest, Named Employee #1 had the lawful authority to place him into the patrol vehicle for transport to the precinct. When the Complainant refused to cooperate, Named Employee #1 was entitled to use force to ensure that he did so. Notably, Named Employee #1 used only the least force necessary.

While the Complainant alleged a broken arm as a result of the force used against him, as explained above, the OPA Director found no evidence indicating that such an injury ever occurred, let alone that it was caused by Named Employee #1’s force.

Named Employee #2 reported chasing after the Complainant with Named Employee #4. Named Employee #2 grabbed the back of the Complainant’s head (by cupping the base of his neck) and the back of his arm and pushed him towards the ground, which he described as a “basic body wrap takedown.” Named Employee #2 and Named Employee #4 were able to get him onto the ground. The Complainant kept trying to get up and Named Employee #2 and Named Employee #4 kept trying to keep him down. Eventually, Named Employee #2 laid on top of the Complainant with his chest on the Complainant’s back. The officers were then able to handcuff him. While Named Employee #2 recalled that the Complainant stated that he could not breathe at one point, Named Employee #2 reported that his airways were not restricted. Named Employee #2 also opined that the Complainant likely could breathe fine due to the fact that he was talking throughout the encounter. Named Employee #2 reported using no other force.

The OPA Director found that the force used to take the Complainant down to the ground was reasonable, necessary and proportional, and thus consistent with policy. The takedown was controlled and the Complainant was prevented from escaping by Named Employee #2 placing his body weight on top of him. At no point did Named Employee #2 strike the Complainant, even though, based on Named Employee #2’s account, there was more than passive resistance. Named Employee #2 used only that level of force necessary to secure and handcuff the Complainant.

Named Employee #3, like Named Employee #1, tried to get the Complainant into the patrol vehicle. In doing so, Named Employee #3 worked with other officers to push and pull the Complainant’s body to get him inside so that the door could be closed. While, at that time, the Complainant complained that his arm was broken, the OPA Director found no evidence that Named Employee #3 used any force that could have caused such an injury.

The force actually used by Named Employee #3 was de minimis, was purposed to secure the Complainant in the patrol vehicle, and was consistent with policy.

Named Employee #4 chased after the Complainant when he ran away, and was the first officer to catch up to him. When he did so, Named Employee #4 grabbed the Complainant’s backpack

and then the Complainant's waistband to try to pull him to the ground. Ultimately, Named Employee #4 was, with Named Employee #2's help, able to pull the Complainant down to a grassy patch on the side of the street. Once the Complainant was on the ground, Named Employee #2 and Named Employee #4 held him down until they could handcuff him. Named Employee #4 used no further force.

As with the other Named Employees, the OPA Director found that the force used by Named Employee #4 was consistent with policy. Named Employee #4 used only that level of force needed to get the Complainant onto the ground and then to place him into handcuffs. The minimal force used by Named Employee #4 was reasonable, necessary and proportional.

FINDINGS

Named Employees #1, #2, #3, and #4

Allegation #1

A preponderance of the evidence showed that the Named Employees did not violate policy with their Use of Force. Therefore, a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: Use of Force: When Authorized*.

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.