



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-0052

Issued Date: 07/30/2015

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.160 (1) Citizen Observation of Officers: Witnessing Stops, Detentions, Arrests and Other Police Activities (Policy that was issued 06/06/08)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 8.100 (2) Using Force: When Prohibited (Policy that was issued 01/01/14)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The named employee was working during a demonstration as a plainclothes detective.

#### **COMPLAINT**

The complainant alleged that two undercover employees would not tell him who they were during a demonstration. It is further alleged that one of the undercover employees “pushed him sideways” to prevent him from taking his picture.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review the complaint email
2. Interview of the complainant
3. Search for and review of all relevant records and other evidence
4. Interviews of witnesses
5. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

The complainant, a reporter, had every right to contact, observe and/or photograph the two plainclothes SPD officers standing in a public place. At the same time, the two officers had every right to avoid interacting with or being photographed by the complainant.

Although neither of the two officers involved in this incident were obligated to pose for a photograph by the complainant and each had the right to turn or walk away to avoid having their faces photographed, the use of force (even *de minimis* force) by named employee #1 to prevent the complainant from taking a photograph would be prohibited by SPD policy, "An officer may not use physical force ... to punish or retaliate ... against individuals who only verbally confront them ..." Both the complainant and named employee #1 agree there was physical contact made between them as the two officers turned to walk away. They do not agree on whether it was named employee #1 or the complainant who walked into the other. The complainant believes the contact was an intentional act by named employee #1, while named employee #1 described it more as inadvertent contact caused by the complainant's movement. While the account of the complainant seemed more plausible, there was insufficient evidence in support of either account to form a preponderance.

SPD would be well advised to improve the skills of officers engaged in similar assignments to avoid such easy detection by members of the public and to specifically train such officers what to do when confronted by others in a fashion similar to what happened in this incident.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The weight of the evidence showed that the named employee had every right to avoid interacting with or being photographed by the complainant as it might have compromised his ability to perform his assigned task. Therefore a finding of **Not Sustained** (Lawful & Proper) was issued for *Citizen Observation of Officers: Witnessing Stops, Detentions, Arrests and Other Police Activities*.

#### Allegation #2

The evidence could not prove or disprove that the named employee intentionally made physical contact with the complainant. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Using Force: When Prohibited*.

*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.*