



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1610

Issued Date: 04/08/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Use of Force: When Authorized (Policy that was issued 04/01/2015)
OPA Finding	Not Sustained (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 09/01/2015)
OPA Finding	Not Sustained (Training Referral)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees responded to a report of a male being threatened by a man with a screwdriver. Officers arrived and contacted the male, the complainant. The complainant had his delivery truck blocking the parking area of an auto repair shop and the employee inside exited and confronted the complainant. After investigating the incident Named Employee #1 advised the complainant that he did not believe that he had probable cause to make an arrest. Based on a comment made by the complainant, Named Employee #1 called a supervisor to the scene. The responding supervisor reported that the complainant was concerned that Named Employee #1 had “put his hands on him” without issuing a verbal warning beforehand and that

Named Employee #2 used the word “barking” in their conversation. The complainant stated that if the officers wrote a letter of apology to him, then he wouldn’t file a complaint. At the scene the complainant stated he was not sure if he wanted to file a complaint.

COMPLAINT

The complainant alleged that Named Employee #1 used excessive, unwarranted force when he “put his hands on him” and that Named Employee #2 used the word “barking” during the conversation.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

Named Employee #1 used an open-palm touch to the complainant’s shoulder together with a verbal command to keep the complainant a safe distance during a conversation in which the complainant appeared to be angry or upset. In-Car Video (ICV) of this contact supports the officer’s characterization of this as *de-minimis* and non-reportable use of force. While this use of force was reasonable, necessary and proportional, it may not have generated the reaction it got from the complainant if Named Employee #1 had given the complainant a second or two to comply with his request to move back before making any physical contact with the complainant.

In speaking with the complainant, Named Employee #2 used the word “barking” to refer to the way in which the complainant was speaking to him. While there is no evidence to suggest that Named Employee #2 intended this to be derogatory, the complainant has reported to OPA he took it to mean that Named Employee #2 thought of him (the complainant) as a dog. “Barking” can be used in everyday speech to describe a certain style of human speech, but, as in this case, it can easily be misunderstood.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that Named Employee #1 used force that was *de-minimis* and non-reportable. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Use of Force: When Authorized*.

Named Employee #2

Allegation #1

The evidence showed that Named Employee #2 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 #2 should receive individualized instruction from his chain of command regarding the proper use of language to effectively communicate and de-escalate persons who appear to be angry or who might be agitated.

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.