



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1831

Issued Date: 06/30/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Officers Use of Force: When Authorized (Policy that was issued 09/01/2015)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 8.400 (1) Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis Force (Policy that was issued 09/01/2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee was working during a protest.

COMPLAINT

The complainant, a supervisor within the Department, alleged that the Named Employee used excessive force by pulling a man's hair at a protest.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The preponderance of the evidence, including the Named Employee's own acknowledgment that he is the officer who pulled the subject's hair, supports the conclusion that the Named Employee reached out between two bike officers, took hold of the back of the subject's long hair and pulled. SPD has trained its officers, including the Named Employee, grabbing and holding a person's hair can be an effective means of controlling and directing a subject when force is authorized. As with any type of force used by SPD officers, grabbing and holding a subject's hair must, "only [be] then to the degree which is reasonable to effect a lawful purpose" SPD Policy § 8.200(1). The specifics of how the tactic was employed in a particular instance (such as the length of time a subject's hair was held and the degree of physical force employed by the officer in pulling the hair) must be reasonable, necessary and proportional given the totality of the circumstances. In the incident under review in this case, the Named Employee's articulated purpose in grabbing and pulling the subject's hair was to put the subject off-balance and distract him from pushing through the line of officers. Pulling the subject off-balance by causing his head to go backwards and down distracted the subject. While the force with which the Named Employee pulled on the subject's hair and the distance he forced the subject's head to go may have been more than was needed to have the intended distracting effect on the subject, the OPA Director could not find this use of force unreasonable or disproportional. The Named Employee has been trained by SPD to use a tactic to the best of his ability and it appears the Named Employee did this in his use of the trained "hair-hold" technique. In addition, the OPA Director took into consideration that the situation at this moment was such that a reasonable officer would likely be experiencing the effects of fear, anxiety and adrenaline. Under such circumstances, a reasonable officer would find it difficult to employ much subtlety in the application of any use of force. Finally, the OPA Director took into account that the hair hold lasted approximately three seconds; once the subject became distracted by his hair being pulled and was no longer pushing (or being pushed) into the bike officer, the Named Employee ceased using force. Therefore, based on the preponderance of the evidence and the totality of the circumstances, the OPA Director found the degree of force used by the NE to be reasonable, necessary and proportional, consistent with SPD policy.

Reportable force is divided into three categories, or “types.” Type I Force is defined as force that is other than *de minimis* (“physical interaction meant to separate, guide, and/or control that does not cause pain or injury”) and causes “transient pain” or “disorientation,” as well as “the aiming of a firearm or beanbag shotgun at a subject.” This investigation clearly showed that the Named Employee used Type I Force when he reached out and pulled the subject’s hair. The subject’s head and upper body were pulled back and down and it was clear from the subject’s response that he experienced “transient pain.” Under normal circumstances, this Type I Force should have been reported according to SPD Policy § 8.400(1) which specifies that “officers shall thoroughly document all reportable uses of force to the best of their ability, including a description of each force application.” However, SPD Policy § 8.500-POL-6 (1) states, “Involved officers do not submit statements for Type I force used during crowd management.” There is no doubt that this use of force (the hair-pull by the Named Employee) took place “during crowd management.” As a result, the Named Employee was not required to report this Type I use of force.

FINDINGS

Named Employee #1

Allegation #1

The evidence supports that the Named Employee used force that was reasonable, necessary and proportional. Therefore a finding of Not Sustained (Lawful and Proper) was issued for *Using Force: Officers Use of Force: When Authorized.*

Allegation #2

There was evidence to support that the Named Employee was not required to report this Type I use of force. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Use of Force Reporting and Investigation: Officers Shall Report All Uses of Force Except De Minimis 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.