



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#20160-0356

Issued Date: 03/21/2017

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	<b>Not Sustained</b> (Inconclusive)
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	<b>Not Sustained</b> (Unfounded)
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	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

## **INCIDENT SYNOPSIS**

The Named Employees took the complainant into custody.

## **COMPLAINT**

The complainant alleged that the Named Employees used "unnecessary misconduct" when they arrested him, and used excessive force when they slammed him to the ground and kned him in the head causing injury.

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

The complainant made two allegations of excessive force against Named Employee #1. The first allegation, which was made against all three Named Employees, was that Named Employees #1, #2, and #3 intentionally grabbed and dragged him to a puddle on the street when they took the complainant to the ground. The complainant said that he was going voluntarily to his knees in a submissive manner when the three officers took/dragged him to the ground and intentionally put the complainant's face in a puddle of water. The preponderance of the evidence did not support this first allegation of excessive force. The evidence supported the officers' claim that the complainant began to pull away from them as they tried to place him under arrest and that they took him to the ground where they were at the time and without any intent or specific action intended to place the complainant's face in the puddle.

The second part of the complainant's allegation of excessive force against Named Employee #1 was that Named Employee #1 intentionally placed his knee on the complainant's head while the complainant was lying face down in the puddle. The complainant alleged that, when he asked the officers why they treated him that way, the officers told him it was in retaliation for the complainant running in a previous case and making an officer fall and get injured. The evidence supported the conclusion that the complainant's face made contact with the wet ground and was likely in a shallow puddle of water. The complainant gave two different statements about this incident, one to the sergeant who investigated the use of force and the other to OPA. There were some inconsistencies between the two accounts, particularly regarding whether or not he was compliant with the officers' orders and with respect to how he was actually taken to the ground. The complainant was consistent in his statements regarding the presence of Named Employee #1's knee on his head and the fact that his face was in a puddle of water. The complainant also repeated his account of being told by the officers that they were being rough

with him in retaliation for an earlier encounter with the police. A civilian witness said that he saw Named Employee #1 put his knee on the complainant's head while the complainant was lying face down on the wet ground. Named Employee #1 denied placing his knee on the complainant's head and stated that his knee was on the complainant's back, just below the neck. This would be a normal location for knee placement when an officer is pinning a resistant subject on the ground. None of the other officers who were witnesses or participants to this part of the incident saw Named Employee #1 put his knee on the complainant's head. In weighing all the evidence and considering the reliability, credibility, and motives of the various parties and witnesses, and in the absence of any video or audio recordings of the incident, the OPA Director was unable to find a preponderance of evidence to either prove or disprove the complainant's allegation that Named Employee #1 placed his knee on the complainant's head in a manner that was unreasonable, unnecessary or disproportionate.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Using Force: Use of Force: When Authorized*

### **Named Employees #2 and #3**

#### Allegation #1

A preponderance of the evidence showed that the Named Employees took the complainant to the ground where they were at the time, without any intent or specific action intended to place the complainant's face in the puddle. Therefore a finding of **Not Sustained** (Unfounded) 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.*