



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-1587

Issued Date: 05/09/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) Using Force: When Authorized (Policy that was issued 01/01/14)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (5) Using Force: When Authorized (Policy that was issued 01/01/14)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (5) Using Force: When Authorized (Policy that was issued 01/01/14)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

<b>Named Employee #4</b>	
Allegation #1	<u>Seattle Police Department Manual</u> 16.090 (2) In Car Video System: All Employee Operating ICV Must be in Uniform and Wear a Portable Microphone (Policy that was issued 02/01/15)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

Named Employees #1, #2 and #3 were dispatched to the emergency room of a hospital to assist security with a subject who was refusing to leave after being discharged and threatening to assault anyone that attempted to remove him. The officers arrived and found the complainant, who is a paraplegic and confined to a wheelchair, refusing to leave. Named Employee #1 asked the complainant to leave and the complainant refused to do so. With some effort, the Named Employees managed to wheel the complainant out of the hospital in his wheelchair. Part of this was captured on security video. The Named Employees reported that the complainant kept grabbing at the wheels and trying to prevent them from wheeling him out. The complainant tried to pull Named Employee #1's arm to bite it but was unsuccessful. Because of the aggressive behavior, the Named Employees lifted the complainant from the wheelchair, placed him on the ground, and handcuffed him. This was not in view of the cameras, but was witnessed by the hospital security guards. Named Employee #4 responded to screen the arrest and initiated a use of force investigation.

### **COMPLAINT**

The complainant alleged that Named Employee #1, #2 and #3 used excessive force while attempting to remove him from a location for trespassing. The supervisor who screened the incident was later named after it was determined that he failed to wear a portable microphone while using In-Car Video (ICV).

### **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

The OPA investigation found that Named Employee #1, #2 and #3 used force that was reasonable, necessary and proportionate to effectively bring the incident under control. The complainant offered resistance, attempted to bite Named Employee #1 and had threatened to assault anyone who tried to remove him. Interviews of witnesses and review of security video support that though officers had difficulty in removing the complainant, and *de minimus* force was used, there is nothing to indicate any other force was used against the complainant. The OPA investigation showed that Named Employee #4 specifically and intentionally removed his portable microphone and left it in his police car before he entered the hospital. He did this in order to comply with the specific prohibition in the policy that states unless there is reasonable suspicion to believe that criminal activity is occurring or will occur, employees shall not intentionally record in places where a heightened expectation of privacy exists, such as a hospital. The investigation showed that the complainant was already in custody before Named Employee #4 arrived at the hospital and there was no reason for him to believe that criminal activity would occur.

## **FINDINGS**

### **Named Employee #1, #2 and #3**

#### Allegation #1

The weight of the evidence showed that Named Employee #1, #2 and #3 acted reasonably based on the information available to them at the time and that their actions were consistent with Department policy. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Using Force: When Authorized*.

### **Named Employee #4**

#### Allegation #1

The weight of the evidence showed that the Named Employee followed the specific prohibition in the policy not to record where a heightened expectation of privacy exists. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *In Car Video System: All Employee Operating ICV Must be in Uniform and Wear a Portable Microphone*.

*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.*