



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2016OPA-0672

Issued Date: 08/07/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.100 (1) De-Escalation: When Safe under the Totality of the Circumstances and Time and Circumstances (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 8.200 (1) Using Force: Use of Force: When Authorized (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 8.200 (4) Using Force: Use of Force: Use of Deadly Force (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The Named Employee was the first officer to arrive on the scene responding to a 9-1-1 call where the caller was reporting that his husband was in crisis and had chased and assaulted him with a knife.

## **COMPLAINT**

It was alleged that the Named Employee may have violated SPD Manual policies related to De-Escalation 8.100 (1) and Use of Force 8.200 (1) and (4) when she used deadly force in a lethal force encounter.

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

SPD policy requires officers, when “safe and feasible under the totality of the circumstances” to “attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution” (8.100(1)). The purpose of an officer attempting to use “de-escalation tactics and techniques” is to “seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance.” In the case at hand, the Named Employee was the first officer to arrive on the scene and she immediately made contact with the person who had called 9-1-1 (the caller) reporting that his husband was in crisis and had chased and assaulted him with a knife. Within just a few seconds, the Named Employee saw the caller’s husband (the subject) walking towards the Named Employee and the caller. The subject had two large knives in his hands, each held so that the tips of the knives were pointing toward the Named Employee and the caller. The Named Employee immediately began attempts to reduce any threat presented by the subject to decrease the possibility she (the Named Employee) might have to use deadly force to protect the caller and herself. The evidence from the Force Investigation Team (FIT) investigation clearly documented that the Named Employee gave eight commands to drop the knives. She said this in a clear and loud voice. The Named Employee also drew her handgun when she first saw the subject approaching with the knives in his hands. In her FIT and OPA interviews, the Named Employee clearly articulated that, as the subject was walking steadily towards her, the primary concern in her mind was the safety of the caller. The Named Employee knew, from the information she received from Dispatch while she was on her way to the call, that the subject had made threats against the caller and assaulted him with a knife. As the subject came steadily closer to the Named Employee, he simultaneously was advancing on the caller who was standing about two feet behind the Named Employee and cradling a small dog in his arms. Given the circumstances facing the Named Employee at that moment, she reasonably feared that the subject might suddenly sprint toward the caller and slash one or both of them; or that the subject might throw the knives at the caller and/or the Named Employee. At this time, the Named Employee was the only police officer on foot at the scene. As the Named Employee was

shouting at the subject to drop the knives, a second officer arrived and positioned himself standing literally shoulder-to-shoulder with the Named Employee. This second officer drew his Taser and pointed it at the subject. As the subject continued to advance on the caller and the two officers, the second officer verbalized a Taser warning to the subject. The warning is required, when feasible, and a tactic trained by SPD for officers to use before deploying a Taser in hopes of gaining compliance without the need for force. The intent is to get the subject to focus on the Taser and change his behavior. However, before the second officer could complete his Taser warning, the Named Employee fired her first shot at the subject.

Given the level of threat posed by the two large knives being held by the subject combined with his failure to drop the knives and/or stop advancing, the OPA Director found it was no longer “safe and feasible” for the Named Employee to attempt further efforts at de-escalation. The Named Employee judged that her duty to protect the caller and the second officer, along with her right to defend herself, compelled her to act at that moment.

SPD Policy 8.200(1) states, “an officer shall use only the force reasonable, necessary, and proportionate to effectively bring an incident or person under control, while protecting the lives of the officer or others.” In the analysis of allegation #1, above, the OPA Director articulated why it was necessary for the Named Employee to use force to stop the immediate and escalating deadly threat posed by the subject armed with two knives. Had the subject dropped the knives and/or ceased his steady advance on the Named Employee, the caller and the second officer, it is possible no force would have been necessary. Similarly, the circumstances made force not only reasonable, but at some point imperative if the Named Employee was to fulfill her sworn duty to protect the caller from the deadly threat. Finally, SPD trains its officers to meet deadly force with deadly force. This is not to say that the Named Employee could not have chosen to attempt a lower level of force before resorting to deadly force. However, the SPD policy does not require an officer to use the lowest level of force available in a given circumstance. The policy requires that the force used must be proportional. This concept of proportionality is defined in 8.200(1) in the following manner:

*To be proportional, the level of force applied must reflect the totality of circumstances surrounding the situation at hand, including the nature and immediacy of any threats posed to officers and others. Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to be applied. Reasonable and sound judgment will dictate the force option to be employed. Proportional force does not require officers to use the same type or amount of force as the subject. The more immediate the threat and the more likely that the threat will result in death or serious physical injury, the greater the level of force that may be proportional, objectively reasonable, and necessary to counter it.*

Taking all the facts and evidence available from the FIT and OPA investigations, the OPA Director found that the Named Employee’s use of deadly force in this particular circumstance was reasonable, necessary and proportional.

SPD Policy 8.200(4) states:

*Deadly force may only be used in circumstances where threat of death or serious physical injury to the officer or others is imminent. A danger is imminent when an objectively reasonable officer would believe that:*

*\* A suspect is acting or threatening to cause death or serious physical injury to the officer or others, and*

*\* The suspect has the means or instrumentalities to do so, and*

*\* The suspect has the opportunity and ability to use the means or instrumentalities to cause death or serious physical injury*

In the analyses for the first two allegations, above, the OPA Director already discussed the facts of this case as determined by the preponderance of the evidence. The evidence clearly demonstrated that, by steadily advancing towards the caller and the two officers, the subject, who was armed with two large knives visible in his hands, was threatening to kill or seriously injure others. It was also clear that the subject had the means and opportunity to do so.

## **FINDINGS**

### **Named Employee #1**

#### *Allegation #1*

The OPA investigation found no evidence to support the allegation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

#### *Allegation #2*

The OPA investigation found no evidence to support the allegation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

#### *Allegation #3*

The OPA investigation found no evidence to support the allegation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

*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.*