



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0492

Issued Date: 11/27/2017

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	Not Sustained (Lawful and Proper)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employee arrested the complainant.

COMPLAINT

The complainant alleged that Named Employee #1 used excessive force fracturing his ribs when he arrested him. Additionally, the complainant alleged that his grandson was also arrested by unknown SPD employees and sustained a broken eye socket and broken ribs. OPA received a second complaint forwarded by Named Employee #1's supervisor in regards to this incident. The supervisor also reported that the complainant alleged that Named Employee #1 used excessive force.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Videos (ICV)
3. Review of Use of Force Documents
4. Search for and review of all relevant records and other evidence
5. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The complainant alleged that he was subjected to excessive force by Named Employee #1 during his arrest. Specifically, the complainant alleged that Named Employee #1 kned and kicked him in the ribs, which resulted in rib fractures.

On the date in question, Named Employee #1 and two other SPD employees performed a traffic stop. The stopped vehicle had two occupants – a female driver and the complainant, who was the front seat passenger. During the stop, the officers learned that the female driver had an open no contact order against the complainant. The officers made the decision to place the complainant under arrest and asked him to exit the vehicle. After he exited the vehicle, the complainant turned to throw something back inside. This object was later discovered to be crack cocaine.

The officers then took the complainant down to the ground in a controlled takedown. While on the ground, he complained of pain several times, including making a complaint of pain concerning his ribs. From a review of In-Car Video (ICV) from the incident, there was no evidence that any officer kned or kicked the complainant in this ribs. It was possible, however, that the complainant suffered pain to his ribs by officers placing weight on that area of his body while they were trying to secure and handcuff him. The complainant was then transported to the precinct.

While at the precinct, Named Employee #1' supervisor screened the complainant's arrest. During that time, the complainant did not complain of injury. However, when the complainant was being transported to the jail, he complained to the transporting officer that he had been subjected to excessive force. The complainant was returned to the precinct. The supervisor was notified of the complainant's allegation and he screened the allegation in person. As part of this screening, he interviewed the complainant. The complainant stated that he had been subjected to excessive force. The supervisor photographed the complainant's alleged injuries. A review of these photographs did not indicate any obvious injury or bruising to the complainant's ribs. The supervisor also called for medical assistance. The complainant was treated by Seattle Fire Department medics who noted his complaint of rib pain. He was not diagnosed with fractured ribs and was not transported to a medical facility for further treatment. The complainant later indicated to the supervisor that he did not want to go to a hospital.

Named Employee #1 reported that he used a soft takedown to take the complainant to the ground. Once the complainant was on the ground, Named Employee #1 kept his body weight on the complainant's back to handcuff him and to keep him secured the other two officers contacted the driver of the vehicle. Named Employee #1 reported using no other force. At his OPA interview, Named Employee #1 denied kneeling or kicking the complainant. The other two officers also denied observing any such force used against the complainant.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." (SPD Policy 8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (See id.) Force is necessary where "no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose." (Id.) Lastly, the force used must be proportional to the threat posed to the officer. (Id.)

The OPA Director found no evidence that the complainant was kneed or kicked in his ribs during his arrest. With regard to the force that was used – the controlled takedown to the ground and Named Employee #1 placing his body weight on the complainant's back in order to handcuff and secure him – the OPA Director found that it was reasonable, necessary and proportional, and thus consistent with policy.

Lastly, the complainant further alleged that his grandson had also been subjected to excessive force by SPD officers. The complainant asserted that this incident occurred in or around April 2017. Based on OPA's investigation, however, the complainant's grandson's last contact with SPD was in 2014 and there was no evidence of an incident consistent with the complainant's account.

FINDINGS

Named Employees #1 and #2

Allegation #1

A preponderance of the evidence showed that the force that was used on the complainant was reasonable, necessary and proportional. Therefore a finding of **Not Sustained** (Lawful and Proper) 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.