



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-0078

Issued Date: 08/10/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 8.200 (1) Use of Force: When Authorized (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 8.000 (5) Use of Force Core Principles: Each Officer Is Responsible for Explaining and Articulating the Specific Facts, and Reasonable Inferences From Those Facts, Which Justify the Officer's Use Of Force (Policy that was issued 09/01/2015)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The Named Employee was working his regular shift in the traffic unit.

#### **COMPLAINT**

The complainant alleged that the Named Employee pushed him off his bicycle without first issuing any commands and then issued him a citation.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Video (ICV)
4. Interview of witnesses
5. Interview of SPD employees

## **ANALYSIS AND CONCLUSION**

The complainant alleged that the Named Employee “willfully & quite dangerously pushed” the complainant off the bicycle he was riding. The complainant asserted that the Named Employee stepped in front of the bicycle being ridden by the complainant leaving no time for the complainant to stop the bike. According to the complainant, it was as he swerved his bike to his left that the Named Employee pushed him (the complainant) which caused him to fall from the bicycle to the roadway. The Named Employee reported that he stepped off the curb into the bike lane with his arms raised while vocally ordering the complainant to stop. The command to stop was a result of seeing the complainant ride the bicycle through a red traffic signal in front of left-turning traffic. The Named Employee also reported that the complainant did not stop but, instead, made to swerve around the Named Employee. The Named Employee said he stepped further into the roadway and it was then that the complainant’s body made contact with the Named Employee’s outstretched hand. According to the Named Employee, this spun both the complainant and the Named Employee around and resulted in the complainant being knocked off his bike and falling to the roadway. In-Car Video (ICV) from a nearby SPD vehicle was recovered that showed some of this interaction. The police vehicle was parked on the opposite side of the street and more than half a block away. Passing trucks and other vehicles block the camera’s view at some moments. Nonetheless, the video does show the Named Employee stepping into the bicycle lane as the complainant is riding through the intersection and approaching the Named Employee. It is difficult to judge the distances between the bike and the officer as the Named Employee stepped into the roadway. However, it appears there was little time and distance for the complainant to see the Named Employee blocking the bike lane and bring his bicycle to a stop. The video appears to be consistent with the complainant’s recollection that the Named Employee stepped into his path and left inadequate time and distance for the complainant to stop, and inconsistent with the Named Employee’s statements that he stepped into the bike lane while the complainant still had the ability to stop. The video also supports the recollection of both the Named Employee and the complainant that the bicycle began to swerve around the Named Employee as the Named Employee stepped further away from the curb and into the street. Furthermore, the video shows some sort of physical contact between the Named Employee and the complainant mounted on the bicycle followed by both of them rotating and the complainant falling to the ground. Unfortunately, the video is unable to resolve the discrepancy between the complainant’s assertions that the Named Employee intentionally pushed him from atop the bicycle and the Named Employee’s claim that the

complainant ran into his (the Named Employee) outstretched hand as the bicycle swerved around the Named Employee. The statements of the independent witnesses were not sufficiently specific to resolve this discrepancy and assist in determining if the contact was a collision or a push. Taking all the evidence into account, the OPA Director did not find a preponderance of evidence to either support or refute the allegation that the Named Employee used force by intentionally pushing the complainant, thus causing him to fall off the bicycle.

If this was an intentional push by the Named Employee, it would be inconsistent with the SPD use of force policy. SPD Policy §8.200(1) requires force be necessary, reasonable and proportional. Given the minor nature of the infraction committed by the complaint (red light violation) and the potentially serious injuries he could have suffered from the fall, it is difficult to see how pushing the complainant off the bicycle would be any of those three. Even as an unintended collision between the Named Employee's outstretched arm and the complainant's body, this incident is problematic. The Named Employee placed himself into the path of an oncoming bicycle, endangering both himself and the person on the bicycle, all over a minor traffic infraction. The Named Employee should be strongly counseled against using his body as a roadblock.

OPA alleged that the Named Employee completed a use of force statement that was inconsistent with what was depicted on the in-car video. Specifically, the video appears to show the Named Employee moving into the bike lane when the complainant on his bicycle is much closer to the officer than his statement indicates. The video also appears to show that the Named Employee did not raise his arm or hand until immediately before the Named Employee and the complainant made physical contact. This is somewhat inconsistent with what the Named Employee wrote in his statement. It must be noted that the entire incident took only a few moments. Also, for some portion of the video it is not possible to see the Named Employee's left arm and hand and they could have been up and extended as stated by the Named Employee. Finally, the Named Employee's statement is not so patently at odds with what is known to have happened that it could not be a true representation of the Named Employee's perception of what happened. Nonetheless, the fact remains that the Named Employee placed himself in the complainant's lane of travel and appears to have done so in a way that resulted in a collision between the two of them. The Named Employee's written use of force statement appears to place blame for the collision with the complainant rather than to communicate an understanding of the role the Named Employee played in what happened.

## **FINDINGS**

### **Named Employee #1**

#### **Allegation #1**

There was not a preponderance of evidence to either support or refute the allegation against the Named Employee. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Use of Force: When Authorized*.

Allegation #2

The evidence supports that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Use of Force Core Principles: Each Officer Is Responsible for Explaining and Articulating the Specific Facts, and Reasonable Inferences From Those Facts, Which Justify the Officer's Use Of Force.*

**Required Training:** The Named Employee should receive a stern reminder from his chain of command regarding the safety concerns to both him and the public when he puts himself in front of a moving vehicle in an effort to get the driver/rider to stop.

*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.*