



CLOSED CASE SUMMARY

ISSUED DATE: MAY 1, 2018

CASE NUMBER: 2017OPA-1165

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that Unknown Employees "beat" him up and scuffed his chin at an undefined time, date, and location.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

OPA initiated this matter based on a referral by a Department Sergeant. The Sergeant relayed the Complainant’s allegation that he was subjected to excessive force by Unknown Employees when they “beat” him up and scuffed his chin. This allegation was made after the Complainant was arrested in an apparently unrelated case. During that arrest, de minimis force was used against him by three officers. Allegations concerning this force, as well as the potential failures of multiple officers to report complaints of pain and allegations of misconduct, were investigated in a separate case by OPA (see 2017OPA-1230).



In his discussion with the Sergeant, the Complainant stated that he was beaten up the previous evening by officers working in the vicinity of the University District. He did not provide an exact location of where the beating occurred or a specific date and time. Moreover, he could not describe the involved officers. As detailed by the Sergeant, it was unclear whether the Complainant was referring to SPD officers, University of Washington Police Department (UWPD) officers, or security at a local venue where the Complainant said he went to a “punk rock” show. The Complainant told the Sergeant that he believed the involved officers were employed by SPD because he saw a “blue and white car.”

The Sergeant took several photographs of the Complainant’s face. None of the photographs appeared to show any injuries. The Sergeant also noted that he did not, personally, see any injuries to the Complainant’s facial area.

During its investigation into this matter, OPA could not locate any incidents in SPD’s databases consistent with that alleged by the Complainant. OPA contacted UWPD and determined that they also had no records of such an incident. OPA further could not find any indication that there was a “punk rock” show in the vicinity of the University District on the date in question. Lastly, OPA tried to interview the Complainant concerning his allegations; however, the Complainant did not respond to OPA and was not interviewed as part of this case.

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.*)

Based on my review of the evidence, I find no basis to conclude that any SPD officer used excessive force against the Complainant or “beat” him as he described. This conclusion is buttressed by the fact that there was no record of any such incident maintained by either SPD or UWPD, as well as the lack of any “punk rock” show in that location on the date in question. Moreover, the photographic evidence clearly indicated that the Complainant did not have any injuries to his facial area in direct contrast to his claims. Notably, the Complainant did not provide any evidence to the contrary. Most significantly, he did not respond to OPA’s requests for his interview. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force

This allegation was classified given that if force was used and it was not reported, it would have constituted a potential violation of policy. SPD Policy 8.400-POL-1 requires that officers report all uses of force except for de minimis force. The policy further requires that: “Officers shall further document all reportable uses of force to the best of their ability, including a description of each force application.” (SPD Policy 8.400-POL-1.)

As discussed above, there is no evidence supporting a finding that the incident alleged by the Complainant occurred and that he was subjected to excessive force by Unknown Employees. As such, these Unknown Employees would



not have been required to document and report force that they did not use. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**