



## CLOSED CASE SUMMARY

ISSUED DATE: APRIL 15, 2019

CASE NUMBER: 2018OPA-1081

### 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 (Lawful and Proper)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

**Named Employee #3**

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

**Named Employee #4**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	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 Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) subjected him to excessive force by smashing his head into the ground and scraping his forehead. He also alleged that Named Employee #4 (NE#4) offered to not charge him with a narcotics arrest in lieu of the Complainant not filing this complaint with OPA.

**ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the OIG’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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



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Officers, including NE#1, NE#2, and NE#3, were conducting a narcotics operation within the confines of the West Precinct. An officer (who is not named in this case) recognized the Complainant as having an active, outstanding felony DOC warrant for his arrest. This officer relayed that information to NE#1 and NE#2. NE#1 and NE#2 then attempted to contact the Complainant by identifying themselves as police officers and telling the Complainant to stop. The Complainant turned his back on NE#1 and NE#2 and began reaching for the right side of his waistband. NE#1 and NE#2 reported that they feared that the Complainant was reaching for a weapon and, accordingly, they took the Complainant down to the ground by grabbing both of the Complainant's arms and using their body weight to force him forward. During the arrest, NE#3 held the Complainant's head down while the Complainant was on his stomach on the ground. NE#3 did so to ensure that the Complainant could not move around and resist being handcuffed. Once the Complainant was secured, he was handcuffed. During a search incident to arrest, narcotics were recovered from his person.

The Complainant was transported to the West Precinct where NE#4 screened the arrest. NE#4 noted an abrasion to the Complainant's right temple and knee. The Complainant indicated to NE#4 that he was feeling light headed. The Seattle Fire Department (SFD) was called to the precinct. SFD conducted a medical evaluation of the Complainant, which included placing bandages on his abrasions.

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 OPA's review of the Body Worn Video (BWV) of this incident, the force used on the Complainant was consistent with Department policy. Specifically, it was reasonable, necessary, and proportional to take the Complainant into custody, to prevent him from reaching for a potential weapon and/or destroying evidence, and to place him into handcuffs quickly and safely. Notably, at the time the force was used, there was sufficient probable cause to arrest the Complainant. With that legal authority came the right for the officers to use force, if needed, to effectuate the arrest. While it was unfortunate that the Complainant suffered injuries from this incident, those injuries were not the result of any misconduct. Lastly, the BWV video does not support the Complainant's assertion that his head was smashed onto the ground.

Ultimately, for the reasons stated above, I recommend that this allegation be Not Sustained – Lawful and Proper as against NE#1, NE#2, and NE#3.

Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #2 - Allegations #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 – Lawful and Proper.



Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #3 - Allegations #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 – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #4 - Allegations #1**

***5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy***

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

The Complainant alleged that the other involved officers' supervisor, NE#4, offered to not charge him with a narcotics arrest in lieu of the Complainant not filing this complaint with OPA. BWV definitively disproved this allegation. During the screening conversation, NE#4 told the Complainant exactly what he was arrested for and what he was going to be charged with. The narcotics violation was explicitly raised during this discussion and there was never any mention of a quid-pro-quo. As such, I find the Complainant's claim to be frivolous and I recommend that this allegation be Not Sustained – Unfounded.

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