



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 25, 2019

CASE NUMBER: 2019OPA-0039

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)

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 multiple officers used excessive force on a compliant subject.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’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

The Complainant, who was visiting Seattle on the date in question, contended that she observed multiple SPD officers use excessive force on an unidentified individual. The Complainant stated that the individual was African American and she described him as homeless. She reported that the individual was carrying a crack pipe.

She told OPA that she did not believe that the officers would have treated the individual the way they did if the individual had been White. The Complainant stated that the individual was swarmed by police for simply walking in the street. The Complainant indicated to OPA that she believed the potential crime the suspect was alleged to have committed was most likely a low-level drug offense. She alleged that officers’ response to this incident was excessive because there were too many officers who responded to a suspect who was compliant. The Complainant stated that she did not observe anyone punching, kicking, or otherwise using excessive force against the suspect;



however, she did not agree with how an officer was situated on top of the suspect who had his hands behind his back at the time.

The Complainant told OPA that what she saw happen was consistent with what she has heard in the news; specifically, it reinforced her belief that police tended to use excessive force on people of color. The Complainant explained that her ideal resolution would be for all officers to attend Department-wide training on cultural competency and implicit bias.

As part of its investigation, OPA reviewed the documentation generated concerning this incident. According to that documentation, SPD officers responded to an attempted armed carjacking that took place in the University of Washington (UW) Bookstore parking lot. The victim of this attempted carjacking provided a description of the two suspects. He reported that one of the suspects, an African American male, flashed a gun that was concealed in the male suspect's waistband. The University of Washington Police Department (UWPD) joined in the effort to locate and apprehend the suspects. A UWPD officer observed and detained a possible suspect at NE 42nd Street and University Way NE. SPD officers from the North Anti-Crime Team (ACT) unit arrived after the UWPD officer had the suspect detained. The ACT officers provided assistance by holding the male suspect in place.

Additional SPD officers responded to the location of the victim and obtained more information about what allegedly took place. The victim reported that he was sitting in the front passenger seat of his car, parked just south of the UW Bookstore lot on NE 43rd Street, when an unknown white female walked up to the passenger side and asked if she could sit inside and smoke a cigarette. The victim reported that he didn't know the female and told her she couldn't sit in his car. The victim added that the female then asked if she could sit in the back of his car and she was told again that she could not. The victim stated that the female then walked away upset. The victim noticed an African American male staring in his direction from across the street, which prompted the victim to believe that the male and the female were together. The victim then stated that both subjects walked away, only to return a few seconds later. The victim stated that, from across the street, the male suspect lifted the front of his shirt and placed his hand on a gun situated in the front of his waistband. The victim reported that he responded to that action by jumping back into the driver's seat and speeding away from the scene. The victim then called 911 to report an "attempted carjacking." Officers transported the victim to where the male suspect was being held and the victim positively identified the suspect as the perpetrator.

The male suspect was questioned and he stated that he was in the alley and saw a female acquaintance, who appeared to him to be in the midst of a panic attack. The male suspect said that the female told him that she was being followed by a black Audi. He added that the female then walked to the victim's car and asked if she could sit inside. According to the male suspect, the female sat in the victim's car briefly before getting out. He stated that he saw the victim and the female arguing. The male suspect explained that he watched everything from a distance and then left with the female. The male suspect denied having a gun and stated that he never flashed anything at the victim. SPD officers reported that no handgun was found on the male suspect.

SPD officers documented their *Terry* stop of the male and justified the reasonable suspicion that they possessed at the time. The involved SPD officers reported that they did not use reportable force during this incident.

OPA reviewed the Body Worn Video (BWV) for the SPD officers who responded to the scene. OPA found nothing to suggest that reportable force was used by any SPD officers. Named Employee #1 (NE#1) and Named Employee #2



(NE#2) were seen on video as they arrived at the location where a UWPD officer had located and detained the male suspect. NE#1 and NE#2 were seen on video kneeling alongside the male suspect and holding onto him while he was being handcuffed by the UWPD officer. Based on OPA's review of the BWV, the male suspect never complained about how he was treated and did not make any allegations of bias-based policing at that time.

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.*)

From a review of the totality of the evidence, there is no support for the Complainant's allegation that NE#1, NE#2, or any other SPD employee used excessive force on the Complainant. Moreover, virtually all of the Complainant's assumptions concerning this incident were incorrect. While the Complainant believed that the male suspect had likely been stopped for a minor drug crime, to the contrary, he was detained because he was believed to have threatened someone with a firearm. Indeed, at the time that the male suspect was approached by the officers, they had clear reasonable suspicion that he was armed and dangerous. As such, they were warranted detaining him and securing his person. When the Named Employees knelt down beside the male suspect and held him down, they used de minimis, non-reportable force. OPA finds that this force was entirely appropriate and was consistent with policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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)**