



ISSUED DATE: SEPTEMBER 3, 2020

CASE NUMBER: 2020OPA-0375

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 (Inconclusive)

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 and her friend alleged that an unknown SPD officer pushed down an elderly man and that this constituted excessive force.

SUMMARY OF INVESTIGATION:

This case arises out of the demonstrations that occurred within Seattle and across the nation in the wake of George Floyd's murder by a Minneapolis Police Officer. The specific case addressed here occurred on the afternoon of May 30, 2020, during the first full day of the protests. This day included significant property damage in the downtown corridor, repeated clashes between officers and demonstrators, and the use of less-lethal tools by SPD.

The Complainant reported that, at approximately 4:00 p.m., she was at a demonstration occurring in the vicinity of Fifth Avenue and Pine Street. She said that she was with a friend and that they were situated about five to six people back from the front line. She told OPA that, after approximately 15 minutes and without notice, SPD officers began using tear gas and blast balls on the crowd. She said that officers began pushing demonstrators north on Fifth Avenue.

While at the corner of Fifth Avenue and Olive Way, the Complainant recalled seeing an officer shove an elderly man backwards. The Complainant said that the officer pushed the elderly man with two hands and that this caused the elderly man to fall down onto what she believed to be a bench or an art display. From the Complainant's perspective, it did not appear that the elderly man was injured. He got up and walked away with a woman who joined him.

The Complainant described the officer as wearing full riot gear. She could not identify the officer further. She stated that she did not photograph or videotape the incident and said that she had not seen anything regarding the push on social media.

OPA attempted to contact and interview the Complainant's friend who was present with her at the demonstration. The friend ultimately declined to participate in an interview and communicated this to OPA through her attorney.

OPA determined by reviewing radio traffic and other documentary evidence that there were conflicts between officers and demonstrators in the vicinity of Olive Way and Fifth Avenue around the time identified by the



Complainant. OPA reviewed Body Worn Video from a number of officers who were in that vicinity in an attempt to identify the force reported by the Complainant. However, OPA was not able to identify an officer pushing an elderly man to the ground. Moreover, OPA could not locate any force reporting relating to this incident.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 Using Force 1. Use of Force: When Authorized

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.*)

If an officer pushed an elderly man to the ground, as the Complainant alleged, this could, depending on the circumstances, constitute excessive force. However, despite significant efforts, OPA was unable to identify whether and when this occurred and, if so, who the involved officer was. As such, OPA cannot definitively determine whether a violation of policy occurred and recommends that this allegation be Not Sustained – Inconclusive.

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