



## CLOSED CASE SUMMARY

ISSUED DATE: JUNE 12, 2018

CASE NUMBER: 2017OPA-1282

### 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)

*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 the Named Employee subjected him to excessive force by punching him in the head.

### STATEMENT OF FACTS:

Officers, including Named Employee #1 (NE#1), responded to a call of an intoxicated male who was damaging cars and bicycles in the vicinity of Broadway and East Pine Street. The male, who was later identified as the Complainant, was also reported to be throwing items at vehicles. The officers made contact with the Complainant near a gas station and detained him. The officers brought the Complainant in front of their patrol vehicle. The Complainant was handcuffed and read his Miranda warnings. While waiting in front of the patrol vehicle, the Complainant darted to the left in an attempt to flee. The officers quickly followed and grabbed him, taking him down to the ground. The officers lifted the Complainant up and brought him towards the patrol vehicle. When they got near the vehicle, he lunged forward and struck his own head on the vehicle. While the officers tried to pull him back, he purposefully struck his head a second time. The officers dragged him away from the vehicle, but the Complainant continued to struggle against them. They then placed him in the rear of the patrol vehicle. While seated in the rear, the Complainant began to kick the patrol vehicle and continued to do so even after being transported to the precinct.

This force and the Complainant banging his own head on the patrol vehicle was captured by Department video. Notably, the video conclusively established that no officer struck the Complainant or punched him in the head.

After the Complainant was transported to the precinct for arrest processing, he informed a supervisor that an officer wearing a “beanie” had punched him in the head. Of the SPD employees involved in the arrest of the Complainant, only NE#1 was wearing a beanie. As such, the supervisor referred the Complainant’s allegation of excessive force against NE#1 to OPA.

The Force Review Board (FRB) later reviewed the incident. Per its practice, the FRB did not opine on the force as it had already been referred to OPA. However, the FRB approved the involved officers’ tactics and decision-making and their de-escalation efforts.



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During its investigation, OPA interviewed NE#1, as well as a number of witness officers. OPA attempted to interview the Complainant; however, he refused to participate.

NE#2 denied to OPA that he used any reportable force on the Complainant, let alone that he punched him in the head. All of the other officers interviewed by OPA similarly denied observing anyone use force on the Complainant other than de minimis force to prevent him from fleeing and, later, to prevent the Complainant from further hitting his head on the patrol vehicle.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #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.” (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.*)

As discussed above, while the Complainant alleged that NE#1 punched him in the head, the video conclusively disproved this. I find that NE#1 used no significant force on the Complainant other than that needed to get him under control, to prevent him from fleeing, and to ensure that the Complainant did not harm himself. Any injuries suffered by the Complainant were incurred when he purposefully struck his own head multiple times on the patrol vehicle. As I find that NE#1 did not use the force that the Complainant claimed, I recommend that this allegation be Not Sustained – Unfounded as against him.

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