



CLOSED CASE SUMMARY

ISSUED DATE: JULY 30, 2018

CASE NUMBER: 2018OPA-0137

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)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	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)

Named Employee #4

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 Employees subjected him to excessive force and broke his legs.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’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 - Allegation #1

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

The Named Employees were dispatched to a fight disturbance in which several people had been assaulted.

Witnesses told the Named Employees that the Complainant was intoxicated and brought an unauthorized guest into



an apartment building. When he was confronted about this, the Complainant became “enraged” and assaulted apartment staff and residents. The staff members reported that the Complainant had been using alcohol and possibly drugs over the weekend

The Named Employees informed the Complainant that he was under arrest and attempted to take him into custody. When he did not comply, the officers used force to place him under control and into handcuffs. This force was captured by the officers’ Body Worn Video (BWV). The BWV showed that the Complainant immediately tensed up his arm muscles, pulled his arms towards his waist, and bent over. The Complainant began to yell, curse, and resist arrest. After developing a plan of action, the Named Employees escorted the Complainant to the ground in a controlled manner and placed him into a seated position. They then handcuffed him. He complained of pain to his legs and refused to walk to the patrol vehicle. He alleged that the Named Employees broke his legs. The Named Employees carried the Complainant to the street. He was medically evaluated by the Seattle Fire Department and eventually stood and walked to the patrol vehicle. At that time, he stated that it was a miracle that he could walk.

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.*)

The only force used by the officers was that needed to take the Complainant down to the ground and to handcuff him. I find that this force was reasonable under the circumstances. It was further necessary to effectuate the lawful purpose of taking the Complainant into custody and safely handcuffing him. Moreover, there was no reasonable alternative to using that force. Lastly, the minimal force used was proportional to the threat posed by the Complainant’s uncooperative and aggressive conduct. I note that the officers never struck the Complainant and modulated their force as soon as the Complainant was seated on the ground and handcuffed.

I find that the force used by the Named Employees was consistent with policy. However, given that the allegation in this matter is that the Named Employees broke the Complainant’s legs, I recommend that this allegation be Not Sustained – Unfounded rather than Not Sustained – Lawful and Proper.

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 #1), 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 #4 - 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)**