



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 11, 2018

CASE NUMBER: 2018OPA-0484

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)

Named Employee #5

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 an arrestee to excessive force.

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 responded to an assault and located both the victim and the alleged perpetrator (referred to herein as the "Subject"). They developed probable cause to arrest the Subject and handcuffed him. Following the arrest, and at the time they were taking the Subject into custody and preparing to transport him from the scene, Named Employee #1 (NE#1) attempted to remove a large necklace and several bandanas from around the Subjects' neck. As NE#1 was doing so, the Subject alleged that NE#1 was choking him and that he could not breathe.

At that time, the Subject grew agitated and began shaking his head back and forth and thrashing his body on the ground. The Named Employees held the Subject in place and readjusted the handcuffs, which the subject had moved to his knees. The Subject was transported in a patrol vehicle to the King County Jail.

The Complainant was an uninvolved community member who was watching and filming the incident from the street. The Complainant initiated this complaint with OPA based on his stated belief that the officers slammed the subject to the ground, tased him two times, and wrapped him in white blankets. The Complainant further alleged that the officers took the Subject's body away in an ambulance and asserted his belief that the officers had killed the Subject. By his own admission, the Complainant had been drinking alcohol at or around the time that he made the complaint.

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 Department video, which fully captured this incident, contradicts the allegations made by the Complainant. Specifically, it conclusively establishes that the Subject was not slammed to the ground, tased, or wrapped in white blankets.

With regard to NE#1's attempts to remove the necklace and bandanas from the Subject's person, there is no indication that this caused any impairment to the Subject's neck or caused him to have trouble breathing.

With regard to the force collectively used by all of the Named Employees to handcuff the Subject and to control his body while he physically resisted them, I find that it was reasonable, necessary, and proportional. Notably, the officers only used that force necessary to take the Subject into custody and prevent injury to themselves or others. There was no evidence suggesting that the force was excessive as claimed by both the Complainant and the Subject.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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)**

Named Employee #5 – 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)**