



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 26, 2018

CASE NUMBER: 2018OPA-0602

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)

Named Employee #3

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 the Named Employees subjected him to excessive force by smashing his face on the ground and elbowing him in the head.

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

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were working in concert with the Department of Corrections. They collectively saw the Complainant walking in the area and knew that he had a felony warrant for his arrest. They verified that the warrant was valid and developed a plan to contact him, as he was known to have previously run from officers. Named Employee #3 (NE#3) also responded to assist.

Once NE#1 and NE#2 got close enough to the Complainant, they exited their vehicle, approached the Complainant, and told him that he had a warrant for his arrest. Immediately, the Complainant began to run away. At the same



time, NE#3 was running towards the Complainant to assist with the arrest. NE#3 and the Complainant collided and both fell to the ground. With the assistance of NE#1, NE#3 placed the Complainant into handcuffs.

Once he was under arrest, the Complainant alleged the Named Employees smashed his face on the ground and elbowed him in the head. The screening Sergeant reported this incident to OPA for investigation.

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 video does not support the Complainant’s description of the force allegedly used by the Named Employees. There is no evidence to support a finding that they smashed his face on the ground or elbowed him in the head. Notably, the Complainant had no visible injuries at the time. Moreover, the force that was actually used was captured on Body Worn Video, as well as thoroughly documented and reviewed by the chain of command.

Regarding NE#1 and NE#3, I find that the force they used was reasonable and necessary to handcuff the resisting Complainant and to prevent him from fleeing. With regard to NE#2, once the Complainant was on the ground, NE#2 used a figure four control hold to hold the Complainant in place and to prevent him from kicking officers. Based on OPA’s review of the BWV, there is no evidence that the Named Employees used anything other than de minimis force and the record reflects that none of the Named Employees used excessive force.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against all of the Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**

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 – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

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 – Lawful and Proper.



Seattle
Office of Police
Accountability

CLOSE CASE SUMMARY

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Recommended Finding: **Not Sustained (Lawful and Proper)**