



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 3, 2020

CASE NUMBER: 2020OPA-0104

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

EXECUTIVE SUMMARY:

The Complainant alleged that he was targeted by the Named Employees because of his race and that they subjected him to excessive force during his arrest.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

OPA received an allegation from the Complainant concerning his arrest. The Complainant (through a female caller as he was incarcerated at the time) claimed that his detention and subsequent arrest were improperly based on his race. The Complainant also contended that he was subjected to excessive force when he was taken into custody. This OPA investigation ensued.

OPA determined that, on the date in question, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were assigned to monitor DOC active offenders in the downtown Seattle area. In doing so, they were partnered with two DOC officers. Their assignment on that day also included general fugitive apprehension and anti-crime patrol. As part of those duties, the Named Employees were provided with a list Drug Court Clients that had not complied with the conditions of their release. The Complainant's name was on that list with an indication that he was non-compliant. As a result, a felony warrant had been issued for the Complainant's arrest. The Named Employees were aware of this information and observed the Complainant, who was familiar to them, walking on a public street. They made the decision to effectuate his arrest.



As part of its investigation, OPA reviewed the Body Worn Video (BWV) that fully captured this incident. The BWV showed the Named Employees make initial contact with the Complainant. At that time, the Named Employees and the DOC officers took physical control of the Complainant. They identified him by name and told him that he had an open felony warrant. The officers gave the Complainant orders to not resist and told him to get on the ground. At one point, the Complainant stated that he would not do so. The officers then collectively pushed the Complainant down to the ground. While he was on the ground, the Complainant struggled against the officers. The Complainant yelled at the officers get off of his back and the officers repeated their direction to him to stop resisting. Using body weight and control holds, the officers were able to subdue and handcuff the Complainant. Based on a review of the BWV, no other force was used, including no strikes. Once he was handcuffed, the officers placed him into the recovery position. He was searched incident to arrest and was placed into a police vehicle. He was then transported from the scene.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

Based on OPA’s review of the totality of the evidence, there is no support for the allegation that the Complainant’s race played any part in his arrest. To the contrary, the Complainant was arrested because he did not comply with court-ordered requirements and had an open felony warrant. Accordingly, his conduct, not his race, was the reason for the law enforcement action taken towards him.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against the Named Employees.

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

Named Employee #1 - Allegation #2

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.*)

Based on OPA’s review of the totality of the evidence, OPA finds that the force used by the Named Employees was consistent with policy. First, at the time force was used, the officers had probable cause to take the Complainant into custody. With that legal authority came the right to use force to do so, if needed. When the Complainant resisted the officers’ initial attempts to stop him and then tried to physically prevent them from taking him into custody, force was appropriate. Accordingly, the force was reasonable.



For the same reasons, the force was necessary. Given the Complainant's demonstrated refusal to be taken into custody – both through his words and actions – there did not appear to be any reasonable alternative available to the Named Employees other than the use of force. In addition, the force used was of a reasonable degree and was only that needed to control the Complainant's person and to stop his resistance.

Lastly, OPA finds that the force was proportional. The only force used was a controlled takedown, body weight to hold the Complainant onto the ground, control holds to prevent him from resisting, and the application of handcuffs. No strikes or anything other than low level force was used by the Named Employees. Moreover, once the Complainant was safely in custody, the officers modulated and then ceased using force.

For the above reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper as against both NE#1 and NE#2.

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

Named Employee #2 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #2

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

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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