



## CLOSED CASE SUMMARY

ISSUED DATE:     JANUARY 23, 2018

CASE NUMBER:     2016OPA-1148

### 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)

**Named Employee #4**

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 during his arrest in September 2016 that he suffered a broken elbow as the result of a different interaction with police one month earlier.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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

During the August 2016 incident, officers, including the Named Employees, arrested the Complainant for outstanding warrants. His arrest and the officers’ later interaction with him was recorded on In-Car Video (ICV).

During his arrest, the Complainant was combative and appeared to be under the influence. He physically resisted officers’ attempts to put him into handcuffs. He then continuously attempted to kick the officers. In order to prevent him from further kicking the officers, NE#1 used force to hold him down while the other officers tried to pull the Complainant’s hands out from underneath him.

The Complainant was able to lift all four officers off of the ground raising concerns for officer safety. NE#2 delivered two knee strikes to the Complainant’s buttocks in order to get him under control. NE#3 used a figure four control hold to keep the Complainant from kicking officers or escaping. NE#4 used body weight to hold the Complainant to



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the ground. Once he was placed into handcuffs, the Complainant told the screening sergeant that he had a broken elbow.

The Seattle Fire Department (SFD) screened the incident and determined that the Complainant did not have broken arms, he was transported to Harborview Medical Center where it was determined he may have a small fracture on the shoulder. The Department's Force Investigation Team (FIT) responded to investigate. The Complainant refused to cooperate with the FIT investigation or, later, with the OPA investigation. He further would not agree to allow SPD access to his medical records.

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.*)

From my review, the force used by the Named Employees was consistent with policy. The Complainant was actively trying to escape and was actively and physically resisting officers' attempts to control him, including attempting to kick them. The Named Employees had the lawful authority to place the Complainant under arrest. When he presented a physical threat of harm and lifted four officers off the ground, force, including the knee strikes by NE#2, was reasonable. Moreover, the force used in the circumstances presented in this case was consistent with Department training.

The force was further necessary to ensure that the Complainant was subdued, to prevent him from causing physical harm to officers, and to secure his person in order to place him into handcuffs.

Lastly, the force was proportional to the threat facing the officers. Force was only used when the Complainant was actively trying to kick officers and physically resisting arrest. Even then, only NE#2 used intermediate force and the remainder of the Named Employees used a lower level of force.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #2 - Allegation #1**

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

For the same reasons as set forth 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)**



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**Named Employee #3 - Allegation #1**

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

For the same reasons as set forth 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 #4 - Allegations #1**

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

For the same reasons as set forth 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)**