



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 17, 2018

CASE NUMBER: 2017OPA-0789

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)
# 2	8.200 - Using Force 2. Use of Force: When Prohibited	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 an unknown employee punched him in the ribs while he was handcuffed.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

After an interaction with officers, the Complainant was placed under arrest. At that time, he made a complaint of bias and a supervisor was summoned to the scene. The supervisor, an Acting Sergeant, spoke with the Complainant and, during that conversation, the Complainant stated, with regards to the officers’ conduct, “nah, they didn’t do anything wrong.” The Complainant did not allege to the Acting Sergeant that he was punched in the ribs by an officer while handcuffed

An ambulance was called to the scene. The Complainant reported to Seattle Fire Department (SFD) personnel that he had chronic pancreatitis. The Complainant did not complain to SFD that he was punched in the ribs by an officer while handcuffed.

When placed into the patrol vehicle for transport, the Complainant, who appeared to be under the influence, complained about the tightness of his handcuffs. He then stated that he was going to claim that the officers beat him when he was handcuffed and that he was going to sue them. During the car ride, he later stated that his ribs were broken and that he could not breathe. However, he continued to complain for the remainder of his transport.

During its investigation, OPA attempted to interview the Complainant who had, through his defense attorney, expressed his willingness to be interviewed. However, when OPA attempted to go forward with the interview, the Complainant refused to participate. Thus, he never identified the officer who he alleged punched him in the ribs.

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.*)

Aside from this statement, which was not repeated to either the Acting Sergeant or SFD, there is no evidence that any officer used reportable force against the Complainant, let alone punched him in the ribs when he was handcuffed. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

8.200 - Using Force 2. Use of Force: When Prohibited

While SPD Policy 8.200(1) provides for when force is authorized, SPD Policy 8.200(2) sets forth those scenarios in which force is prohibited. Among those scenarios are: when force is used to retaliate against or punish a subject; and when force is used against a restrained subject, “except in exceptional circumstances when the subject’s actions must be immediately stopped to prevent injury, [] escape, [or] destruction of property.” (SPD Policy 8.200(2).)

As the Complainant alleged that he was punched in the ribs when handcuffed, this could, if true, constitute a violation of this section of the policy. However, as indicated above, I find no evidence that any officer struck the Complainant in the ribs when he was handcuffed. As such, I recommend that this allegation, like Allegation #1, be Not Sustained – Unfounded.

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