



## CLOSED CASE SUMMARY

ISSUED DATE:     AUGUST 3, 2018

CASE NUMBER:     2018OPA-0138

### 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)

***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.

### ANALYSIS AND CONCLUSIONS:

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

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

The Named Employees, who were working as Bicycle Officers, reported observing the Complainant use narcotics in public and engage in a narcotics transaction. The officers had previously arrested the Complainant for similar illegal activity. They further knew that, on at least one occasion, he carried a concealed knife and wore body armor. He had also been previously arrested for possession of a firearm.

After developing probable cause to believe that he had committed a crime, the officers approached the Complainant on their bicycles. The officers attempted to grab onto the Complainant, but he pulled away and began fleeing. Named Employee #2 (NE#2) reported that he jumped on the Complainant’s back to prevent him from doing so and that they both tumbled to the ground, with the Complainant falling face first into a plastic trash can. NE#2 reported that he heard Named Employee #1 (NE#1) state that the Complainant had a knife in his hand. NE#2 saw that the Complainant was holding a knife and the officers were able to wrestle it away from him. NE#2 and a third officer were able to handcuff the Complainant. No additional force was used after that point.

Use of force photographs taken after the incident revealed that the Complainant had an abrasion to his left cheek. It is unclear whether this was caused when the Complainant fell to the ground. The Seattle Fire Department later responded to the West Precinct to provide medical attention to the Complainant, who purportedly had a head injury. However, at that time, the Complainant did not complain of any pain or injury. A Department supervisor interviewed the Complainant after the force. The Complainant told the supervisor that the Named Employees



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“bashed” his head into a post and said: “you guys always use extra force on me because I’m [the Complainant].” This was considered to be an allegation of excessive force and this matter was referred to OPA.

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.*)

At the time the force was used, the Named Employees had probable cause to arrest the Complainant. With that came the lawful authority to use force, if needed under the circumstances, to effectuate the arrest. When the Named Employees tried to take the Complainant into custody, he ran from them. When he did so, the Named Employees believed that he had committed at least one felony. They were also afraid that he was in possession of a weapon and this fear was ultimately proven to be true. For these reasons, using force to prevent the Complainant from fleeing was reasonable under the circumstances. Specifically, NE#2 jumping on the Complainant’s back and taking him to the ground and NE#1 grabbing his arm were reasonable applications of force. This force was also necessary to effectuate the lawful purpose of taking custody of the Complainant. Moreover, I find that the officers rationally believed that there were no reasonable alternatives to using such force. Lastly, I conclude that the force was proportional to the threat posed by the Complainant to both the officers and other community members. This was particularly the case given that he was armed. Notably, the officers used no more force than was necessary to place the Complainant under control and to handcuff him. The Named Employees never struck, punched, or kicked the Complainant. Further, as they began to get him under control, the Named Employees modulated and then ceased their use of force.

As indicated above, I conclude that the force used by the Named Employees was consistent with policy and, accordingly, I recommend 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 - 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)**