



## CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 15, 2018

CASE NUMBER: 2018OPA-0373

### 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 broke his finger during his arrest, thus subjecting him to excessive force.

### 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 - Allegations #1**

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

Officers located a stolen vehicle while on a routine patrol. The driver of the stolen vehicle – later identified as the Complainant – jumped out and fled on foot. Officer, including the Named Employees, pursued him and were able to catch up to him. Named Employee #1 (NE#1) reported that he grabbed the Complainant’s right arm and the Complainant then stopped fleeing. NE#1 explained that he then was able to “assist” the Complainant to the ground. Named Employee #2 (NE#2) stated that he was also involved in taking the Complainant into custody.

The Department video of this incident depicted the foot pursuit. It showed, consistent with the officers’ accounts, that NE#1 used the Complainant’s arm to pull him down to the ground and then placed him into the prone position to effectuate the handcuffing. NE#2 pinned the Complainant’s left arm to the ground while another officer held the Complainant’s legs. Once the Complainant was handcuffed, no further force was used.



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After he was transported to the King County Jail, it was discovered that the Complainant had a broken pinky finger on his left hand. The Complainant was treated at Harborview Medical Center. While there, he told detectives assigned to the Department's Force Investigation Unit (FIT) that the officers who had arrested him caused the injury. This claim was construed as an allegation of excessive force and this matter was referred 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.*)

Based on OPA's review of the record, which included the FIT investigation and the Department video, I find that the force used by the Named Employees was consistent with policy. The Named Employees had probable cause to arrest the Complainant. With that probable cause came the legal authority to use force, if necessary, to take the subject into custody. When the Complainant fled from the officers, it was reasonable to use force to prevent him from further doing so. The force used – pulling the Complainant to the ground, holding him down in the prone position, and handcuffing him – was appropriate and legally justified. The force was also necessary as it was needed to effectuate the officers' lawful goals and because the officers did not rationally perceive any reasonable alternatives to that force. Lastly, the force was proportional to the resistance and threat posed by the Complainant, particularly given his attempts to escape. Notably, it is unclear whether the force used by the officers actually caused the Complainant to suffer a broken pinky finger. Even if it did, and while the injury would have been an unfortunate result of this incident, that does not somehow cause the force to be outside of policy.

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

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

**Named Employee #2 - Allegations #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)**