



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 28, 2020

CASE NUMBER: 2019OPA-0697

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)

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 Employee subjected him to excessive force.

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 Employee. As such, the Named Employee was not interviewed as part of this case.

In addition, during its intake investigation, OPA determined that three supervisors may have failed to screen the Complainant's claim that his head made contact with the pavement when he was "slammed" by officers and that he suffered a concussion with the Department's Force Investigation Team. These matters were referred back to the chain of command to be handled as Supervisor Actions.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Officers, including Named Employee #1 (NE#1), observed the Complainant engaging in criminal activity. NE#1 saw the Complainant "shoulder check" a store window. While NE#1 was looking at the window to determine whether it was damaged, NE#1 heard another window shatter and observed that the Complainant broke the window by striking it with his head. Officers told the Complainant to stop and announced themselves as police, but the Complainant fled on foot. NE#1, who was riding a bicycle, pursued the Complainant. NE#1 caught up to the Complainant and then dismounted his bicycle and began a brief foot pursuit. At this point, NE#1's Body Worn Video (BWV) stopped recording.

When the other officers caught up, the Complainant was on the ground and NE#1 was on top of him. NE#1's bicycle was also lying on the ground. The Complainant was handcuffed and taken into custody. One of the other officers returned NE#1's BWV unit to him. The BWV unit was determined to have fallen off during the pursuit. NE#1 informed a supervisor that he effectuated a hard takedown of the Complainant onto the ground.



The supervisor also interviewed the Complainant as to what occurred. The Complainant asserted that he was “slammed” by officers and that the side of his head hit the pavement. He claimed to have a concussion and, at different points, said that his elbow hurt, and his hands were broken. The Complainant was treated at the scene by the Seattle Fire Department. The Complainant had a cut on his lip that was bleeding but did not have any other obvious injuries. The Complainant was interviewed again by another supervisor at the East Precinct. At that time, the Complainant reiterated that he was “slammed” by officers.

The supervisor who interviewed the Complainant at the precinct screened the Complainant’s allegations with OPA. OPA opined that, due to the absence of BWV capturing the moment that force was used, the complaint should be referred to OPA. The supervisor made the referral and this investigation ensued.

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.*)

When applying the requisite burden of proof, OPA finds that the force used by NE#1 was consistent with policy. OPA bases this on how NE#1 and the Complainant were positioned after the takedown, the credible statement provided by NE#1 concerning the force he used, and the totality of the video recorded by the other officers. OPA reaches this finding even though NE#1’s BWV fell off during the pursuit and, as a result, did not record his force.

OPA further notes that, even if the Complainant’s allegation was taken as true, him being slammed to the ground would not have necessarily violated policy. At the time, the Complainant was suspected of causing felony property damage and was actively fleeing from officers. He refused multiple directions to stop and, as such, NE#1 would have been permitted to take him down to the ground to end the pursuit and to place him under arrest. This force would have been reasonable, necessary, and proportional under the circumstances.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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