



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 10, 2020

CASE NUMBER: 2019OPA-0741

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 he was subjected to excessive force during his arrest.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that the Named Employees subjected him to excessive force during his arrest. Specifically, the Complainant asserted that they put him in a chokehold when they removed him from a vehicle and then slammed his head into the ground. As a result of the Complainant's claims, OPA commenced this investigation.

As part of its investigation, OPA reviewed the documentation concerning this incident, Body Worn Video (BWV), and third-party video. OPA determined that the Complainant was suspected of committing a number of crimes, including a drive-by shooting. The Complainant subsequently led multiple law enforcement agencies on a pursuit that proceeded through several jurisdictions. The Complainant ultimately traveled into South Seattle and SPD units became involved.

At one point, the Complainant was observed exiting his vehicle and approaching another vehicle that was stopped at a light. The Complainant made entry into the vehicle and put the driver into a chokehold. He tried to pull the driver out of the car and yelled at the driver to "get out." The Complainant's actions caused the driver to take his foot off of the brakes, which caused the driver to rear end the vehicle in front of him. The Complainant then struck the driver several times in the face with a closed fist. The Named Employees grabbed the Complainant off of the driver and extracted him from the vehicle. In doing so, they pulled the Complainant onto the pavement. Named Employee #1 (NE#1) further reported that, while the Complainant was on the ground and continuing to resist the officers, he kned the subject once in the lower back area. NE#1 stated, however, that this strike did not appear to be effective. Named Employee #2 (NE#2) described grabbing the Complainant's collar area of his shirt to pull him out of the



vehicle. In addition, NE#2 stated that, aside from using body weight on the Complainant while the Complainant was resisting officers on the ground, he did not apply any other force.

The Named Employees' actions were recorded on Department and third-party video. The Named Employees' descriptions of their actions were consistent with this video.

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.*)

First, OPA finds that the force used was reasonable. At the time of this incident, the Named Employees were aware that the Complainant was a suspect in a crime of violence and had caused a dangerous and far-reaching pursuit. Moreover, they observed him actively engaged in a carjacking and viewed him assaulting the driver. To compound all of this, the Complainant had an object against the driver's throat, which the officers reasonably believed could be a weapon. Given these facts, the Named Employees were completely justified in using force to take the Complainant into custody and to prevent him from harming the driver, other community members, and the officers. As such, the force was reasonable.

Second, OPA concludes that the force was necessary. It is clear that, at the time force was used, the Named Employees did not perceive any reasonable alternatives to such force. OPA also determines that the force used was reasonable to effectuate the Named Employees' lawful purposes.

Third and last, the force applied was proportional to the Complainant's conduct and the extremely high risk of harm facing the driver, the officers, and others. Notably, the Named Employees used a relatively low level of force under the circumstances. Indeed, given the Complainant's conduct and the information that the officers were aware of at the time, they would have been entitled to use significantly more force, potentially including deadly force. That they did not do so, and their modulation of their force once the Complainant was under control, is a tribute to how well the Named Employees handled this incident.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper as against both of the Named Employees.

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), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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