



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 1, 2020

CASE NUMBER: 2019OPA-0804

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 used excessive force when arresting the Subject.

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 Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Officers were effectuating a RV remediation clean-up. During the clean-up, the Named Employees placed a male – who is referred to here as the Subject – under arrest. The Subject's friend, who is the anonymous Complainant in this case, reported her belief that, in talking the Subject into custody, the Named Employees used excessive force. A Department supervisor attempted to obtain her account of what occurred; however, while the Complainant conveyed some initial information, she left the scene before providing her name and contact information.

The supervisor located the Subject, who was at the Harborview Medical Center at the time. The supervisor attempted to speak with him, but he declined to substantively describe what occurred. He did not assert an excessive force claim during his interview. The supervisor subsequently referred this matter to OPA.

Given the lack of contact information for the Complainant, OPA was unable to interview her. OPA was also unable to locate the Subject. OPA reviewed the Body Worn Video (BWV) for the incident. The BWV indicated that, at the time of his arrest, the Subject made the following statements concerning the force and the injuries he purportedly



suffered: “fucked up my arm”; “rammed my fucking face into the goddamn gate”; “slammed my fucking face into the goddamn gate”; and “my motherfucking face.”

The video further showed that the officers made the determination to place the Subject under arrest for obstruction. At that time, the Complainant had not complied with repeated orders to move away from the clean-up area. Named Employee #2 (NE#2), who was an on-scene supervisor, told Named Employee #1 (NE#1) to position the Complainant against a fence. He was then handcuffed. The video indicated that the Complainant moved around while at the fence, but it did not appear that he was pushed or forced against the fence by the Named Employees. In addition, the video showed that the Complainant complained of pain and made exclamations that indicated that he was potentially in pain several times. However, it was unclear what the cause of the complaints and exclamations was as no officer was using substantial force at that time.

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 totality of the evidence, OPA concludes that the force used to effectuate the Subject’s arrest was consistent with policy. First, at the time force was used, the officers had a lawful basis to take the Complainant into custody, including securing his body and placing him in handcuffs. As such, the force was reasonable. The force was also necessary as, under policy, the officers were required to handcuff the Complainant and only that level of force needed to take him into custody was used. Lastly, the low-level force that was used to arrest the Complainant was proportional under the circumstances.

Ultimately, OPA finds that the claims made by the Complainant and the Subject concerning the force used are not substantiated by the evidence. Specifically, there is no support for the allegation that the Complainant was slammed against the fence or that the officers caused any injuries to his face. While it is unfortunate that the Complainant may have suffered injuries from this incident, that does not cause the force to be outside of policy. Indeed, OPA reaches the opposite conclusion and finds that the officers acted appropriately during this incident.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper as against both 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)**