



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 2, 2020

CASE NUMBER: 2020OPA-0077

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	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)

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 Named Employee #1 subjected her to excessive force. The Complainant further alleged that Named Employee #2 and Named Employee #3 were unprofessional towards, as well as that Named Employee #3 refused to take her complaint. Lastly, the Complainant alleged that an unknown SPD employee raped her.

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.



SUMMARY OF INVESTIGATION:

An individual called 911 to report a hit and run of a parked vehicle. The suspect was described as a female. The call was updated to reflect that the suspect – who is the Complainant in this case – had returned to the scene. The Complainant was described to be “bleeding from the head,” as well as “rambling and crying.” Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were dispatched to the scene. When they arrived, they observed the Complainant being followed by Seattle Fire Department (SFD) personnel. The Complainant had blood on her head and was talking about her “lost dog.” SFD informed the officers that the Complainant was refusing treatment. NE#1 attempted to speak with the Complainant in order to investigate what had occurred. The Complainant asserted that she had been involved in a collision. NE#1 reported smelling intoxicants on her and believing that she was under the influence. When NE#1 attempted to detain the Complainant, she was non-compliant and began to run away. NE#1 ran after her and took her to the ground onto a grassy patch.

The Complainant was handcuffed and was then transported from the scene to the hospital. The officers were ultimately unable to conclusively identify the Complainant as the involved driver. Accordingly, she was un-arrested at the hospital and released from custody. The un-arrest was screened with a supervisor. The supervisor noted a small laceration to the Complainant’s forehead.

The Complainant later called 911. She requested assistance with finding her dog and indicated that she had been ejected from her vehicle during a collision. Named Employee #3 (NE#3) and other officers responded to the Complainant’s location. They noticed dried blood on her head. The officers ultimately located her dog. At that time, the Complainant asserted that she was subjected to excessive force by officers. Specifically, she stated that she was tackled to the ground by NE#1 for no reason. NE#3 took her complaint and also provided her with OPA’s contact information. NE#3 subsequently made an OPA referral and this investigation ensued.

As part of its investigation, OPA reviewed the Body Worn Video (BWV) of this incident and the other documentation generated by the involved officers. While NE#1’s BWV inadvertently stopped recording at the moment he took the Complainant down to the ground, the totality of the evidence conclusively established what occurred and indicated that it was consistent with NE#1’s reporting. OPA also interviewed the Complainant. She denied that she was intoxicated during the incident but stated that she had memory loss due to “pretty bad PTSD” from prior interactions with officers. She reiterated her belief that she had been subjected to excessive force by NE#1. She also contended that NE#2 and NE#3 were rude to her and would not answer her questions, as well as that NE#3 refused to take her complaint. Lastly, while she did not repeat this allegation during her OPA interview, the BWV reflected that the Complainant alleged that she was raped by an unknown SPD officer.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

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 Body Worn Video (BWV) and the other documentary evidence, OPA concludes that the force used by NE#1 was consistent with policy. As a starting point and as discussed more fully below, NE#1 had a lawful basis to detain the Complainant to determine whether she had committed a hit and run and was DUI. Moreover, NE#1 permitted to use force, if needed, to effectuate that detention, particularly when the Complainant began to flee. As such, the force was reasonable. The force was also necessary given the Complainant’s flight and non-compliance physical resistance and there did not appear to be any reasonable alternatives to going hands-on to take her into custody. Lastly, the force was proportional under the circumstances. First, based on the BWV, the force appears to have consisted entirely of a controlled takedown and then, while the Complainant was on the ground, control holds and applications of body weight to secure her person. There is no evidence that NE#1 struck the Complainant at any time or used anything other than low level force. Second, once the Complainant was secured on the ground and handcuffed, no further force was used on her. Third, the Complainant not only was non-compliant and ran from NE#1 but was also believed to have committed serious crimes. The combination of these factors influenced NE#1’s reasonable determination that the Complainant presented a threat and supported the appropriateness of the use of force.

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

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

Named Employee #2 - Allegations #1

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

The Complainant alleged that NE#2 and NE#3 were unprofessional towards her and, specifically, that they were rude and did not respond to her questions. Both officers’ interactions with the Complainant were completely captured on BWV. The video conclusively establishes that neither NE#2 nor NE#3 were rude to the Complainant at any time. The video also constitutes clear evidence that neither officer refused to answer her questions. Indeed, the video establishes the contrary.

As this allegation is disproved by the evidence, OPA recommends that it be Not Sustained – Unfounded as against both NE#2 and NE#3.

Recommended Finding: **Not Sustained (Unfounded)**



Named Employee #3 - Allegations #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint

SPD Policy 5.002-POL-2 requires employees to assist any person who wishes to file an OPA complaint. As discussed above, the Complainant alleged that NE#3 refused to do so.

The BWV conclusively establishes that, contrary to the Complainant's assertions, NE#3 took her complaint. Moreover, he did, in fact, file a complaint with OPA on her behalf.

As NE#3 wholly complied with policy, OPA recommends that it be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #2

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

For the same reasons as stated above (see Named Employee #2 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #4 - Allegations #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

The BWV reflected that the Complainant asserted that she was raped by an unknown SPD officer. The Complainant also contended that an AMR driver was raping her while she was being secured on the gurney. Based on OPA's review of the video, there is no evidence substantiating her allegations of sexual assault. Indeed, the evidence indicates that she was intoxicated, assaultive to AMR staff, and was making numerous statements that did not make sense under the circumstances.

For these reasons, and given the lack of absence to the contrary, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**