



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 7, 2020

CASE NUMBER: 2020OPA-0137

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:

It alleged that SPD SWAT executed a search warrant in a dangerous manner.

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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

OPA received two complaints concerning the service of a warrant on a residence by SPD's SWAT unit. For purposes of clarity, the first complainant, who was inside of the residence at the time, is referred to here as the "Subject." The second complainant, who was a neighbor, is referred to as the "Complainant." Both the Subject and the Complainant asserted that SWAT used "concussion grenades" or "flash bombs" and that this was dangerous. The Subject stated that he suffered injuries to his ears from the noise and that the incident caused him "severe anxiety" and PTSD symptoms. The Complainant alleged that the equipment utilized by SWAT was excessive and she complained about SWAT members "creeping" through the backyards of her house and other houses in the neighborhood while armed with rifles. The Complainant did not understand why "grenades" were necessary and was upset that the neighbors were not communicated with either before or after the incident. As a result of these complaints, OPA initiated this investigation.

OPA determined that SWAT executed the warrant to arrest an individual (referred to here as the "Suspect") who was believed to live inside. The warrant was approved by a judge. The was probable cause to arrest the Suspect for drug offenses.

The SWAT operation was carried out pursuant to an Operations Order. This Order was ultimately approved by Named Employee #1 (NE#1), the SWAT Lieutenant. The Order planned for SWAT to conduct a dynamic search



warrant service. This entailed a point officer leading a team of multiple other officers up to the Suspect's door. The point officer would knock and announce and, after waiting for a reasonable amount of time, an order would be given to breach the door. If the door was breached, the Order directed two officers to deploy Noise Flash Diversion Devices (NFDD). The purpose of these deployments was to distract the Suspect and allow SWAT to safely take him into custody. The Order noted that the Suspect had previously used his car to ram officers during an attempted vehicle takedown. It also noted that the Suspect was known to possess a firearm. The Order was purposed to ensure that the warrant was executed in the safest possible manner.

On the date of the incident, the officers executed the warrant virtually identically to the plan set forth in the Order. Armed SWAT officers exited their vehicles and followed the point officer up to the Suspect's door. This included proceeding through yards neighboring the Suspect's residence. The officers carried their rifles at the low-ready and did not appear to have their fingers on the triggers. Moreover, they did not point their rifles in the directions of any individuals or residences at that time. One of the officers knocked on the door and loudly stated: "Seattle Police with a search warrant, open the door!" After waiting for approximately 10 second, an officer yelled: "Breach, breach, breach!" A siren was activated and the first NFDD was deployed. Virtually simultaneously, an officer stated over the P/A system: "Seattle Police with a search warrant!" The SWAT officers entered the residence and deployed the second NFDD. The SWAT officers conducted a protective sweep of the residence, stating: "police, get down." The SWAT officers located three individuals inside of the residence, including the Subject. The Suspect was not there. All three individuals were placed into handcuffs and, once it was determined that none were the Suspect, they were released from custody. Narcotics detectives subsequently searched the residence for evidence.

Aside from the deployment of the NFDDs and the placement of the three individuals into handcuffs, no other force was used during this incident. None of the three individuals, including the Subject, appeared to be injured as a result of the deployment of the NFDDs.

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.*)

Given that NE#1 signed the Order and, thus, directed the actions of the SWAT officers, he was identified as the subject of this investigation.

Based on a review of the totality of the evidence, including the BWV, OPA finds that the SWAT did not collectively or individually use force that was inconsistent with policy. OPA further concludes that the actions they took were not unreasonable or unduly dangerous and were consistent with their training.

While OPA understands the concerns of the Complainant and the Subject, the SWAT officers had the legal authority to enter the residence. Moreover, when doing so, they were entitled to make that entry as safe as possible for themselves and the other individuals who were potentially inside. This included using diversionary tools, such as the NFDDs, and equipping themselves with rifles. This was particularly necessary here given the Suspect's prior violent actions towards officers and potential possession of a firearm. In addition, while it is certainly unfortunate that the



Subject suffered the physical and psychological injuries he claimed, this does not yield the force out of policy. To the contrary, OPA finds that the officers' force was reasonable, necessary, and proportional under the circumstances of this case.

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

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