



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 20, 2020

CASE NUMBER: 2020OPA-0190

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.160 - Observation of Officers 2. People Have the Right to Record Police Officer Enforcement Activities	Not Sustained (Unfounded)
# 2	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 prevented him from observing the actions of officers and assaulted him.

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

5.160 - Observation of Officers 2. People Have the Right to Record Police Officer Enforcement Activities

An officer was conducting a traffic stop in north Seattle. Named Employee #1 (NE#1), a supervisor, was backing the officer during the stop. At one point, the Complainant walked up to the traffic stop and began recording. Eventually the Complainant began to walk closer to the stopped car. NE#1 approached him and told him that he did not mind the Complainant recording but that he needed the Complainant to step back from the scene. The Complainant did not back up and, instead, told NE#1 to step away from him. NE#1 then placed his left hand on the Complainant's left shoulder and physically moved the Complainant backwards. NE#1 thanked the Complainant and told him that, as long as he remained at that distance, he could stay in the vicinity of the stop and continue to record. The traffic stop concluded, and NE#1 walked back to his patrol vehicle and drove from the scene.

SPD Policy 5.160-POL-2 states that community members have the right to record officers who are engaged in law enforcement activities. The Complainant alleged that NE#1 infringed on this right, thus violating policy.

The Body Worn Video (BWV) of this incident, which shows the entirety of the contact between the Complainant and NE#1, conclusively disproves this allegation. The BWV establishes that the Complainant was permitted to record the incident and was only asked not to approach the scene. He was allowed to remain just feet from the stop and his

recording vantage point was not negatively affected in any respect. Moreover, NE#1 expressly told him that he could continue to record as long as he remained a safe distance away.

Given the above, OPA finds that NE#1 did not act contrary to this policy during this incident. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

The Complainant claimed that NE#1 “assaulted” him by physically moving him backwards. OPA construed the Complainant to be making an allegation of excessive force.

As with Allegation #1, the BWV is dispositive here. The video clearly indicates that the force was not excessive. NE#1 used his left hand to move the Complainant back when the Complainant did not comply with his directions. Notably, NE#1 was lawfully permitted to order the Complainant to move and the Complainant was required to comply with those orders. To ensure compliance, NE#1 was allowed to use force, if needed under the circumstances. Here, NE#1 had a legitimate law enforcement interest in ensuring the safety of officers during the traffic stop. As such, the minor force he used to carry out that interest was reasonable, necessary, and proportional, and, thus, consistent with policy.

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

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