



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 17, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0452

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 (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 the Named Employee used excessive force during a traffic-related incident.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Named Employee #1 (NE#1), along with three Witness Officers (WO#1, WO#2, and WO#3), were called to a DUI incident. The incident involved an idled car with a driver – the Subject – and a passenger in the front seat – the Complainant – that was blocking a driveway.

Body Worn Video (BWV) of the incident indicated that WO#1 was the first officer who arrived on scene, followed by NE#1. Seattle Fire Department (SFD) employees who had responded prior to the arrival of police, told the officers that they “smell[ed] weed and alcohol.” NE#1 was handed the keys to the car, which had been retrieved by SFD. NE#1 was told the driver had been non-responsive. In response to what he was told and what he personally observed, NE#1 ordered both occupants out of the car. The Subject got out of the car and was directed by NE#1 to take a seat on the front bumper. The BWV showed there was no physical contact between the officers and the Subject as he got out of the car. WO#2 also directed the Complainant to get out of the car. In doing so, she nearly lost her balance, telling the officer that she “just woke up from a nap” and was “kinda loopy.” WO#2 caught the Complainant from falling over. The Complainant stumbled as she walked towards the curb but sat down unassisted.

NE#1 interviewed the Subject. The Subject asked if he had been asleep and if he had just woken up. His speech was slurred. NE#1 asked the Complainant, who was seated on the curb, if she knew the Subject's phone number. Approximately eight minutes after the officers initially arrived, the Complainant was advised that she could leave. However, she said that she wanted to wait for the Subject, who she identified as her boyfriend. NE#1 then contacted the community member (CM) who originally reported the incident, who informed NE#1 that he saw the car blocking his driveway. The CM said that, when he walked up to the car, the windows were down and both occupants were



passed out. The CM further conveyed that he tried to poke the Subject with a stick, but the Subject did not respond. NE#1 then explained to the Complainant they were conducting a DUI investigation concerning the Subject and that, as a result, she may want to call a Lyft or Uber. The Complainant was given NE#1's business card, which contained his badge number and the case number.

At one point while administering field sobriety tests, WO#3 had to catch the Subject when he nearly fell over. The Subject was informed that he was under arrest for a DUI. He was placed into custody without incident by WO#1, WO#2, and WO#3. He was further read his Miranda warnings. NE#1 told Complainant that the Subject was under arrest, and that if she could not get a ride, the officers would drive her home. The Subject was then escorted away. The Complainant gathered her belongings from the vehicle, and the vehicle was impounded. WO#1 stayed at the scene until the Complainant's ride arrived and she was driven away. The Complainant later alleged to OPA that NE#1 dragged her and the Subject out of their vehicle and were "rough" with the Subject.

Based on a review of the BWV, NE#1 used no force against either the Subject or Complainant. Both individuals were ordered out of the vehicle, and each complied, unassisted. Moreover, the BWV conclusively established that no officer, including NE#1, was "rough" with the Subject. Indeed, the only times that the officers made physical contact with the Subject and Complainant were to catch them to prevent them from falling over based on their intoxication levels and to place the Subject into handcuffs. This did not represent reportable force, let alone force that was excessive.

As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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