



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 4, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0768

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)
# 2	16.110 - Crisis Intervention	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)
# 2	16.110 - Crisis Intervention	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 subjected him to excessive force and did not handle a crisis situation appropriately.

SUMMARY OF INVESTIGATION:

The Named Employees were dispatched to a call of a man cutting himself with an edged blade in downtown Seattle. When the officers arrived at the location, they observed the man – who is the Complainant in this case – standing outside of a barbershop holding a knife. Staff from the barbershop indicated that the Complainant was the individual who had been cutting himself. The Complainant was agitated when he observed the Named Employees and shouted at them to leave him alone. Named Employee #1 (NE#1) drew his Taser and he arced it to demonstrate its functionality. NE#1 calmly told the Complainant to put down the knife.

The Complainant, who was still holding the knife, crossed the street and walked towards a group of approximately 10-15 individuals. He held the knife against his neck for a period of time. Another individual approached the Complainant and NE#1 told that individual to back away. The Complainant then proceeded down an alley and dropped the knife. The Named Employees followed him. NE#1 secured the knife and both officers tried to engage the Complainant in conversation. The Named Employees observed the Complainant empty his pockets and a razor blade fell out.

The Named Employees approached the Complainant and placed him into handcuffs without incident. The Complainant began to strike his head on the side of a building. To prevent him from continuing to do so, NE#1 pulled the Complainant down into a seated position. However, the Complainant continued to strike his head. The officers



then placed the Complainant on his side in the recovery position. He had to be physically restrained from further attempting to strike his head on the ground. The Complainant was involuntarily detained for a medical/psychiatric evaluation and was transported to the hospital. He was abusive towards hospital staff during the transport and NE#1 rode in the ambulance; however, no force was used by NE#1 or any other officer.

The Complainant later filed a complaint concerning this incident with OPA. The Complainant stated that he intended to commit suicide that day and his friend was talking to him and trying to take the knife away. He said that two officers arrived and immediately pointed the Tasers at him. He said that he did not want to be tased, so he dropped the knife and ran away, proceeding through an alley. The officers chased him. The Complainant recalled that, when the officers caught up to him, they threw him against a building, slamming his head against the wall. He asserted that the officers also kicked his feet out from under him causing him to fall to the ground. The Complainant stated that he was in and out of consciousness and that, the next thing he knew, he was at the hospital. He claimed that the officers' conduct constituted excessive force and that they also did not properly communicate with him while he was suffering a mental health crisis.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

As discussed above, the Complainant asserted that the Named Employees subjected him to excessive force. Specifically, he contended that they slammed him against a wall, struck his head against the wall, and kicked his legs out from under him causing him to fall to the ground.

All of the Complainant's allegations are disproved by the Body Worn Video (BWV). The video showed that the Named Employees handcuffed the Complainant without using any force other than to apply the handcuffs. The video further confirmed that the Complainant was not slammed against the wall and struck his own head against the wall, intentionally and on multiple occasions. At that time, NE#1 pulled the Complainant downward to prevent him from continuing to strike his head. He ultimately slid to the ground on his own power and his legs were not kicked out from under him. Even after this, the Complainant kept trying to strike his head and was prevented from doing so by officers.

Ultimately, all of the force used by the Named Employees was de minimis, consistent with policy, and purposed to either place the Complainant into custody or to subsequently protect him from self-harm. 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 #1 - Allegation #2

16.110 - Crisis Intervention

SPD Policy 16.110 governs how officers are expected to deal with individuals in crisis. Relevant to this case, the policy states that: "When officers need to engage with a subject in behavioral crisis, the Department's expectation is that they will attempt to de-escalate the situation, when safe and feasible." The policy further explains that: "This expectation does not restrict an officer's discretion to make an arrest when probable cause exists, nor are officers expected to attempt de-escalation when faced with an imminent safety risk that requires immediate response."



Here, the Complainant asserted that the officers did not recognize that he was in crisis and did not interact with him calmly. He contended that this constituted a violation of SPD policy.

Based on a review of the video, OPA reaches a different conclusion. The BWV indicated that, throughout this incident, the Named Employees spoke to the Complainant calmly and gave him clear directions to drop the knife. They further tried to build lines of communication with him, but he was not responsive to this. OPA notes that the only time that either of the Named Employees raised their voices was when NE#1 told another bystander who was approaching the Complainant to move back.

In addition, while NE#1 did brandish his Taser, OPA does not believe that this was inconsistent with how he was trained to respond to a crisis situation. This is particularly the case given that the Complainant was holding a knife at the time, had demonstrated an intent to harm himself, and had been non-compliant with the officers' orders.

OPA finds that the manner in which the Named Employees handled this incident was consistent with the Department's crisis intervention policies. Accordingly, 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)**

Named Employee #2 - Allegation #2

16.110 - Crisis Intervention

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

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