



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 7, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0107

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 Named Employee #1 (NE#1)—an unknown employee—used excessive force during the Complainant's arrest, causing the Complainant's shoulder to dislocate.

SUMMARY OF INVESTIGATION:

The Complainant mailed a complaint to OPA alleging, during his arrest, "one officer used extreme and unnecessary force, resulting in my left (shoulder) being dislocated." OPA opened an investigation.

During its investigation, OPA reviewed the OPA complaint, Computer Aided Dispatch (CAD) Call Report, the Incident/Offense Report and Supplements, and Body Worn Video (BWV). OPA also interviewed the Complainant and Witness Supervisor #1 (WS#1).

The entirety of the Complainant's arrest was recorded on multiple BWVs. Officers responded to a 911 call for a male who brandished knives while trying to take a tip jar at a coffee shop. The offender's description was communicated as "BM, 30S, 0600, BLK BBCAP, JEAN JKT." Officers stopped the Complainant, a twenty-seven-year-old black male, five feet and eleven inches tall, wearing a black baseball cap, and a jean jacket.

Initially, multiple officers gave verbal commands for the Complainant to "Stop" and "Lie down on the ground." Eventually, the Complainant stopped and sat on the ground. Four officers approached the Complainant. Those officers used open hand techniques to control the Complainant's movements while ordering the Complainant to lay on his stomach. The Complainant was noncompliant. He made statements like "Bro, don't touch me," and tried to turn his body away from the officers' directed control. At that time, WS#1 also approached the Complainant. WS#1 and at least six other uniformed SPD officers participated in controlling and ultimately arresting the Complainant.



OPA reviewed BWV of all the officers' who participated in the Complainant's arrest. Those videos show officers used *de minimis*¹ force to control the Complainant's movements, overcome the Complainant's passive and active resistance, place the Complainant into handcuffs,² and place the Complainant into a SPD vehicle. The Complainant spoke throughout the arrest and afterwards, but never complained of shoulder pain. Similarly, when screened by WS#1, the Complainant did not mention shoulder pain or injury. Further, after transporting the Complainant to jail in the back of a police vehicle, the transporting officer advised the dispatcher that the Complainant "slipped his [hand]cuffs from the back to the front" (move his hands from a rear-cuffed position to a front-cuffed position).

OPA interviewed the Complainant over the telephone. The Complainant stated his left shoulder was dislocated by an unknown officer. The Complainant said that injury occurred as the officers handcuffed him. Specifically, he alleged officers overextended his shoulder as they positioned his hands at the small of his back. The Complainant claimed to yell either "ahh" or "ow" and grimaced when the injury occurred. The Complainant described his shoulder as snapping and popping when it dislocated. The Complainant stated, after his shoulder was dislocated, "I wouldn't be able, while I was in handcuffs, to use my shoulder in any great manner." The Complainant also noted, "All I remember from that point is my shoulder was dislocated and I was in pain." The Complainant also stated, after he arrived at King County Jail, he was tased and kicked until he was unconscious and then taken to a hospital. The Complainant said the hospital did a "full screening" and diagnosed him with a dislocated left shoulder. The Complainant stated the injury to his shoulder was not caused by King County employees but, instead, was "110 percent SPD." The Complainant read from purported medical records during the interview and agreed to provide OPA copies. The Complainant never provided those records to OPA.

OPA also interviewed WS#1. WS#1 stated the Complainant resisted arrest and would not "give up his hands" to allow handcuffing. WS#1 said he screened the arrest and did not notice any fresh injuries.³ WS#1 stated the Complainant never mentioned shoulder pain. WS#1 determined the force he observed during the Complainant's arrest was *de minimis*. WS#1's account was corroborated by BWVs reviewed by OPA.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 used excessive force during his arrest.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." Whether force is reasonable depends "on the totality of the circumstances" known to

¹ Physical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to or are reasonably likely to cause any pain or injury. *Seattle Police Department Manual, 8.050 - Use of Force Definitions.*

² The Complainant was rear-cuffed with two sets of handcuffs. That is, one set of handcuffs was applied to each of the Complainant's hands, with the empty cuffs locked together. That eliminated the need to bring the Complainant's hands closer to handcuff him.

³ WS#1 noted some injuries on the Complainant that appeared old, specifically dried blood from what appeared to be a small, old wound on the Complainant's hand.



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 8.050.) The policy lists several factors to weigh when evaluating reasonableness. (*See id.*) Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

Here, OPA was unable to identify excessive force used during the Complainant’s arrest. The officers who apprehended the Complainant used *de minimis* force, which was reasonable, necessary, and proportional to overcome the Complainant’s resistance to a lawful arrest. Moreover, OPA finds the Complainant’s specific allegation that a SPD officer dislocated his shoulder to be Unfounded. Not only was OPA unable to identify excessive force used by SPD officers, but the Complainant also made no mention of shoulder pain during or after his arrest. Further, he engaged his shoulder in significant physical activity, inconsistent with a dislocated shoulder, by slipping his handcuffs in the back of a police vehicle.

For these reasons, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**