



CLOSED CASE SUMMARY

ISSUED DATE: JULY 16, 2019

CASE NUMBER: 2019OPA-0095

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)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

Named Employee #4

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:

The Complainant alleged that the Named Employees used excessive force against him when they choked him.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, 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 - Allegations #1

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

The Complainant was identified as the suspect in a motorcycle theft. The Complainant was observed on a public sidewalk by the Named Employees and was positively identified by Named Employee #1 (NE#1). The officers approached the Complainant, detained him, and Named Employee #3 (NE#3) informed him that he was being



arrested based on his suspected theft of a motorcycle. NE#3 took the Complainant into custody and was assisted in doing so by Named Employee #2 (NE#2) and Named Employee #4 (NE#4).

NE#3 reported that the Complainant was very uncooperative and resisted the arrest. NE#3 documented that the Complainant yelled statements such as "just kill me" and "I'm not going." After officers determined that attempting to get the Complainant into custody in a standing position was no longer safe and effective, they employed a tabletop technique and directed him to the ground. NE#3 wrote that it took three officers to gain control of the Complainant and get him onto the ground in order to apply the handcuffs. NE#3 reported that the Complainant complained about his handcuffs being too tight and that he asserted that he had been "choked out" by the Named Employees. Given the Complainant's allegations, the Named Employees called for the Seattle Fire Department (SFD) to respond and for a Sergeant to come to the scene. SFD evaluated the Complainant and determined that he had no apparent medical problems. In his report, NE#3 addressed the Complainant's claim of being choked and NE#3 confirmed therein that neither he nor any of the other officers made contact with the Complainant's throat or choked him.

The Sergeant responded to the scene to screen the arrest. At that time, a witness provided a statement to the Sergeant. The witness described the encounter as "a gentleman violently accosted by police officers." When asked to provide context for that description, the witness responded by stating that the Complainant was pushed to the ground by the police officers. Later in his interview, the witness stated that he: "saw a man thrown on the ground and then knee to back, chest to ground by a person that [his] fucking taxes go to." The witness appeared to have recorded parts of this incident on his phone and was asked if he would be willing to provide a copy of the video to SPD; however, he declined to do so. The Sergeant referred this matter to OPA.

During its investigation, OPA made repeated attempts to contact with the Complainant, but those attempts went unanswered. Thus, the Complainant was not interviewed by OPA as part of this investigation.

OPA reviewed the Body Worn Video (BWV) and In-Car Video (ICV) associated with this incident. OPA reviewed the BWV using a multi-camera view feature, which syncs multiple videos together so that a more complete picture of the event is captured. OPA also viewed the ICV from the vehicle belonging to NE#2 because it had the clearest view of this incident. After viewing these videos, OPA determined that none of the Named Employees ever contacted the front of the Complainant's neck or throat. Additionally, though the Complainant was taken to the ground during this incident, there was no evidence of excessive force being used by any of the Named Employees during the takedown.

OPA also requested and reviewed SFD's response report. In that report, SFD personnel documented their conclusion that the Complainant was having a behavioral episode and that, instead of being actually injured, he was reacting to being taken into custody.

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.*)



The Complainant's initial contact with the Named Employees, along with his arrest and the force used to take him into custody were fully captured on BWV and ICV. Though the witness believed that the Complainant was violently accosted by the Named Employees, the evidence indicates that this was not the case. Indeed, the video establishes that the conduct alleged by the Complainant and the witness did not occur. Instead, the evidence proves that the force used by the Named Employees during this incident was reasonable, necessary, and proportional, and, thus, consistent with policy. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against all the Named Employees.

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

Named Employee #2 - Allegations #1

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

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

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

Named Employee #3 - Allegations #1

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

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

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

Named Employee #4 - Allegations #1

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

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

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