



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 22, 2018

CASE NUMBER: 2017OPA-0845

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) |

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:

During a screening interview after his arrest and handcuffing with Named Employees' supervisor, the subject alleged that the Named Employees used "excessive force."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On the date in question, officers assigned to the West Precinct ACT Team were conducting buy and bust operations. Based on the officers’ reports, they observed the subject engage in a narcotics transaction and developed probable cause to place him under arrest. The Named Employees, who were part of a bicycle squad, converged on the subject to effectuate the arrest.

Named Employee #2 (NE#2) stated that he rode up to the subject on his bicycle. He described that he took hold of the subject’s left arm and told him he was under arrest. NE#2 then grabbed both of the subject’s hands and held them behind his back. While attempting to handcuff the subject, the subject pulled away and attempted to flee being taken into custody. NE#2 was able to hold onto the subject’s left arm and was able to pull him to the ground. Both NE#2 and the subject fell over a small metal chair and onto the ground.

Named Employee #1 (NE#1) and Named Employee #3 (NE#3) then placed the subject into handcuffs. NE#1 stated that, after he observed the subject fall down, he grabbed the subject’s left wrist while NE#3 grabbed the subject’s right arm. NE#1 described that he and NE#3 were able to get the subject from his back onto his stomach. NE#1



reported that they finished handcuffing the subject in the prone position. NE#3 similarly described assisting NE#1 turn the subject from his back onto his stomach, holding the subject's arm, and helping place him into handcuffs.

The subject complained of pain after incident and a supervisor was notified. The supervisor spoke with the subject about the force that had been used on him and the subject alleged that it was "excessive." He declined, however, to explain why he believed that to be the case. At one point, the subject alleged that the officers had broken his arm (he later recanted that statement). Even though there was no physical or medical evidence supporting this contention, the Department's Force Investigation Team (FIT) was notified. FIT declined to investigate. OPA interviewed the subject. He stated that he did nothing wrong on the date of the incident, but that he was arrested regardless. He again claimed that the officers used excessive force when they handcuffed him. He alleged that his legs were kicked out from under him, causing him to fall to the ground. He further alleged that he suffered a scar and bleeding from the handcuffs.

The incident was recorded on NE#1's and NE#2's Body Worn Video (BWV) and on private party video. From my review of the video, I find that it supports the officers' accounts. Moreover, I note that from a review of the video there is no evidence that the subject's legs were kicked from under him or that he was bleeding. The alleged bleeding is also inconsistent with photographs taken of the subject after his arrest.

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 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.*)

Based on the objective evidence in this case – most notably, the video – I find that the force used by the Named Employees was reasonable, necessary and proportional, and thus consistent with policy. The officers had probable cause to place the subject under arrest and, when he attempted to flee, they were lawfully permitted to use force to stop him from doing so and to secure his person in handcuffs. I note that the officers used only that level of force necessary to do so – there is no evidence that any officer kicked, punched, or otherwise struck the subject. While the handcuffing may have been uncomfortable, that does not establish that the officers engaged in excessive force. The limited force used was proportional to the threat posed by the subject based on his attempts to flee. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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), I recommend that this allegation be Not Sustained – Lawful and Proper.

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



Named Employee #3 - 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), I recommend that this allegation be Not Sustained – Lawful and Proper.

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