



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 25, 2018

CASE NUMBER: 2017OPA-1162

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 "threw" him on the ground, put his knees on the Complainant’s back and neck during the arrest, and broke the Complainant’s neck.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Named Employee #1 (NE#1) was dispatched with other officers to a “person down” call. When NE#1 arrived at the scene, he noticed that the Complainant was “very intoxicated” and was possibly injured. The Complainant stated that he had been previously struck by a vehicle. The Complainant said that his neck was injured and showed his neck to NE#1. NE#1 indicated that he did not see any injuries to the Complainant’s neck; however, the Complainant did have dried blood on his knee. The Complainant told NE#1 that he did not want medical attention.

During this interaction, NE#1 determined that the Complainant was wanted for violations of his probation. The Complainant was placed under arrest for these violations and was transported to the North Precinct. When he arrived at the precinct, his arrest was screened by a Sergeant. At that time, NE#1 also told the Sergeant that the Complainant said “ouch” while in the back of the patrol vehicle. The Sergeant initiated a Type I use of force investigation based on the complaint of pain.

As part of that investigation, the Sergeant spoke with the Complainant. The Complainant told the Sergeant that NE#1 had thrown him to the ground, had placed his knee on the Complainant’s neck and back, and had “broken” the Complainant’s neck. As part of his investigation into these claims, the Sergeant reviewed Department video. Based on that review, he verified that at no time did NE#1, or any officer for that matter, throw the Complainant to the ground, put a knee on the Complainant’s neck or back, break the Complainant’s neck, or use anything other than de minimis force. Notably, the Sergeant noted that NE#1 instead helped the Complainant off the ground and into a standing position and assisted him to the patrol vehicle and into the backseat. However, as required by policy, the Sergeant properly referred this matter to OPA given the Complainant’s allegations.



Based on my review of the record, I concur with the Sergeant that there is no evidence that the force alleged by the Complainant ever occurred. Indeed, I find that the force that NE#1 did use was de minimis and was legally justified as it was needed to place the Complainant under arrest and to transport him to the precinct. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

While not germane to my findings on this allegation, I note that NE#1 should have immediately reported the complaint of pain made by the Complainant while in the rear of the patrol vehicle. Such action was required by SPD Policy 8.400-POL-2 (“Officers, including witness officers, will verbally notify a supervisor immediately, unless not practical, following any use of reportable force,” which includes a complaint of transient pain). However, this allegation was not classified in this case and, as such, I do not make a formal finding in this regard. That being said, NE#1’s chain of command should discuss this matter with him and ensure that, going forward, he understands his obligations under this policy.

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