



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 12, 2018

CASE NUMBER: 2018OPA-0006

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)

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 subjected her to excessive force.

STATEMENT OF FACTS:

On the date in question, the Complainant and her boyfriend were detained by security guards employed by a downtown Seattle store. Store security first stopped the Complainant, who was alleged to have been running from the store with stolen property. When they did so, the Complainant’s boyfriend grabbed a security guard from the back and used his right forearm against the security guard’s neck to push and hold him against a wall. The Complainant also fought with the store security. SPD officers, including Named Employee #1 (NE#1), responded to the scene and took both the Complainant and her boyfriend into custody.

The interaction between the Complainant and NE#1 was largely captured by Department video. The video depicted NE#1 and another officer leading the Complainant out of the store. At that time, the Complainant lunged at a woman who appeared to have been a security guard. NE#1 told her to “stop that.” The Complainant made another abrupt movement and NE#1 stated: “ok, that’s an added charge.” The Complainant continued to move her body even after being instructed to stop multiple additional times by NE#1. The video captured NE#1 telling another officer that it appeared that the Complainant was “going to spit on you right now.” The officers told the Complainant to walk and she stated, apparently to NE#1: “get your hands off of me” and “you don’t need to squeeze my goddamn bicep.” At that time, she also made a complaint of pain (“ow”). They continued to walk down the hallway with NE#1 holding the Complainant’s arm. The Complainant stated to an officer in front of them: “I want you to hold me, not this fuck.” She continued to struggle and told NE#1 that she wanted him to hold her property and wanted another officer to hold her arm and walk her from the store. Ultimately, NE#1 did so and another officer guided the Complainant. After that time, she made at least one more complaint of pain that was captured by the video.

The Complainant’s allegation was referred to OPA by a Department supervisor. OPA attempted to interview the Complainant through her criminal defense attorney, but the Complainant did not participate in OPA’s investigation. Based on the evidence in the record, OPA, with the agreement of the OPA Auditor, deemed this to be an expedited investigation. As such, NE#1 was not interviewed by OPA and my findings are based on OPA’s intake investigation.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

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.” (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 alleged that NE#1 subjected her to excessive force during her arrest. Specifically, the Complainant alleged that NE#1 squeezed her left bicep “as hard as he could” and pushed her into a wall. Based on my review of the video, I find no evidence that the force occurred as described by the Complainant. First, while NE#1 was gripping the Complainant’s arm, I do not believe that the video proves that he was doing as “as hard as he could.” Moreover, there is no indication from my review of the video that NE#1 ever pushed the Complainant into a wall.

From my review of the evidence, I find that the force used by NE#1 was reasonable, necessary, and proportional and, thus, consistent with policy. First, it was reasonable to use force to take the Complainant into custody and to remove her from the store. Moreover, the level of force used, gripping the arm of a combative subject, was reasonable under the circumstances. Second, the force was necessary to effectuate the lawful goal of arresting the subject and transporting her from the store. I do not believe that there was any other alternative to using such force. Third, the force used, gripping the Complainant’s bicep, was proportional based both on the Complainant’s previous fighting with store security and on her physical resistance to NE#1. This was a low-level amount of force that I believe was appropriate.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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