



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 20, 2018

CASE NUMBER: 2018OPA-0124

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)

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 while handcuffing her after her DUI arrest.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees responded to a call concerning a vehicle collision with one of the drivers suspected of being intoxicated. When the Named Employees arrived at the scene, they identified that the Complainant, who was the driver suspected of being intoxicated, was, in fact, impaired. Named Employee #2 (NE#2) attempted to speak with the Complainant, but she initially would not get off her phone to speak with them. Ultimately, they took her phone from her after it was clear that she had been DUI. The officers informed her why they believed this (they smelled alcohol, her eyes were bloodshot, she was slurring her speech, and they knew that she had been driving). She was placed under arrest and was handcuffed. Her Miranda warnings were read to her at the scene and she was then transported to the precinct for arrest processing.

The officers’ response and the Complainant’s arrest was captured on Department video. From my review of the video, she was clearly intoxicated.

After being handcuffed, the Complainant alleged that the handcuffs were causing her pain. Her complaint of pain was reported to a supervisor. The supervisor conducted a Type I force investigation, which included questioning the Complainant concerning the complaint of pain and photographing her wrists.

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.*) Here, the Complainant was lawfully arrested for DUI. As a result, the Named Employees were permitted to place her into handcuffs and to use a measure of force to do so. The handcuffing of the Complainant was captured on video.

The Named Employees did not use any undue force to handcuff her. That she suffered pain from the handcuffs was unfortunate, but it does not constitute excessive force.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

I note that, while not germane to my ultimate findings in this case, both of the Named Employees, and particularly NE#2, did a commendable job in this case. They were extremely patient with the Complainant who was, at times, difficult given her level of intoxication.

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)**