



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 8, 2018

CASE NUMBER: 2018OPA-0418

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 she was subjected to excessive force during her arrest.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees observed the Complainant trespassing. At the time, she was seated in a chair. The officers approached her and, after engaging in conversation, determined that she also had an open misdemeanor warrant. The Named Employees made the decision to place the Complainant under arrest. The Named Employees reported that they each took hold of one of the Complainant’s arms in order to take her into custody. The Complainant physically resisted them, including kicking Named Employee #2 (NE#2). Based on her active resistance and assaultive conduct, the Named Employees decided to bring the Complainant to the ground in order to secure her person. The officers used a controlled takedown (which was referred to in the force paperwork as a “body wrap take down”) to do so. While on the ground, the Complainant kept her arms under her body in an attempt to prevent the Named Employees from handcuffing her. NE#2 was able to control the Complainant’s left arm; however, she continued to keep her right arm under her body. Named Employee #1 (NE#1) made the decision to use a cross-face (applying pressure to a subject’s face using the arm bone as a pain compliance tool). The cross-face was successful and, after several seconds, it allowed NE#2 to gain control of the Complainant’s right arm. No further force was used after that point.

During the application of force, the Complainant made several statements that were captured by Body Worn Video (BWV) that suggested an allegation of excessive force. Specifically, she stated: “you’re beating me”; and “abuse, abuse.” After reviewing the BWV, a Department Lieutenant referred these allegations to OPA and this investigation



ensued. Notably, after she made her allegations and then later asserted that her arm was broken, the Complainant was treated by SFD Medics. No injuries consistent with her claims were observed.

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.*)

Based on OPA’s review of the record, which includes the BWV and the force documentation generated by the officers, OPA concludes that the force used by the Named Employees was reasonable, necessary, and proportional. The Named Employees had probable cause to place the Complainant under arrest. With that legal authority came the right to use force, if necessary, to effectuate taking the Complainant into custody. When the Complainant physically resisted the Named Employees’ attempts to do so, they were entitled to use force to stop her behavior and to control her person. This included using a controlled takedown and, later, a cross-face maneuver. Once the Complainant was handcuffed and secured, no further force was used.

As I find that the force used by the Named Employees during this incident was consistent with policy, I recommend that this allegation be Not Sustained – Lawful and Proper as against both NE#1 and NE#2.

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)**