



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 21, 2018

CASE NUMBER: 2017OPA-0915

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)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)

Named Employee #3

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 via a Department supervisor that excessive force was used on her during her arrest.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On August 25, 2017, at approximately 0450 hours, Named Employee #1 (NE#1), Named Employee (NE#2), and Named Employee #3 (NE#3) were investigating an alarm call at a business. While at that location, the Named Employees saw a female walking a dog. The female, who is the Complainant in this case, was identified by the Named Employees as matching the description of a wanted homicide suspect. The Named Employees identified the Complainant via information they received from a wanted bulletin. The wanted suspect was reported to often have a small white dog with her and was known to frequent the area in which the Named Employees located her.

Based upon the totality of the circumstances, the Named Employees had reasonable suspicion to detain the Complainant to investigate her involvement in a murder. The Named Employees reported that they attempted to stop the Complainant using verbal commands. However, the Named Employees reported that the Complainant did not stop, but instead decided to continue to walk away from the scene and the officers. That the Complainant walked away from the officers was captured by third party video.

NE#1 and NE#2 reported that they used de minimis force to take the Complainant into custody. Third Party video corroborated their reports. Third party video showed that the Complainant was not taken to the ground during this



portion of the incident. Shortly after the Complainant was taken into custody, NE#3 arrived at the location of the arrest. The Complainant began to resist the officers. NE#1 and NE#2 then searched her incident to arrest. Once the search was completed and it was apparent that the NE#1 and NE#2 were going to escort the Complainant to the rear seat of a patrol vehicle, the Complainant sat on under her own power. Eventually, NE#1 and NE#2 were able to get the Complainant to the rear of the police car and place her into the back seat. The Complainant was combative throughout this process and assaulted NE#1 after slipping her handcuffs. NE#1 and NE#3 then removed the Complainant from the rear of the police car and took her to the ground and placed her into the prone handcuffing position for the reapplication of handcuffs after gaining control of her person. The extraction and takedown appeared to generally follow Department training based upon the totality of the circumstances and my review of In-Car Video. At the scene, the Complainant alleged that officers “slammed” her head into the ground. Pursuant to her allegation, a Type II use of force investigation was conducted and an OPA investigation was initiated. However, review of photographs taken by the investigating patrol sergeant did not show any signs of injury consistent with the Complainant’s head being slammed into the ground during the takedown from the rear of the patrol car. Additionally, the Complainant admitted during her use of force interview that she struggled with the officers, slipped her handcuffs, and fought with the officers while in the rear of the patrol car. The Complainant also indicated that some of her facial injuries, which were minor, came from a previous incident.

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 several 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.*)

I find, applying a preponderance of the evidence standard, that the force used in this case was reasonable, necessary, and proportional. In this case, the Complainant was wanted for homicide and was given verbal commands to stop by uniformed police officers. The Complainant failed to stop. When she failed to do so, the Named Employees were permitted by law and policy to use force to stop her. Here, the Named Employees did not use reportable force to stop or take the Complainant into custody. Similarly, the Named Employees did not use reportable force to search the Complainant, escort her to the rear of the police car, or to place her into the back seat for transport. After the Complainant resisted being placed into police car for transport and assaulted NE#1, NE#1 and NE#3 used reportable force to take the Complainant down to the ground. With regard to this force, I find that it was reasonable and necessary to re-establish control of a resistive and assaultive homicide suspect who had escaped from her handcuffs. Moreover, I find that the force used was proportional to the threat posed by the Complainant’s resistive and assaultive behavior.

With regard to the force actually used by the Named Employees, I find that it was within policy. As such, I would recommend that this allegation be Not Sustained – Lawful and Proper.

With regard to the Complainant’s claim that her head was slammed into the ground, I do not believe that the video evidence or photographic evidence support this allegation. To the contrary, I find that this evidence refutes her allegation. For these reasons, and given that this claim appears to me to be the gravamen of the Complainant’s allegation, I recommend that this allegation be Not Sustained – Unfounded.



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

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 – Unfounded.

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

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 – Unfounded.

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