



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2018

CASE NUMBER: 2017OPA-1299

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 used excessive force to cause him to be seated and when doing so "broke his back."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Officers, including Named Employee #1 (NE#1), were dispatched to a City park in response to a report of multiple people yelling and drinking alcohol. The officers made contact with four juveniles, including the Complainant. Three of the juveniles appeared to be intoxicated. One, a female, was rocking herself in a fetal position on a park bench and was crying. The officers were concerned that she was potentially in crisis. She told the officers that she did not feel well and wanted to go to the hospital. She further stated that she had felt like self-harming for the last few months.

At that point, one of the male juveniles stated that the officers did not have the right to detain him and started to walk away. After telling him repeatedly to sit down, the officers used force on him to bring him to the ground and to prevent him from leaving. This force is currently being evaluated in a separate OPA investigation (2017OPA-1299). The female then began vomiting and the officers called for medical assistance. The female was transported to a hospital.

A supervisor responded to the scene to screen the incident. At this time, the Complainant continually tried to stand up and did not obey the officers’ commands that he sit down. NE#1 then put his hand on the Complainant’s shoulder area and used de minimis force to push the Complainant down and back into a seated position. The Complainant complained of pain and stated that he had back problems. The Complainant sat down and then got on the ground. The Complainant asserted that NE#1 had broken his back and assaulted him on film. Based on the Complainant’s allegations of excessive force, this matter was referred to OPA and this investigation ensued.

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.*)

During its investigation, OPA reviewed the Department video of the incident. It confirmed, in OPA’s opinion, that NE#1 used de minimis force to place the Complainant in a seated position. I find that, at that point, NE#1 had permissibly detained the Complainant and was legally justified when he ordered the Complainant to be seated. When the Complainant did not do so, NE#1 was allowed to use force to control the Complainant’s person. The force he used here was reasonable, necessary, and proportional, and, thus, consistent with policy. I further conclude that the Complainant’s allegation that NE#1 broke his back was meritless. Indeed, when he spoke with OPA, the Complainant confirmed that his back was not broken by NE#1 and that he made up that assertion because he was intoxicated.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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