



CLOSED CASE SUMMARY

ISSUED DATE: JULY 30, 2018

CASE NUMBER: 2018OPA-0134

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 subjected him to excessive force when they handcuffed him and that this caused his shoulder to be dislocated.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees responded to a report of a domestic violence assault. When they arrived at the scene, they were told by a witness that the Complainant was in the residence and that the Complainant had tried to light his ex-girlfriend on fire. The witness further told the officers that the Complainant had an aerosol can and a lighter. The officers entered the residence and spoke with the victim, who was injured. The Complainant was in a rear bedroom and, when contacted by the officers, told them that he was going to burn the residence down. The officers were eventually able to convince the Complainant to leave the residence and he did so after he put two backpacks on. The officers tried to remove the backpacks but could not. They then cut the straps. After doing so, the officers put handcuffs on the Complainant. The Named Employees tried to walk the Complainant out of the residence, but he collapsed to his knees. The officers told him to stand and tried to lift him, but he would not comply. The officers



were finally able to stand the Complainant up after giving him his glasses per his request. The Complainant was then placed into the rear of a patrol vehicle.

The Complainant alleged, after the fact, that his shoulder was dislocated at the time that the Named Employees were attempting to take him into custody. He contended that this constituted excessive force. This matter was referred to OPA by a Department supervisor and this Expedited 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.*)

The only force used by the officers was that needed to try to lift the Complainant off of the ground and to handcuff him. I find that this force was reasonable under the circumstances. It was further necessary to effectuate the lawful purpose of taking the Complainant into custody and safely handcuffing him. Moreover, there was no reasonable alternative to using that force. Lastly, the minimal force used was proportional to the threat posed by the Complainant’s uncooperative conduct and his prior violent behavior. I note that the officers never struck the Complainant and modulated their force as soon as the Complainant was standing and handcuffed.

I find that the force used by the Named Employees was consistent with policy. I doubt, based on my review of the Department video, that this force ever resulted in any significant injury to the Complainant, including a dislocated shoulder. Notably, the Complainant never complained of pain during the incident or gave any indication that the force used by the Named Employees caused him discomfort. Moreover, even had he incurred such an injury, it would have been an unfortunate result of his own conduct and decision-making, not any purported excessive force used by the Named Employees. For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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)**