



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 21, 2018

CASE NUMBER: 2018OPA-0199

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)

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 subjected him to excessive force during his arrest.

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 Employee. As such, the Named Employee was 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 Complainant made statements that indicated his belief that, during his arrest, he was subjected to excessive force by Named Employee #1 (NE#1). Specifically, the Complainant stated that NE#1: “broke my back”; “damn near broke my back”; and “jumped on my back.” As a result of these comments, a Department supervisor referred this matter to OPA and this investigation ensued. OPA classified this matter as an Expedited Investigation with the review and approval of the OPA Auditor.

The documentation and Department video relating to this matter indicated that NE#1 responded to a possible domestic violence incident. It was reported that a male and female were yelling at each other outside of a blue Buick. NE#1 arrived at the scene and observed the blue Buick. He observed a male and a female exit a vehicle parked behind the Buick. The female was yelling at the male and then walked off. The male – who was later identified as the Complainant – is African-American, which was the same race as the male identified as being involved in the alleged domestic violence incident. NE#1 saw that the Complainant had a fixed blade knife on his waist, in apparent violation of City law.

NE#1 approached the male, informed him that he was being detained, and ordered him to get on the ground and spread his arms. When the Complainant did so, NE#1 handcuffed him in the prone position. This involved NE#1



placing his knee and some of his body weight on the subject's back in order to control the Complainant's body. He then handcuffed the Complainant and then took his weight off of the Complainant's back. At this point, the Complainant made the allegations of pain and force that are discussed above.

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 my review of the record, the force used by the Complainant was consistent with policy. First, it was reasonable to control the subject's body and to handcuff him. This was particularly the case given that the Complainant was being investigated for a possible domestic violence offense and was armed at the time. It was further necessary to effectuate NE#1's lawful purpose of detaining and securing the Complainant and I believe that there was no reasonable alternative to that force that was apparent to NE#1 at the time. Lastly, the force used, a trained tactic that was performed consistent with that training, was proportional to the potential threat facing NE#1 under these circumstances.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**