



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 23, 2018

CASE NUMBER: 2018OPA-0518

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.

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 developed probable cause to arrest the Complainant for harassment. They told the Complainant to stop at least four times, but he failed to do so. They then attempted to place the Complainant into custody by taking hold of his arms. The Complainant continued to resist and the officers struggled with him while they were in a standing position. The officers were able to use their weight to force the Complainant down to the ground. While on the ground, the Complainant continued to resist the officers. The officers used largely de minimis force at that time in an attempt to control the Complainant’s arms and to handcuff him. At one point, the Complainant yelled out that he was being subjected to “excessive force.” The Complainant also complained of pain at various times. He further alleged that one of the officers was hurting his throat; however, Department video conclusively established that this did not occur.

The force was recorded in its entirety on Body Worn Video (BWV). That video conclusively establishes that the force used by the Named Employees was reasonable, necessary, and proportional. The officers had probable cause to arrest the Complainant. With that legal authority came the right to use force, if needed, to take the Complainant



into custody. When the Complainant continually resisted, that force was further justified. From OPA's review of the video, the Named Employees used only that force needed to get control of the Complainant's body and to effectuate his arrest. That force was proportional to the threat posed by the Complainant. Lastly, the officers modulated their force during the incident and, once the Complainant was under control, no further force was used.

For the above reasons, I conclude that the force used by the Named Employees was consistent with policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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)**