



## CLOSED CASE SUMMARY

ISSUED DATE: MAY 21, 2019

CASE NUMBER: 2018OPA-1130

### 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)

**Named Employee #3**

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

**Named Employee #4**

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

**Named Employee #5**

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

**Named Employee #6**

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 by roughing him up during his arrest and dragging him across the street to a patrol vehicle.

**ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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.



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**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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

On October 30, 2018, the Department's Navigation Team was clearing an encampment. Named Employee #1 (NE#1) asked the Complainant to pack up his belongings and remove them from the sidewalk. The Complainant initially obliged and began taking down his tent. During this time, the Complainant and NE#1 began a conversation, which included NE#1 asking the Complainant about the type of housing the Complainant would feel comfortable moving into. As the Complainant and NE#1 started discussing different housing amenities such as storage and meals, NE#1 turned off his Body Worn Video (BWV). He reported that he did so for privacy reasons.

Upon re-activation of BWV, approximately 16 minutes later, NE#1 walked across the street to contact the Complainant who had since wrapped himself inside of his tent. NE#1 informed the Complainant that if the Complainant did not comply with the removal process, he would be arrested for obstruction. NE#1 gave the Complainant several warnings prior to the arrival of additional units. After a final warning, NE#1, along with Named Employee #2 (NE#2), Named Employee #3 (NE#3), Named Employee #4 (NE#4), Named Employee #5 (NE#5), and Named Employee #6 (NE#6), began to physically remove the Complainant from his tent. The Named Employees managed to get the Complainant out of the tent and NE#1 and NE#3 held onto the Complainant's arms before they pulled him up to a standing position. NE#1 and NE#3 attempted to walk the Complainant over to an SPD vehicle; however, the Complainant let his body go limp and refused to cooperate. At that point, NE#1 stated: "please use your legs, sir"; and "tuck your legs underneath you, please." The Complainant did not comply with these requests. NE#1 and NE#3 continued to escort the Complainant and he stood upright of his own accord upon arrival at the patrol vehicle.

During a subsequent incident on November 21, 2018, the Navigation Team again encountered the Complainant. At that time, the Complainant alleged that he had been subjected to excessive force ("roughed up") and "dragged" during the earlier October 30 incident. This matter was referred to OPA based on those comments 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.*)

As appears clear from a review of the BWV, the officers had probable cause to arrest the Complainant for obstruction. When the Complainant refused to comply with their orders to remove himself from the cleanup location and to walk to the patrol vehicle, the officers were permitted by law and policy to use force to compel him to do so. Here, the entirety of the force used by the officers was captured on Department video. The force they used was de minimis and consisted of pulling a tent from the Complainant's grasp, applying handcuffs, assisting him into a standing position, and walking him to the patrol vehicle. While he was being walked to the patrol vehicle, the Complainant did, at times, appear to drag his feet. However, the Complainant was not "dragged," as he claimed.



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Moreover, the video evidence conclusively disproves the Complainant's allegation that he was "roughed up" during his arrest.

Ultimately, I find that the force used by the Named Employees was reasonable, necessary, and proportional, and, thus, was consistent with policy. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against all of the Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**  
**Named Employee #2 - Allegations #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)**

**Named Employee #3 - Allegations #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)**

**Named Employee #4 - Allegations #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)**

**Named Employee #5 – 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)**

**Named Employee #6 – Allegation #1**  
***8.200 - Using Force 1. Use of Force: When Authorized***



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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)**