



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 1, 2020

CASE NUMBER: 2019OPA-0610

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)

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)

Named Employee #4

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 Employees used excessive force against her during an incident that began just before midnight on November 28, 2018. The Complainant specifically complained about how the Named Employees backed her into a corner, forced her to the ground, "shackled" her, and then threw her onto an ambulance gurney.

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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

On November 28, 2018, at approximately 11:55 p.m., the Named Employees responded to a call of a female in distress near 300 Yale Avenue North. When the officers arrived, they located a female who matched the description provided in the call.

Upon contacting her, the officers immediately recognized that the female – who is the Complainant in this case – needed assistance and was in a state of confusion. She was invited to sit in the back of one of the officer’s patrol vehicles so that she could get warm as she was shivering. The officers made repeated attempts to comfort and communicate with the Complainant to no avail. This inability to obtain information from the Complainant resulted in the officers being unable to determine her name. Moreover, the Complainant had no forms of identification with her. Ultimately, the officers determined that the Complainant met the criteria to be involuntarily detained for a mental health evaluation. She was transported to the hospital under the name “Jane Doe.” None of the involved officers reported using any significant force during this incident.

In August 2019, the Complainant called OPA to make a complaint concerning this incident. The Complainant alleged that the Named Employees took her down to the ground and placed her in a “four-point shackle” on a gurney prior to involuntarily admitting her to the hospital. The Complainant further explained during a phone interview with OPA that the Named Employees scared her, treated her like a criminal, and subjected her to excessive force. Based on the information provided by the Complainant, this investigation ensued.

The Complainant also raised issues about what contributed to her being incapable of communicating effectively with the Named Employees when then encountered her on November 28. The Complainant stated that, at that time, she was living with people who drugged and attacked her and that those people were also involved in human trafficking. The Complainant told OPA she had been in contact with the FBI but that she believed that SPD and others could have done a better job advocating for her regarding what she was subjected to by the people she lived with. OPA’s investigation is ultimately focused exclusively on the allegations that the Complainant was subjected to excessive force by the Named Employees. OPA did, however, review other SPD reports concerning the Complainant in order to gain necessary background information.

OPA located a report concerning a missing person investigation involving the Complainant that was open at around the time of this incident. In that investigation, the Complainant was described as suffering from mental illness and was identified as a drug user. According to a supplemental report in that investigation, the Complainant was seen in front of her apartment building wrapped in a blanket but left the area before police arrived. It was further reported that she had become involved with an older man and was using marijuana and other drugs. That missing person case closed after the Complainant’s involuntary detention in this case, which ultimately resulted in her being identified. The missing person closing report included comments that the Complainant’s friends and family contacted her at the hospital. It also described the Complainant as disoriented but in good health.

OPA located another report concerning an investigation involving the Complainant that was conducted by SPD’s Sexual Assault Unit (SAU). In that investigation, the Complainant and her mother met with a SAU detective and disclosed that the Complainant had been sexually assaulted by an unidentified male prior to her contact with the Named Employees in November 2018. The Complainant revealed other confidential information pertaining to that allegation and asserted that she was having difficulty with her memory. That case was closed in September 2019 pending authorization from the Complainant to disclose protected health information.

After learning this information, OPA reviewed the Body Worn Video (BWV) of the interaction between the Complainant and officers on November 28. The BWV corroborated that no force other than de minimis body controls was used on the Complainant. The BWV showed that the Named Employees spoke with her calmly, respectfully, and compassionately. At one point, they determined that the Complainant might feel more comfortable speaking directly to a female officer and they facilitated this. The BWV captured the Complainant voluntarily sitting on a gurney and then getting strapped down by medics. When this occurred, the Complainant began to try to pull away from the medics. The Named Employees assisted the medics in controlling the Complainant’s person and helped secure her to the gurney by holding her arms and legs in position. While she stated “ow” during this time, the Complainant later told a Department supervisor that she did not experience any pain from the Named Employees’ conduct. No other physical force was used by the Named Employees.

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 several 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 evidence conclusively establishes that the Named Employees never engaged in any physical struggle with the Complainant, as she alleged. The only force used was de minimis and involved the Named Employees’ effort to assist the medics in safely securing the Complainant to the gurney for transport to the hospital. Given this, OPA finds that the misconduct alleged by the Complainant simply did not occur. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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

Named Employee #2 - Allegations #1

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

For the same reason as stated above (see Named Employee #1, Allegation #1), OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegations #1

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

For the same reason as stated above (see Named Employee #1, Allegation #1), OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #4 - Allegations #1

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

For the same reason as stated above (see Named Employee #1, Allegation #1), OPA recommends this allegation be Not Sustained – Unfounded.

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