



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 18, 2020

CASE NUMBER: 2020OPA-0004

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 during his arrest.

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

Named Employee #1 (NE#1) was on patrol when she observed an individual – who as later identified as the Complainant – walking away from a male who was yelling at him. The male flagged down NE#1 and told NE#1 that the Complainant had stolen money that was in a tip jar. NE#1 approached the Complainant and began speaking with him. NE#1 noticed that money appeared to be hanging out of the Complainant's jacket pocket. Named Employee #2 (NE#2) arrived on scene as a backing officer. The Named Employees determined that there was probable cause supporting the Complainant's arrest and reached out to grab onto his arms. The Complainant pulled away from the officers and fled on foot. The Named Employees ran after him and followed him across the street. NE#2 caught up to the Complainant first, grabbed onto him, and began to pull him down to the ground. Virtually simultaneously, NE#1 took hold of the Complainant's upper body. NE#1 described that she and the Complainant both fell to the ground, with the Complainant landing partially on top of her. In her force report, NE#1 noted that, while trying to get out from under the Complainant, she may have kneed him in the face inadvertently; however, the video is inconclusive as to whether this occurred. NE#2 reported using his body weight to control the Complainant's person and to get



the Complainant's hands out from under his body. Other officers arrived on scene and the Complainant was placed into handcuffs. At the time of the takedown, the Complainant asserted that the officers were "beating [him] up."

A supervisor arrived on scene to screen and investigate the force used. The supervisor did not observe any visible injuries on the Complainant. The supervisor did notice that the Complainant had a small speck of blood on his lip but concluded that this was based on the condition of the Complainant's lips caused by drug use. The Complainant's allegation that he was being beaten up by officers was later screened with OPA by the supervisor. OPA ultimately initiated an intake 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.*)

Based on a review of the totality of the evidence, OPA concludes that the Named Employees' force was consistent with policy. First, at the time they used force, the officers had probable cause to arrest the Complainant. With that lawful authority came the right to use force, if needed under the circumstances, to effectuate the arrest. Here, the Complainant physically pulled away from and fled from the Named Employees. As such, it was reasonable to use force to prevent him from doing so and to take him into custody. Second, the force used was necessary as, given the Complainant's conduct, there was no reasonable alternative to using force to take him into custody. Moreover, the force used was only the level needed to do so. Third and last, the force was proportional to the threat posed by the Complainant and his attempt to escape. Notably, the force used was of a relatively low level. NE#1 and NE#2 took the Complainant down to the ground in a controlled manner and, once this was successful, used control holds and body weight to take him into custody. While NE#1 believed that she could have kned the Complainant, this was inadvertent and, as such, did not violate policy.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper as against both 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), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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