



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 28, 2020

CASE NUMBER: 2020OPA-0013

### **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 her to excessive force when they took her into custody.

### **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***

The Named Employees responded to a potential domestic violence incident. The Complainant reported that her roommate threatened her with a knife. When the Named Employee arrived at the apartment building, they spoke with the Complainant. She informed them of the alleged threats.

Officers walked to the apartment, knocked on the door, announced themselves as police officers, and requested that the roommate exit. The roommate did so. The officers placed her into handcuffs for safety reasons. The officers then walked into the apartment with her. The roommate denied threatening the Complainant with a knife and stated that the Complainant, herself, had engaged in criminal activity. The roommate specifically described that the Complainant had destroyed her property. The roommate noted that the Complainant used narcotics earlier (crack) and was not reacting well. This was consistent with the officers' perceptions and the Complainant's behavior (including speaking quickly and repeatedly fidgeting) that was captured on Body Worn Video (BWV).



After speaking with the roommate, the officers determined that there was an insufficient basis to conclude that the roommate had engaged in criminal activity. To the contrary, they concluded that there was probable cause to arrest the Complainant.

The officers returned to where the Complainant was situated and informed her that she was being placed under arrest. The Complainant began yelling at the officers. She stated that they were hurting her. She also alleged that they were raping her and that she had been previously raped by other officers (this was conclusively disproved by the video evidence). The officers placed the Complainant into handcuffs and then lowered her to the ground. She was placed on her side in the recovery position given her erratic behavior and because the officers believed that she was high. She continued to yell and use profanity towards the officers. Ultimately, the Complainant was transported from the scene in an ambulance. Until she was transported from the scene, the Complainant repeatedly spoke rudely towards, disparaged, and threatened the officers.

The Complainant later initiated this complaint with OPA. She alleged that the officers subjected her to excessive force when they took her into custody. This investigation ensued. As part of its investigation, OPA tried to interview the Complainant; however, she did not respond to OPA's attempts to contact her. OPA further reviewed the BWV, which fully captured the Named Employees' conduct.

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 OPA's review of the totality of the evidence, OPA concludes that the force used by the Named Employees was consistent with policy. First, at the time force was used, the officers had a lawful basis to take the Complainant into custody. With this legal right came the authority to use force, if necessary, to effectuate the arrest. Accordingly, it was reasonable for the Named Employees to use force to control the Complainant's person and to place her into handcuffs. For these same reasons, the force was necessary. Lastly, the force was proportional given the Complainant's erratic behavior and the need to take her into custody. OPA notes that only low-level force was used and there was no indication that the Complainant suffered any injuries, despite her allegations to the contrary.

For the above 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.



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