



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 16, 2020

CASE NUMBER: 2020OPA-0050

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)

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 Employee subjected him to excessive force.

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 Employee. As such, the Named Employee was 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) and another officer were dispatched to a disturbance at a restaurant. It was reported that two individuals – one of whom was the Complainant – were refusing to pay a \$300 bill. When the officers arrived at the restaurant, staff pointed out the Complainant and the other individuals. Staff indicated that the two individuals had been slapping each other and, when a staff member tried to break up the altercation, that staff member was also slapped.

The officers spoke with the Complainant and the other individual. They both appeared to be intoxicated. The officers tried to assist them in paying the bill; however, their credit cards were declined, and the restaurant did not accept Apple Pay. Ultimately, based on their inability to pay the bill and the staff's allegation of an assault, both the Complainant and the other individual were arrested.

NE#1 handcuffed the Complainant. The Complainant remained calm during that time and, as such, the handcuffing was uneventful. At one point, the Complainant thanked the officers. The Complainant also smiled and laughed several times after his arrest and did not appear to be in pain at any point. The Complainant was walked to a patrol vehicle and was placed inside. At that point, he alleged that one of the officers pushed him; however, this was not supported by the Body Worn Video (BWV) of this incident.



The Complainant later reported to OPA that NE#1 subjected him to excessive force during his arrest. He claimed that NE#1 handled him roughly during the handcuffing, injuring his wrists. He also contended that he was pushed into the front of the patrol vehicle and punched in the ribs. The Complainant offered to bring photographs of his injuries to OPA's office, but he did not ultimately do so.

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.*)

The BWV for this incident captured the entirety of the Complainant's arrest and his time in police custody. The video indicated that NE#1 used de minimis force to handcuff the Complainant and that this handcuffing occurred without incident or injury. Moreover, it conclusively disproved that NE#1, or any other officer, ever pushed or punched the Complainant.

Given the incontrovertible evidence in this case, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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