



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MARCH 2, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0565

### **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.

### **SUMMARY OF INVESTIGATION:**

Officers, including Named Employee #1 (NE#1), were dispatched to a call of a male who was standing outside of a vehicle and striking the windshield with a tire iron. It was reported that the male was yelling: "Do I have to light myself on fire to get a response!" When the officers arrived, they observed the Complainant who had the tire iron and was still striking the car. Based on the Body Worn Video (BWV) and the officers' reports, the Complainant was perceived to be in crisis and a potential danger to himself and others. He spoke about how he could cause serious or deadly harm to himself and others with the tire jack and swung it around on multiple occasions. The officers communicated with the Complainant in an attempt to de-escalate for over an hour. During this time, they asked him to drop the tire iron multiple times in order to gain voluntary compliance; however, he did not do so.

Ultimately, the Complainant started running away down the street. Officers, who had already made the decision that he needed to be involuntarily detained for a medical evaluation, chased after him. NE#1 caught up to the Complainant, grabbed him, and they fell forward onto the ground. Other officers arrived and, together, they handcuffed the Complainant. The Complainant was later transported to a hospital. At that time, he told a supervisor that he felt that NE#1 had used excessive force. This investigation ensued.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegation #1**

#### ***8.200 – Using Force 1. Use of Force: When Authorized***

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 force used by NE#1 was completely captured on BWV. As discussed above, the BWV showed that NE#1 chased the Complainant and caught up to him and grabbed him, causing them both to fall forward onto the ground. Based on the totality of the circumstances, OPA finds that NE#1’s force was consistent with policy.

First, the force was reasonable. At the time, the officers had determined that the Complainant needed to be involuntarily detained for his safety. From OPA’s review of the BWV, the Complainant’s conduct met the standard for such a detention. He repeatedly threatened his personal safety, mentioned that he could kill himself and others with the tire iron, and continuously swung the tire iron, including striking the vehicle. Given this, the officers had the legal authority to take the Complainant into custody in order to get him evaluated and they were permitted to use appropriate force to do so.

Second, the force was necessary as the Complainant was running away and was believed to still be at risk of harming himself or others. There was no other option available to NE#1 other than taking the Complainant down to the ground. It was not an option to let the Complainant escape because of the belief that he was a risk to his own safety.

Third and last, the force was proportional. NE#1 used the least force necessary to get the Complainant down to the ground. Moreover, once the Complainant was brought down, NE#1 modulated and then ceased using force.

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

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