



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 25, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0676

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 was concerned about an arrest that she saw taking place. She alleged that when she attempted to check on the individual being arrested an officer used excessive force to detain her.

ANALYSIS AND CONCLUSIONS:

The Named Employee (NE#1) and several other officers were dispatched to a report of a male in crisis. A male was described to be lighting his jacket on fire and swinging it around in the air. After observing smoldering jackets in an alley, NE#1 made contact with the Subject. Body Worn Video (BWV) of the incident showed that the Subject attempted to run away but was stopped by two officers. The officers held onto each of the Subject's arms as the Subject sat on the ground. The Subject then laid on his right side and was held down by the officers. The Subject told the officers that he did not do anything. The officers handcuffed the Subject and asked if he was hurt in any way.

At the time the Subject was handcuffed, the Complainant walked by the scene. She asked the officers what was going on. One of the officers replied that they were sending the Subject to the hospital and that he had been setting fires. NE#1 asked the Complainant twice to back up and told her that they could talk later. The Complainant took a few steps back to stand on the curb and responded that she was just making sure that everything was okay. NE#1 told the Complainant that she understood, but that she needed the Complainant to stand across the street. The Complainant asked why she needed to go across the street, and NE#1 said it was because the Complainant was obstructing. The Complainant took a few more steps backwards and stood in the street where vehicles were parked. NE#1 asked the Complainant again to stand across the street. The Complainant said she wasn't doing anything and that "there's a ton of cops for one guy." NE#1 told the Complainant that if she did not go across the street, she would be detained. The Complainant did not move back.

NE#1 grabbed the Complainant's left arm with one hand on her wrist and one below her elbow. The Complainant tried to turn away from NE#1. At that time another officer, Witness Officer #1 (WO#1), grabbed the Complainant's other arm. The officer's thumb and finger touched around the Complainant's wrist. The Complainant was handcuffed, and the officers ensured the cuffs were double locked. The Complainant tried to pull away slightly as



WO#1 held her left arm, which created tension on the right handcuff. The Complainant said she was just making sure the Subject was okay. NE#1 returned to the Subject at that time.

Soon after, the Complainant was released. Another witness officer (WO#2) explained to the Complainant that she had obstructed the officers because they had to divert their attention away from the Suspect in order to focus on her. WO#2 asked if the Complainant wanted to speak with a supervisor, but she declined. The Complainant asked why there were so many officers to arrest one individual, and WO#2 said it was because the Subject was resisting arrest and that an individual in a mental health crisis may require more officers. Another witness officer (WO#3) further explained that tactics and policies dictated that more officers were needed in this particular circumstance.

The Complainant submitted the allegation against NE#1 along with photographs of small bruises above her wrists. She alleged that the bruises were from the handcuffs being too tight and from being handled aggressively by NE#1.

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. Officers shall only use “objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” 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 8.050.) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

Upon review of BWV, OPA finds that the force used by NE#1 was appropriate. NE#1 gave the Complainant six warnings to back up or go across the street. NE#1 had lawful authority to give these warnings because of the possibility of the Complainant obstructing the arrest, which was explained to the Complainant by WO#2. Further, OPA finds that the force used to effectuate the arrest of the Complainant complied with policy. It was reasonable and necessary to handcuff the Complainant because she refused to comply with the directions given by NE#1. The force of administering the handcuffs was also proportional because the Complainant attempted to pull away, so both NE#1 and WO#1 had to hold the Complainant’s arms while the handcuffs were put on. The Complainant did not appear to be in pain or complain of pain during this interaction.

OPA does not find that the Complainant’s bruises were from the handcuffs because the bruising in the photographs did not align with where the handcuffs were applied upon review of BWV. However, it is possible that the bruises were from NE#1 and/or WO#1 holding the Complainant’s arms while she was being handcuffed. As explained above, the use of force to hold the Complainant’s arms was reasonable, necessary, and proportional in order to effectuate the lawful arrest and keep the Complainant from pulling away while the handcuffs were being put on. Ultimately, OPA does not find that NE#1 used any excessive force against the Complainant throughout this incident.

As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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