



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 6, 2022

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0425

### **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 (Inconclusive)

***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 he observed five individuals dressed as police officers using excessive force on a woman at an unknown location on or about July 11, 2021.

### **SUMMARY OF INVESTIGATION**

An Administrative Lieutenant reviewing a Type II use of force reported the Complainant's allegations to OPA. In sum and substance, the Complainant was detained for an unrelated incident on July 14, 2021. The Complainant resisted that detention. The Complainant then stated to the responding officers that he resisted the detention because he thought the officer detaining him was a "fake cop." The Complainant said that the basis for this belief was that he observed five people dressed in uniforms that said the word "police" on them beating up a woman "last Sunday" (presumably, July 11, 2021). The Complainant did not provide a time or location of the incident.

OPA reviewed the BWV from the Complainant's detention and confirmed the details of the Complainant's allegations as set forth by the Administrative Lieutenant. OPA reviewed CAD records and was unable to identify a relevant incident involving five SPD officers using force against a female. No further identifying details were in the Incident/Offense Report from the Complainant's detention. OPA also reviewed the statement made by the Complainant during the use of force investigation; however, during that statement, the Complainant provided no information about his complaint or the "fake cops," despite being prompted and afforded the opportunity to do so. OPA was unable to contact the Complainant for an interview as his phone was disconnected and he was no locatable at the address he provided.

### **ANALYSIS AND CONCLUSIONS:**

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

***8.200 - Using Force 1. Use of Force: When Authorized***

The Complainant alleged unknown SPD employees used excessive force on a woman.



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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.*)

Other than the Complainant’s allegation, OPA did not discover any evidence to suggest that five uniformed SPD officers used excessive force against a woman on July 11, 2021. Nor did the Complainant provide any further details to corroborate his allegations. It is possible that the Complainant observed what he said he saw or that he saw employees of another law enforcement agency engaging in this conduct. It is also possible that he observed – and misinterpreted – an interaction between multiple SPD officers and an unknown woman. Lastly, there remains the additional distinct possibility that the Complainant made up this allegation to justify his claim that he believed the uniformed SPD officer detaining him was a “fake cop.” Ultimately, there is insufficient evidence in the record to allow OPA to determine what occurred and, as such, OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained (Inconclusive)**