



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 26, 2019

CASE NUMBER: 2018OPA-0876

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 Employees subjected him to excessive force by shoving his face, pushing him to the ground, and smashing his foot.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, 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 - Allegation #1

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

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a call for service in which the Complainant was alleged to have assaulted a restaurant employee by punching him in the face. NE#1 located the Complainant and attempted to investigate the incident. The Complainant refused to stop when ordered to do so and NE#1, with the assistance of NE#2, placed him into handcuffs. At that time, NE#1 used a foot trap on the Complainant’s left foot to prevent the Complainant from walking away.

The Named Employees continued to try to investigate this matter, but the Complainant was uncooperative. At one point, the Complainant, who was seated on the push bars of the patrol vehicle, got up and refused to sit back down. He was given several warnings by NE#1 to sit down and was told not to attempt to walk away. The Complainant was informed that, if he did so, he would be placed on the ground. He refused to comply and NE#1, with the assistance of NE#2, utilized a soft takedown and to place the Complainant on the ground. The Complainant was then held in place until he could be safely secured.



A supervisor responded to the scene to screen the incident. The Complainant made allegations to the supervisor that suggested an excessive force claim. This incident was referred to OPA by the supervisor and this investigation ensued.

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.*)

I find that the force used by the Named Employees was reasonable and necessary to handcuff the Complainant and to keep him under control. This permitted the officers to conduct their investigation safely and thoroughly. I further find that the force was proportional under the circumstances based on the Complainant’s ongoing resistance. These conclusions are supported by the video evidence, which captured the entirety of the incident and conclusively established that the force was lawful and appropriate. As such, I recommend that this allegation be Not Sustained – Lawful and Proper as against both Named Employees.

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

Named Employee #2 - Allegation #1

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

For the same reasons as stated above (*see* Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Lawful and Proper.

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