



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 19, 2019

CASE NUMBER: 2019OPA-0369

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 used excessive force on an arrestee.

ADMINISTRATIVE NOTE:

During its intake investigation, OPA determined that Named Employee #1 may have engaged in minor unprofessionalism, as well as that both Named Employee #1 and Named Employee #2 failed to document delays in the activation of their Body Worn Video. These matters were returned to the chain of command for handling as Supervisor Actions.

The remaining use of force allegation against Named Employee #1 was classified for Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing Named Employee #1. As such, he was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

The Complainant, who was a passenger on a metro bus, alleged that Named Employee #1 (NE#1) subjected a female arrestee to excessive force. Specifically, he contended that NE#1 pushed the arrestee’s face into a hot car hood until she screamed out in pain. The Complainant asserted that when the metro bus driver questioned NE#1’s actions, NE#1 made him stop the bus until a metro bus supervisor could come to the scene.

As part of its investigation, OPA interviewed the Complainant. The Complainant reiterated his belief that NE#1 used excessive force during this incident. He stated that NE#1 pushed the arrestee’s head into the hot car hood, that NE#1 held her down with his left hand, and that NE#1 punched her in the ribs and in the head with his right hand. The Complainant also asserted that NE#1 used his hand to search between the arrestee’s legs.

OPA reviewed the Body Worn Video (BWV), In-Car Video (ICV), and other documentation relating to this case. This revealed that NE#1 and other officers responded to a fight on a city sidewalk. When officers arrived, the fight had been broken up. However, an officer on-viewed the female strike another community member. The officer grabbed



the arrestee's shirt and pulled her away and towards his patrol vehicle. NE#1 then arrived on scene and walked towards the other officer and the arrestee. At that time, the arrestee continued to try to turn around and reach the sidewalk. The other officer pushed her forward onto his patrol vehicle. NE#1 walked up and assisted the other officer. They placed the arrestee into handcuffs.

ICV showed NE#1 walk the arrestee around and to the front of the other officer's patrol vehicle. He moved her feet apart with his leg and continued to hold her. The arrestee moved her body around during this time and pushed her body forward. NE#1 then lifted the arrestee up using his arm. The arrestee continued to move around and, at one point, put her foot on the patrol vehicle's push bar and appeared to attempt to lift her body up and back. NE#1 then pushed her forward onto the hood of the car in order to prevent her from moving around further. While the arrestee exclaimed when she was pushed forward onto the hood, she did not appear to be in pain or recoil when she laid her head sideways on the hood. A third officer walked up to the patrol vehicle and NE#1 relinquished custody of the arrestee to that officer. He then approached the bus and did not use any additional force on the arrestee.

A review of the totality of the video disproved the Complainant's allegations that NE#1 pushed the arrestee's face into the hood of the patrol vehicle, that she burned her face, that he ever hit her, and that he searched her between her legs. To the contrary, the video showed that NE#1 used appropriate force to control the arrestee, who had committed an assault just seconds earlier. Moreover, during the pendency of NE#1's contact with the arrestee, she continually moved around, including trying to push her body up off of the patrol vehicle, using her leg against the push bar. This provided NE#1 with further justification to use physical compulsion to prevent her from doing so. The force NE#1 ultimately used was minor in nature and was reasonable, necessary, and proportional under the circumstances of this case. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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