



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 13, 2018

CASE NUMBER: 2017OPA-0866

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)

Named Employee #2

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:

OPA received this complaint concerning Named Employee #1 (NE#1) and Named Employee #2 (NE#2) that was routed through Blue Team by SPD supervisors. The allegation concerning NE#1 and NE#2 was that an unidentified bystander at the scene of an “arrest” alleged that the Named Employees used force outside of policy during a crisis scenario. The unidentified complainant did not wait for an SPD supervisor to respond to the scene to be interviewed regarding this complaint. Reportable force was used during the arrest and the chain of command investigated that use of force as a Type II.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The unidentified complainant alleged that the force used by both NE#1 and NE#2 was outside of policy. Despite the fact that the allegation was made by an unidentified complainant and our inability to seek clarification of the specific nature of this allegation with an interview, I find that propriety of the force can be evaluated based on the In-Car Video (ICV) and the force reporting and investigation that was completed by the chain of command.

Based on NE#1’s account and other facts in the record, the officers had sufficient probable cause to arrest the subject. When the decision was made to arrest her, NE#1 and NE#2 guided the subject to the front of NE#1’s patrol car and into the view of the ICV. The ICV reflected that the officers did not use a takedown to arrest the subject. Instead, it appeared that the subject lowered her center of gravity and “sat” on the ground of her free will. Once on the ground, the subject flailed her legs, which created a risk of injury to the officers.

In my opinion, a reasonable officer would have perceived her actions as preventing her arrest using active physical resistance. Once the subject briefly calmed down and stopped flailing her legs, the officers held her in place and engaged in verbal dialogue, attempting to explain to her that they were going to take her to the hospital but would



need to place her in handcuffs prior to doing so. They gave the subject multiple verbal commands to roll over onto her stomach in order for the officers to handcuff her in the prone position. The prone handcuffing position is the trained and accepted technique to take non-compliant and physically resistant subjects into custody. However, the subject was non-compliant and resisted the officers' roll over technique. The officers then used physical force to roll the subject over, place her into handcuffs, and to sit her up. The officers did not use any force greater than physical guiding and these techniques were consistent with their training. No strikes or any force that could be reasonably expected to cause injury was used.

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 several 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 officers' need to place the subject under arrest and the subject's physical resistance necessitated the use of force by the officers. As already discussed, the use of force to control her, roll her over and place her in handcuffs was consistent with officer training and was a low level of force. This force was purposed to control a non-compliant and resistant subject and was thus reasonable, necessary and proportional.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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)**