



## CLOSED CASE SUMMARY

ISSUED DATE: October 23, 2018

CASE NUMBER: 2018OPA-0408

### 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:

The Complainant alleged that the Named Employees subjected him to excessive force.

### 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.

OPA later determined that there was a factual error in this DCM. OPA wrote that the Named Employees observed the Complainant trying to set fire to a hedge. However, the Named Employees did not personally observe this. Instead, this information was relayed to them by other witnesses. OPA has corrected this error in this Amended DCM.

### ANALYSIS AND CONCLUSIONS:

#### **Named Employee #1 - Allegations #1**

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

The Named Employees arrested the Complainant. During that arrest, force was applied. The Complainant alleged that this force was excessive and this investigation ensued.

During its investigation, OPA determined that the Complainant was observed by witnesses trying to set fire to a hedge. This information was relayed to the Named Employees. The Named Employees started following him and directed him to stop multiple times. He did not do so and ran away. The Named Employees were able to catch up to him and Named Employee #1 (NE#1) grabbed a blanket that was wrapped around the Complainant. NE#1 then took hold of the Complainant's right wrist and the Complainant began to complain of pain. The Complainant was bent at the waist with his torso over the rear of a parked car. While NE#1 secured the Complainant's right wrist, Named Employee #2 (NE#2) took control of his left wrist. NE#2 brought the Complainant's left wrist behind his back and the handcuffs were applied. No further force was used.

At the time of the handcuffing, the Complainant complained of pain and that the officers were hurting his arm. He further stated: "I got slammed to the ground and I couldn't breathe, you slammed my lung, crushed it, my bone snapped in half and broke, it hurts so bad, you didn't hear that snap my bone, like it hurts so bad." An Acting Sergeant came to the scene and spoke with the Complainant. During that conversation, the Complainant appeared to acknowledge that he was not slammed to the ground.

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.*)

The Named Employees' interaction with the Complainant and the force they used was completely captured by Department video. The video conclusively established that the Complainant's allegations of excessive force were frivolous. Moreover, the video made clear that the force that the Named Employees did use – de minimis force to control the Complainant's arms and to handcuff him – was reasonable, necessary, and proportional. As this force was consistent with policy, 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 - Allegations #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)**