



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 22, 2019

CASE NUMBER: 2019OPA-0147

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 (Unfounded) |

Named Employee #2

| Allegation(s): | | Director’s Findings |
|----------------|--|---------------------------|
| # 1 | 8.200 - Using Force - 1. Use of Force: When Authorized | Not Sustained (Unfounded) |

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 was subjected to excessive force by the Named Employees.

ADMINISTRATIVE NOTE:

This case was designated as an 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 the Named Employees. As such, the Named Employees were not interviewed as part of this case.

In addition, the Complainant initially alleged that a third officer was unprofessional towards him during this incident. However, during his OPA interview, the Complainant withdrew that allegation. As such, it is not addressed herein.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Officers responded to a 911 call to investigate a possible burglary. A neighbor reported that, while the doors and windows at the identified location were wide open and sounds were heard coming from an upstairs television, he had not seen the resident for several days. The officers reported that they encountered an open door with a broken window. They noted that the interior looked as if it had been ransacked. After announcing themselves as officers and clearing the downstairs, the officers viewed an older man exit one of the upstairs rooms. This individual was later identified as the Complainant. The officers ordered the Complainant to get on the ground and handcuffed him.



The Named Employees documented that, at the time they placed the Complainant into handcuffs, they did not know that he was the resident of the home. To the contrary, they believed that he was potentially involved in the active burglary of the home and that other perpetrators may also be inside. After the Complainant was handcuffed, the officers conducted a search of the remainder of the home and determined that no one else was present therein. The Named Employees then investigated the Complainant's identity and determined that he was, in fact, the lawful resident. He was released from handcuffs.

The Complainant later alleged to a supervisor that he was subjected to excessive force by the Named Employees. He further contended that another officer was rude to him. The supervisor referred the Complainant's claims to OPA and this investigation ensued.

As part of its investigation, OPA interviewed the Complainant. During his interview, the Complainant described what took place during his encounter with officers by stating that, after he exited the upstairs room, he was asked to "spin around" and "kneel down," both of which he did. The Complainant explained that officers then grabbed his arms, lifted him off the ground, and slammed him on the floor. Though the Complainant was unable to identify which officers subjected him to excessive force, OPA was able to determine by viewing Body Worn Video (BWV) that the officers who took control of the Complainant and placed him into handcuffs were Named Employee #1 (NE#1) and Named Employee #2 (NE#2).

OPA reviewed the BWV associated with this incident. The BWV showed the Complainant as he exited the upstairs room and captured the officers instructing him to stop, to lift his jacket and spin around, and to kneel on the floor. The Complainant did so. BWV showed NE#1 and NE#2 take control of the Complainant's arms while he was on his knees and attempt to handcuff him. The Complainant leaned forward and pulled his arms away after announcing that he had a bad shoulder. The BWV showed NE#1 and NE#2 attempt to re-gain control of the Complainant's arms, but the Complainant rolled away from them. This resulted in the Complainant ending up on his back. Ultimately, the Complainant was placed in handcuffs in the prone position. The Complainant was heard and seen on video making sounds that suggested that he felt significant pain from being handcuffed. There is no video evidence of NE#1, NE#2, or any other officers slamming the Complainant to the ground. Additionally, the Complainant was not recorded making a complaint about being slammed to the ground to any of the officers on scene. He also was not recorded making that complaint to the Sergeant who responded to his house to interview him the following day.

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).) 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.*)

OPA empathizes with the frustration the Complainant feels. Officers came into his home and handcuffed him, treating him like a suspect. However, from the officers' perspective, they were responding to a potential burglary and, from their observations and what they had been told by the neighbor, it appeared possible that a suspect or suspects were currently inside engaging in ongoing criminal activity. Moreover, they likely believed it possible that the occupant(s) of the resident could be in imminent danger. When the officers saw the Complainant, who they did not immediately know was the resident, they took steps to secure him in custody while they continued their



investigation. The force they used to do so was consistent with policy. Aside from securing the Complainant's person and placing him into handcuffs, the officers used no other force. Specifically, they did not slam the Complainant to the ground as he later contended. While it is unfortunate that the Complainant experienced pain from the handcuffing, this does not, by itself, cause the force to be inconsistent with policy. Ultimately, for the reasons stated herein and based on the totality of the evidence, I recommend that this allegation be Not Sustained – Lawful and Proper 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)**