



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2018

CASE NUMBER: 2017OPA-1303

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 could have killed him, smashed his head while he was taken into custody, and caused his shoulder to pop out of its socket.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Officers attempted to effectuate a traffic stop of a vehicle that was believed to have been involved in a homicide. The vehicle did not stop and a vehicle pursuit ensued. At the conclusion of the pursuit, the occupants of the vehicle got out and fled. One of the occupants – who was later identified as the Complainant – was chased and ultimately cornered by officers, including Named Employee #1 (NE#1) and Named Employee #2 (NE#2). The Named Employees grabbed hold of the Complainant and used force to take him down to the ground. At the time he was taken to the ground, the Complainant said: “ow.” The officers were able to quickly take him into custody. From a review of Department video, there is no evidence of any strikes or other force employed by the Named Employees.

After being taken into custody, the Complainant made several statements suggesting an allegation of excessive force. Specifically, he alleged that the officers could have killed him, smashed his head into the ground, and caused his shoulder to pop out of its socket. Video of the incident revealed that the Complainant suffered a laceration to the side of his head as a result of the takedown.

The Complainant later alleged to NE#2 that he had previously been in a car accident and, as a result, he had suffered a fractured skull and had a soft spot on his head. The officers called for medical attention and for a supervisor to come to the scene. The Complainant then received medical assistance. When the supervisor arrived, the Complainant disclosed the injury to his head that he claimed occurred when he was taken down to the ground. The Complainant further stated that his shoulder had popped out but that it always did so. He further told the supervisor



about his prior car crash and related injuries. Lastly, the Complainant told the supervisor that the Named Employees “wasn’t rough on me.”

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.” (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.*)

At the time the Complainant fled from the Named Employees and other officers, they had probable cause to place him under arrest. With that legal authority came the right to use force, to the extent required. Here, the Complainant was a suspect in a murder who had been involved in both a vehicle and foot pursuit. When the Named Employees used force to take the Complainant down to the ground in order to take him into custody, that force was reasonable, necessary, and proportional. That the Complainant suffered a laceration to his head does not change this conclusion. I note that the Named Employees only used that amount of force needed to fulfil their lawful purpose. They did not use any strikes, kicks, or punches. Notably, I see no evidence from the Department video that any of the officers smashed the Complainant’s head into the ground or caused the Complainant’s shoulder to pop out of its socket. Under the circumstances, I find that this force was consistent with policy.

For these reasons, 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)**