



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 14, 2018

CASE NUMBER: 2017OPA-0883

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)

Named Employee #3

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

Named Employee #4

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 the Named Employees used excessive force when they performed a high risk stop and contacted the Complainant and her boyfriend.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Named Employee #3 (NE#3) ran a plate and saw that it was associated with a felony warrant for sexual assault. NE#3 believed that the passenger, who is the subject in this case, matched the description of the warrant suspect. NE#3 called for backing units. When additional units arrived, which included the other Named Employees, NE#3 stood by with his K9 and watched the subject being removed from the vehicle by Named Employee #1 (NE#1). The removal of the subject was captured on Named Employee #2’s (NE#2) ICV. NE#1 removed the subject and escorted him to NE#3’s patrol car. It did not appear that the subject’s head touched or struck the vehicle’s door upon his removal by NE#1, nor did it appear that the subject complained of any pain. While standing in front of NE#3’s ICV the subject did not make any complaints of pain and laughed with the officers and his female companion, who is the Complainant in this case, as she took photographs.



NE#2 contacted the Complainant while she was in the driver's seat, and explained the reason why the subject was taken from the vehicle by NE#1. The Complainant did not say anything about the subject's head impacting the car door, or anything about an injury. NE#2 asked the Complainant to park her vehicle, and NE#2 and the Complainant discussed why she and the subject were being contacted. Notably, the officers explained that they were looking for the Complainant's ex-husband (they had a warrant for his arrest) and erroneously believed that he was the subject who was a passenger in the Complainant's car. The Complainant told the officers that the subject was not her ex-husband and that she had a picture of her ex-husband. NE#2 explained to the subject why he was detained, the subject again did not mention any injuries to NE#2, was released and shook the officers' hands.

After being walked to NE#3's patrol car, the subject was in constant view of NE#4's ICV. While the subject was being recorded by NE#4's ICV, all of the officers appeared to be professional and the subject told the officers that they were doing good work. The subject was very cooperative and did not make any complaints of injury or pain. NE#4 explained what was happening to the subject and the Complainant and they said that they understood. The Named Employees thanked the subject for his cooperation more than once. The Complainant was recorded on ICV talking on her cell phone explaining to someone why the subject was taken out of her vehicle. She did not mention anything about pain or injuries to the person she was speaking with. She explained that the warrant suspect was her ex-husband and described his tattoos. NE#4 thanked the Complainant for her cooperation. The Named Employees then allowed the Complainant and subject to leave.

Based on my review, it appeared that only NE#1 made physical contact with the subject when he removed him from the Complainant's vehicle. None of the other Named Employees assisted NE#1 in doing so or, as far as I can tell, used any force on the subject.

The Complainant called OPA on August 29, 2017, and left a voice mail stating that the Named Employees used "pretty excessive force". On August 30, 2017, OPA spoke to the Complainant, and she stated that she only wanted to file a complaint against NE#1 for removing the subject from her vehicle.

On August 31, 2017, OPA spoke to the subject, and he stated that he was injured accidentally when his head struck the closing door. He did not make a complaint of pain to NE#2 (who was the screening sergeant).

Based on my review of the video evidence and based on the various statements in this case, I find no indication that the subject's head made contact with the vehicle door, let alone that there was a purposeful use of force against him. At most, his head may have had inadvertent contact with the door, but he did not appear to suffer any injury, did not complain of being in pain, and did not at any point during the incident actually allege that his head struck the door. Accordingly, even if this incident occurred exactly as the subject and Complainant claim it did, there was no reportable force used and no violation of the Department's use of force policy by NE#1.

As such, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**



Named Employee #2 - Allegation #1

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

As I find that NE#2 did not use any force on the subject, I recommend that this allegation be Not Sustained - Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #1

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

As I find that NE#3 did not use any force on the subject, I recommend that this allegation be Not Sustained - Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #4 - Allegation #1

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

As I find that NE#4 did not use any force on the subject, I recommend that this allegation be Not Sustained - Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**