



## **CLOSED CASE SUMMARY**

ISSUED DATE: JUNE 12, 2018

CASE NUMBER: 2017OPA-1306

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	8.400 – Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Unfounded)
# 2	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:**

An Anonymous Complainant alleged that when he approached an Unknown Employee who was sitting in his patrol vehicle, the Unknown Employee immediately drew his gun and pointed it at the Complainant.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***8.400 – Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force***

An Anonymous Complainant alleged to OPA that, around 3:00 a.m. on the date in question, he approached a marked patrol vehicle that was parked in the near vicinity of SPD’s East Precinct (on 12<sup>th</sup> Avenue). The Complainant described walking up to the vehicle with his hands in his pockets in order to ask for directions. The Complainant reported that the male officer sitting in the vehicle then pointed his firearm at the Complainant. The Complainant said that the officers told him “not to walk up to an officer because people there had been shooting them recently.” The Complainant said that the officer further told him to go to the precinct if he needed the assistance of the police.

OPA did not have the Complainant’s name and was unable to interview him to get details concerning the incident and a description of the involved officer. In order to determine whether what the Complainant alleged occurred, OPA reviewed the security cameras positioned around the East Precinct. The cameras did not reveal any individual approaching a parked patrol vehicle at or around the time the Complainant alleged that the pointing of the firearm took place. The cameras revealed a male who entered the precinct at 3:00 a.m. and left at 3:56 a.m. That individual did not approach a patrol vehicle. The cameras also captured a female walking into the precinct at around 4:00 a.m., but she also did not approach a patrol vehicle. The remainder of the individuals in the near vicinity of the precinct appeared to OPA to be law enforcement personnel.

OPA also performed a GPS search and verified that there were nine patrol vehicles parked in the near vicinity of the precinct on that date and at that approximate time. OPA pulled and reviewed the In-Car Video (ICV) from those cars and found no evidence establishing that anyone approached those vehicles.



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SPD Policy deems the pointing of a firearm at an individual to be a reportable use of force. Accordingly, had an officer pointed a firearm at the Complainant, that force would have needed to be reported. No officer reported using such force. Based on the precinct security cameras and the review of ICV, there is simply insufficient evidence in the record to suggest that any officer pointed a firearm at the Complainant, let alone that this force was not reported in violation of policy. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 – Allegation #2**

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

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.*)

If an officer pointed a firearm at the Complainant, this force must have been reasonable, necessary, and proportional in order to be consistent with policy. If it was true that an officer pointed a firearm at a community member who simply approached the window of that officer’s vehicle with his hands in his pockets, that would almost certainly have been impermissible and inconsistent with policy. However, as discussed above, OPA could not establish that this actually occurred. As such, and consistent with Allegation #1, I recommend that this allegation be Not Sustained – Unfounded.

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