



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 21, 2019

CASE NUMBER: 2018OPA-0749

### 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)

**Named Employee #3**

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.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

Named Employee #2 (NE#2) and Named Employee #3 (NE#3) were dispatched to a youth service center to respond to a potential runaway juvenile. The officers further verified that the Subject had a no bail dependency warrant authorizing them to take her into custody.

When NE#2 and NE#3 arrived at the center, they were informed by the manager that the Subject might act aggressively towards them and were asked to remain outside of the office in which the Subject was located. NE#2 and NE#3 did so until they heard a loud disturbance that caused them to enter the office. When they looked inside,



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they saw the Subject by the window. From a review of the Body Worn Video (BWV), it appears as if she was attempting to flee from the room.

NE#3 approached the Subject and took hold of her arm. He brought her towards the middle of the room where NE#2 took hold of her other arm. The officers held her arms while asking her to calm down and to comply with them. The Subject was extremely emotional and became increasingly so during her interaction with the officers. She screamed and physically resisted the officers' attempts to control her body. When the officers could not reason with her, NE#3 gripped the back of her neck and, in concert with NE#2, used downward pressure to get her onto the ground. At that point, the officers worked together to try to prevent the Subject from further resisting and to handcuff her. Named Employee #1 (NE#1) arrived at that time and assisted NE#2 and NE#3. Once the Subject calmed down and was secured, no further force was used on her.

The facility manager and two other staff members that were in the office at the time asserted that the force used by the Named Employees was excessive. The facility manager did not explicitly request that an OPA complaint be filed; however, a SPD supervisor initiated this matter based on the statements of the other two staff members – referred to herein as the Complainants.

During its investigation, OPA reviewed the Named Employees' BWV. OPA attempted to interview both of the Complainants, but only one responded. That Complainant stated that her complaint was solely directed towards NE#3. She reiterated her belief that the force utilized by NE#3 was excessive and unreasonable. OPA also spoke with the facility manager. He stated that he did not have a complaint against any of the officers and that he thought the force used was reasonable under the circumstances.

SPD Policy 8.200-POL-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.*)

While OPA can understand why the Complainants may have been concerned with the force given their interest in the welfare of the Subject, that force was consistent with policy. First, the force was reasonable in order to effectuate the arrest of the Subject, who had an open warrant and who was trying to escape. Second, the force was necessary to stop her from imminently effectuating that escape and, later, from resisting the officers' initial attempts to convince the Subject to comply with them and leave the office. I also find that the officers did not see any reasonable alternative to using force under the circumstances that they were presented with. Third, and last, I find that the force used was proportional to the threat that the Subject would escape and her ongoing physical resistance. The officers only used that force necessary to take the Subject into custody and this force was largely de minimis and consisted of control holds and body pressure. Lastly, the officers modulated and then ceased their force once the Subject was in custody and secured.

For the above reasons, I find that the force used by the Named Employees was consistent with policy and I recommend that this allegation be Not Sustained – Lawful and Proper.



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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)**

**Named Employee #3 - 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)**