



## **CLOSED CASE SUMMARY**

ISSUED DATE:     APRIL 9, 2019

CASE NUMBER:    2018OPA-1019

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

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

**Named Employee #2**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 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 OIG 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 - Allegations #1**

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

Named Employee #1 (NE#1) responded to a call of a disturbance. The information provided by radio was that there was an intoxicated who had been removed from a local bar and was threatening to shoot patrons outside. The 911 caller flagged down NE#1 and pointed out the suspect, who is the Complainant in this case. NE#1 radioed that he would be contacting the individual and requested a backing unit. Named Employee #2 (NE#2) responded.

The Complainant was extremely hostile and aggressive towards the officers. The Named Employees developed probable cause to take the Complainant into custody and placed him into handcuffs. The Named Employees began walking the Complainant to their patrol cars; however, the Complainant stopped abruptly and demanded to know why he was being arrested.

The Complainant then lunged towards NE#2 and attempted to strike NE#2 using his head. NE#2 pushed the Complainant’s chest area, moving him backwards. The Complainant began pushing and pulling against the officers and attempted to take control of NE#1’s Taser. At this point, the Named Employees used their body weight to move the Complainant forward onto the ground and held him in place until additional units arrived to assist them. During



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this time, the Complainant sustained a laceration to his lip. He then complained of excessive use of force and the allegation was reported to a supervisor. The supervisor, in turn, referred this matter to OPA and this investigation ensued.

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).) 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.*)

I find that the force used on the Complainant was reasonable and necessary to handcuff the Complainant and to keep him under control. I find this force was entirely appropriate given the Complainant assaulted the Named Employees, by kicking and spitting at them, as well as attempted to remove NE#1’s Taser. Moreover, at the time of the force, the officers had probable cause to arrest the Complainant for multiple crimes and, as such, they had the legal authority to use force if needed to take him into custody. Lastly, the force used was proportional to the threat posed by the Complainant, which included ongoing physical resistance and the presentation of a significant threat to the officers. Indeed, under the circumstances of this case, the officers could have applied substantially more force than they actually used given the Complainant’s violent conduct.

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 - 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)**