



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 29, 2019

CASE NUMBER: 2019OPA-0320

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 used excessive force on a woman when they secured her to a hospital gurney. The Complainant, who was a witness to the detention of the woman under the Involuntary Treatment Act, further claimed that the number of officers present at the scene was unnecessary, and that, because the woman did not want to go to the hospital, the officers used excessive force when they restrained her against her will.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’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

On May 10, 2019, the Named Employees and four other officers responded to the Starbucks on 3rd Avenue and Pike Street. A store employee reported that there was a woman inside the building who had assaulted staff and was refusing to leave. Named Employee #1 (NE#1) and Named Employee #2 (NE#2) contacted the woman outside of the store. The entirety of the Named Employees’ interactions with the woman were captured on Body Worn Video (BWV).

As part of their investigation, the Named Employees spoke with the woman. She denied that she hit anyone. NE#2 held one of the woman’s arms. The woman began to repeatedly state that she did not hit anyone and tried to pull away from NE#1. Another officer walked over and held the woman’s other arm. They asked the woman if she would



sit if they let her go. The woman continued to yell and pull away. She did so even when more officers responded to the scene to assist in controlling her. The officers were collectively able to place the woman into handcuffs. During that time, the officers tried to explain to the woman why she was being detained. However, the woman was largely non-responsive and, based on her statements and conduct, appeared to be in crisis. For example, while the officers were trying to give her the reason for the detention, she stated: "I love it, I can tell you what's going on, let me poop." She also stated that she was being held hostage and made other nonsensical remarks.

The officers confirmed with people inside of the store that the woman had used racial slurs towards them, said that she was going to kill them, and had pushed at least one store employee. NE#2 relayed this information to NE#1. The officers made the decision to detain the woman and transport her to the hospital pursuant to the Involuntary Treatment Act. The officers informed her that she was going to be subject to an ITA. While waiting for the ambulance, the woman volunteered that she suffered from paranoid schizophrenia but did not want to go to the hospital. She said that she preferred treatment by her private doctors but did not provide their contact information.

When the ambulance arrived at the scene, the woman refused to be transported. Based on her non-compliance. Officers, including the Named Employees, used minimal force to seat her on the gurney and to secure her legs in soft-cuff restraints. The woman became further escalated, and BWV recorded NE#1 using her body weight to secure the woman's leg. The BWV reflected that, at one point, the woman appeared to flail or kick her leg. NE#1 told her to stop kicking and not to kick again. NE#2 similarly used low-level force to control the woman's other leg. NE#1 and NE#2 assisted in unhandcuffing the woman and completed securing her to the gurney. She was then transported from the scene and to the hospital.

The Complainant, who was an uninvolved witness to this incident, later initiated this complaint with OPA. She contended that the force the Named Employees used to secure the woman to the gurney was excessive. She stated that the woman did not want to be detained and the officers did not listen to her. She also indicated that, given that the woman did not want to go to the hospital, it was excessive to then use force to detain her. Lastly, the Complainant expressed to OPA her belief that the number of officers dealing with the woman was unnecessary and, in and of itself, excessive.

Washington State law permits police officers to detain and transport an individual for mental health evaluation where the officers reasonably believe the individual suffers from a mental disorder that presents an imminent risk of serious harm to the afflicted individual or others.

Based on the totality of the evidence – most notably, the BWV, the accounts of the victims, and the woman's statements and demeanor, the Named Employees clearly met the ITA standard. The woman was in crisis and posed a risk of imminent harm to community members, officers, and herself.

Moreover, in order to effectuate this lawful detention, the Named Employees were allowed to use force if needed. 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.*)

The BWV establishes that the force used was reasonable as there was a lawful basis to detain the woman and she resisted the officers attempts to take her into custody and transport her to the hospital. Moreover, at the time she was physically resisting the officers, the force was necessary to prevent harm to them and others and there was no reasonable alternative to using such force. Lastly, the force was proportional to the threat posed by the woman to the officers, community members, and herself. Notably, the officers used only that amount of force needed to safely take the woman into custody. They did not strike her or appear to cause any injuries to her person. For these reasons, OPA finds the force used to have been consistent with policy.

Moreover, with regard to the Complainant’s concern regarding the number of officers who responded to the scene, OPA finds that this was in-line with Department policy, particularly given the severity of the crimes alleged to have been committed by the woman.

While the Complainant, as a community member, has the right to file an OPA complaint where she believes officers have engaged in misconduct, OPA finds that the officers did absolutely nothing wrong in this case. To the contrary, OPA finds that the Named Employees appropriately handled this situation.

As such, OPA recommends 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)**