



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 2, 2020

CASE NUMBER: 2020OPA-0072

Allegations of Misconduct & Director's Findings

Allegations of Misconduct and the 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)
# 2	6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement	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)

Named Employee #4

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 his son to excessive force. The Complainant also alleged that Named Employee #1 caused an improper warrantless entry into his apartment.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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.

SUMMARY OF INVESTIGATION:

Officers were dispatched to a domestic violence assault. They determined that the suspect lived at another address. The Named Employees responded to that address and, when they knocked on the door, made contact with the Complainant. The Named Employees determined that the Complainant was the suspect's father. The Complainant opened the door to speak with the officers but later closed it. The officers continued to communicate with the Complainant, with Named Employee #1 (NE#1) taking the lead. They informed the Complainant that they knew the



suspect was inside because they had seen him. They further told the Complainant that they were going to obtain a warrant and would eventually enter the apartment. The Complainant ultimately provided consent to the officers to enter the apartment.

When the officers did so, the Complainant pointed to a hallway and the suspect emerged from that area. The officers approached the suspect and informed him that he was under arrest. The suspect tensed his arms and appeared to clench his fists. In doing so, he prevented the officers from controlling his person and taking him into custody. Given his behavior and the officers' knowledge that the suspect had earlier committed an assault, the decision was made to take the suspect down to the ground. The officers did so. Once the suspect was on the ground, the officers were able to place him into handcuffs. At that time, the suspect complained of pain and said that his chest hurt. The Complainant later told a supervisor that he believed the force used to have been excessive and that he saw officers punch the suspect. The supervisor referred this matter to OPA, and this investigation ensued.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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." (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.*)

Based on OPA's review of the Body Worn Video (BWV) and other evidence, OPA concludes that the force used by the Named Employees was consistent with policy. As a starting point and as discussed more fully below, the Named Employees were lawfully in the apartment at the time they contacted the suspect and they had probable cause to arrest him. Moreover, the officers were permitted to use force, if needed, to effectuate that arrest. As such, the force was reasonable. The force was also necessary given the suspect's physical resistance and there did not appear to be any reasonable alternatives to going hands-on to safely take the suspect into custody. Lastly, the force was proportional under the circumstances. First, based on the BWV, the force appears to have consisted entirely of a controlled takedown and then, while the suspect was on the ground, control holds and applications of body weight to secure his person. There is no evidence that any officer struck the suspect at any time. Second, once the suspect was secured on the ground and handcuffed, no further force was used on him. Third, the suspect was not only physically resistive and non-compliant but was also believed to have earlier committed a violent crime. The combination of these factors influenced the officers' reasonable determination that the suspect was a threat and supported the appropriateness of their use of force.

For the above reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper as against all of the Named Employees.

Recommended Finding: **Not Sustained (Lawful and Proper)**



Named Employee #1 - Allegation #2

6.180 - Searches-General 2. There are Specific Exceptions to the Search Warrant Requirement

SPD Policy 6.180-POL-2 concerns searches and seizures, including entries into residences. It specifically references the various exceptions to the search warrant requirement. One such exception is where consent to entry is provided. (SPD Policy 6.180-POL-2.)

Here, the BWV conclusively established that the Complainant provided the officers with consent to enter his residence to search for the suspect. The Complainant owned the residence and, as such, had the legal right to provide such consent. He did not rescind the consent at any time and, accordingly, the officers were lawfully present in the Complainant's apartment at the time they observed the suspect and placed him into custody.

Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #3 - 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), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #4 - 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), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**