



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 20, 2018

CASE NUMBER: 2018OPA-0635

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)

Named Employee #4

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

Named Employee #5

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 and caused him injury.

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

The Named Employees responded to a call of a person in crisis inside of a vacant home. Police had been called to the detached garage of that vacant home on three separate occasions earlier that night. The person in crisis was later



identified as the Complainant. The officers determined that he resided in the detached garage. Upon arrival, Named Employee #1 (NE#1) made verbal contact with the Complainant because he knew the Complainant from previous incidents. The Complainant was upset about police not investigating previous rape allegations that had occurred a number of years ago.

The Complainant was screaming and threatening to kill himself and the responding officers. He was holding a large fixed blade knife in his hand and had another knife in his pocket. The officers attempted to communicate and reason with the Complainant for a long period of time. Ultimately, they used a ruse, wherein they stated that they would not handcuff the Complainant if he discarded his knives and stepped into the middle of the street with his hands up. The Complainant eventually did so. While they waited for him to comply, the officers formulated a plan to take the Complainant down to the ground. This plan was reached in conjunction with the officers' supervisor, Named Employee #2 (NE#2). It was agreed that the officers would effectuate a "hard" takedown and NE#1 created a contact team consisting of Named Employee #3 (NE#3), Named Employee #4 (NE#4), and Named Employee #5 (NE#5). NE#1 further assigned responsibilities to each.

The contact team moved forward in unison and took the Complainant down to the ground. While the force was consistent with a "hard" takedown to the concrete, the Complainant was not slammed to the ground and did not appear to strike the ground with undue force. While he was being placed into handcuffs, the Complainant indicated that his arm was hurting from a previous injury. He later stated that his right wrist was broken.

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 by NE#1, NE#3, and NE#4, and NE#5 was tactically sound and was the result of good communication and planning. I further find that the force was reasonable, necessary, and proportional under the circumstances. At the time the force was used, the Complainant had demonstrated that he was suicidal and had, at points, threatened the officers. While he discarded two knives, there was the possibility that he was armed with other weapons. There was also the possibility that he could try to reacquire the discarded knives. Accordingly, it was appropriate to use force to take the Complainant down to the ground, to secure him, and to ensure that he could be safely handcuffed. The officers only used that level of force necessary to effectuate their lawful goals. Moreover, once the Complainant was on the ground and secured, the officers quickly modulated their force.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against NE#1, NE#3, NE#4, and NE#5.

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



Named Employee #2 - Allegation #1

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

As discussed above, NE#2 was the Sergeant supervising this scene. After the officers engaged in lengthy negotiations with the Complainant, NE#2 authorized the use of a ruse to convince him to comply with the officers' orders. NE#2 further authorized the use of a "hard" takedown to secure the Complainant and to safely take him into custody. For the same reasons as stated above (see Named Employee #1, Allegation #1), I find that this force was reasonable, necessary, and proportional, and, thus, consistent with policy.

Accordingly, I recommend that this allegation be Not Sustained – Lawful and Proper as against NE#2.

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)**

Named Employee #4 - 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 #5 – 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)**