



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 4, 2019

CASE NUMBER: 2018OPA-1042

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 subjected him to excessive force when they slammed him to the ground and injured his face, as well as when they purportedly attempted to run him over with a patrol vehicle.

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 - Allegations #1

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

The Named Employees were dispatched to a 911 call. The caller requested police assistance concerning a potential car prowler that was seen trying door handles and attempting to gain entry into parked vehicles. The Named Employees searched the area and located a person matching the description provided by the 911 caller. The Named Employees attempted to contact this person, who was later identified as the Complainant. At the time, the Complainant was riding a bicycle and refused to stop after being ordered to do so. The Complainant further attempted to elude the Named Employees by riding away. Named Employee #1 (NE#1) pursued the Complainant on foot and yelled for him to stop, while identifying himself as a police officer. After the Complainant began riding away on his bicycle, NE#1 got back into the patrol vehicle with Named Employee #2 (NE#2), who was driving. NE#2 had his emergency lights and siren activated at the time.

NE#2 drove his vehicle in pursuit of the Complainant. After a few minutes of searching, the Named Employees located the Complainant on his bicycle. NE#2 stopped the patrol vehicle near the Complainant, NE#1 and NE#2 both got out of the patrol vehicle and grabbed the Complainant off of his bicycle and took him down to the ground. Both



NE#1 and NE#2 then secured the Complainant in handcuffs. Following the arrest, it was discovered the Complainant sustained a laceration to his chin.

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.*)

At the time they attempted to contact the Complainant, the Named Employees had probable cause for his arrest. When the Complainant actively resisted the Named Employees’ attempts to take him into custody by fleeing on his bicycle, the Named Employees were permitted to use force, if needed, to prevent him from continuing to do so. The force used, pulling the Complainant off of his bicycle and onto the ground and then handcuffing him, was reasonable, necessary, and proportional under the circumstances. While it is unfortunate that the Complainant suffered an injury during this incident, that does not yield the force out of policy. Moreover, that injury was or should have been a foreseeable result of the Complainant resistive behavior.

Lastly, from OPA’s review of Department video, there is no evidence supporting the Complainant’s allegation that NE#2 tried to run him over. To the contrary, NE#2 appears to have driven the patrol vehicle in a controlled and safe manner. OPA concludes that this allegation is meritless.

For the above 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)**