



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 18, 2019

CASE NUMBER: 2018OPA-1096

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.200 - Using 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:

Officers responded to a domestic violence (DV) incident. The officers initially informed the Complainant, who was the suspect, that he was detained. Probable cause was later developed for the mandatory DV arrest of the Complainant. The Complainant ran from officers and was apprehended after a physical struggle. The Complainant alleged that the Named Employee used excessive force against him during this incident.

#### 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 Employee. As such, the Named Employee was not interviewed as part of this case.

#### ANALYSIS AND CONCLUSIONS:

##### **Named Employee #1 - Allegations #1 8.200 - Using Force When Authorized**

Officers responded to a possible DV assault. They spoke with the Complainant’s girlfriend, who explained that he punched her in the face and threw a cellphone at her head during an argument. After the officers established probable cause to arrest the Complainant, he ran from them. Named Employee #1 (NE#1) and another officer ran after the Complainant and tackled him onto the road directly in front of the residence. The Complainant attempted to push himself up and ignored the officers’ commands to calm down. As the officers struggled to control the Complainant, he physically forced himself off of the ground and got into kneeling position. NE#1 then delivered two knee strikes to the Complainant’s right ribcage area. NE#1’s knee strikes appeared to have a limited effect on the Complainant’s resistance; however, NE#1 was ultimately able to take the Complainant into custody and to handcuff him. After he was arrested, the Complainant was recorded on Body Worn Video (BWV) acknowledging to the officers that he had resisted arrest.



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The Complainant alleged that he was “banged up” from his encounter with NE#1. He did not make any specific allegations of excessive force. The Complainant was determined to have suffered minor injuries from this incident. Out of abundance of caution, a Department supervisor referred this complaint 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.*)

The BWV established that, once the Complainant knew he was going to be arrested, he ran from the officers. At that time, and given that the officers had a lawful basis to apprehend him, NE#1 was permitted to use force to take the Complainant down to the ground to take him into custody and to prevent him from further fleeing. Moreover, while the Complainant was on the ground, he admittedly physically resisted the officers. He further got into a kneeling position in an apparent attempt to stand up and again flee. Given these circumstances, the knee strikes used by NE#1 were reasonable, necessary, and proportional to stop the Complainant’s physical resistance and to ensure that he could not flee. This force was further consistent with NE#1’s training, as intermediate force is appropriate when a subject is actively attempting to get off the ground and presents a threat of harm to an officer.

For the above reasons, I find that the force used by NE#1 was consistent with policy and I recommend that this allegation be Not Sustained – Lawful and Proper.

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