



CLOSED CASE SUMMARY

ISSUED DATE: JULY 8, 2019

CASE NUMBER: 2019OPA-0050

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.100 - De-Escalation 1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.100 - De-Escalation 1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force	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 witnessed the Named Employees use force on an individual when they dragged that individual out of a DESC bunkroom. The Complainant alleged that the Named Employees failed to take steps to de-escalate prior to using force.

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 - Allegations #1

8.100 - De-Escalation 1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force

On January 17, 2019 at 1:22 a.m., the Named Employees responded to an assault call at the Downtown Emergency Service Center (DESC). When the Named Employees and other officers arrived, they learned that the assault suspect was a guest of the shelter who shoved a DESC employee. The DESC employee declined to be a victim in order to support an arrest for assault; however, DESC requested that the suspect be formally trespassed from the location.

The Named Employees were led to the suspect, who was in the male bunkroom. The Named Employees asked the suspect to leave, but he refused. The suspect claimed that he was unable to move because his foot was broken. DESC employees and other individuals in the bunkroom told the Named Employees that the suspect's foot was not actually broken. After warning the suspect that they would be forced to drag him out of the bunkroom if he refused to leave on his own accord, the Named Employees slid the suspect across a tiled floor to the DESC main area and placed him under arrest.

After the suspect was taken into custody, a civilian witness, who is the Complainant in this case, alleged that the Named Employees failed to show any regard for the suspect's injured foot when they dragged him out of the bunkroom. OPA construed the Complainant to be alleging that the Named Employees used force without first engaging in de-escalation and without evaluating other potentially appropriate force options given the suspect's claimed injury.

As part of its investigation, OPA reviewed the reports generated concerning this incident, as well as the relevant Body Worn Video (BWV). The officers' accounts in the reports were consistent with the BWV. Moreover, the BWV did not reveal any evidence that the suspect actually had a broken foot, aside from his allegation. Indeed, based on OPA's analysis, this claim of injury is extremely questionable as the BWV reflected that the suspect was eventually able to stand and get inside of the patrol vehicle on his own. Moreover, the BWV indicated that, after his initial claim of a broken foot in the DESC bunkroom, the suspect did not again state that he had that injury and he did not complain of any pain. Lastly, the BWV confirmed that DESC employees and residents reported that the suspect's foot was not actually broken.

SPD Policy 8.100-POL-1 states that: "De-escalation tactics and techniques are actions used by officers, when safe and without compromising law enforcement priorities, that seek to minimize the likelihood of the need to use force during an incident and increase the likelihood of voluntary compliance." The policy further instructs that: "When safe and feasible under the totality of circumstances, officers shall attempt to slow down or stabilize the situation so that more time, options and resources are available for incident resolution." (*Id.*) Officers are also required, "when time and circumstances permit," to "consider whether a subject's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors" such as "mental impairment...drug interaction...[and/or] behavioral crisis." (*Id.*) These mental and behavioral factors should be balanced by the officer against the facts of the incident "when deciding which tactical options are the most appropriate to bring the situation to a safe resolution." (*Id.*)

Based on OPA's review of the evidence, the Named Employees engaged in sufficient de-escalation during this incident and prior to using force. They attempted to persuade the suspect to leave the DESC on his own, but he refused to do so. After they conclusively determined that the suspect had committed an assault and had been trespassed from the DESC, the officers made the decision to remove him from the facility. Given the suspect's intentional non-compliance, further de-escalation was not feasible at that time. As such, it was appropriate for the Named Employees to go hands-on. When they did so, the Named Employees used a low level of force to slide the suspect out of the bunkroom and into the main area. This force was reasonable, necessary, and proportional under the circumstances and was purposed to allow the officers to safely take the suspect into custody. Even if the suspect did have a broken foot, which is extremely doubtful based on the BWV and the witness statements, this did not yield the Named Employees' actions out of policy. Indeed, taking the suspect into custody was a law enforcement priority and the Named Employees were entitled to act as they did here. For these reasons, I find that the Named Employees appropriately de-escalated prior to using force. Accordingly, 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

8.100 - De-Escalation 1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force

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)**