



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 4, 2019

CASE NUMBER: 2019OPA-0195

### 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 (Unfounded)

*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 he was subjected to excessive force by the Named Employee when she purportedly pushed him twice during an encounter that resulted in his arrest.

#### 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 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 1. Use of Force: When Authorized***

The Complainant asserted that he noticed an officer’s car parked in the wrong direction. He reported that he told the officer to at least turn the car around, and then walked away. The Complainant stated that Named Employee #1 (NE#1) was doing something on the other side of the street and left what she was doing to push him “not once, but twice.” The Complainant asked her what she was doing, and he alleged that she didn’t give him any verbal commands or directions. The Complainant contended that, after questioning NE#1 more about why she pushed him, NE#1 grabbed the Complainant and told him he was going to jail for obstruction. The Complainant alleged that NE#1’s conduct amounted to the use of excessive force.

Based on a review of SPD reports and Body Worn Video (BWV), OPA determined that NE#1 and other officers were in the area responding to a Domestic Violence assault call when the Complainant inserted himself into their investigation. At that time, he took one of the investigating officer’s attention away from a DV assault and the search for the perpetrator of that crime. The officers reported that the Complainant commented on the way one of the officers was parked in a loud argumentative voice, and then jay-walked toward the reported disturbance. NE#1 and another officer verbally instructed the Complainant to exit the street, but he failed to comply. One of the



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officers added that he had to utilize “physical direction by placing my right palm against [the Complainant’s] chest and directing him out of the road.” It was further reported that the Complainant responded by acting even more agitated and verbally aggressive. It was documented that the Complainant yelled at officers about how he paid their salaries and regarding how they worked for him. These statements were recorded on BWV. After NE#1 finished talking to witnesses to the DV assault, she turned her attention to what was taking place between the other investigating officers and the Complainant. NE#1 moved toward the Complainant and told him repeatedly that he needed to get back. Ultimately, NE#1 told the Complainant that she was tired of telling him to get out of the street, and he responded by telling NE#1: “lock me up then.” At that point, the Complainant was arrested for obstruction.

After the Complainant was taken into custody, a civilian witness provided a video recorded statement to the officers. The witness reported that the Complainant was given every chance to leave but was volatile and made vulgar comments towards the officers. The civilian witness further reported that the officers were very tolerant of the Complainant and that officers acted appropriately during this incident.

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 Complainant’s interaction with NE#1 and other officers, including his handcuffing and arrest, were fully captured on BWV. The BWV establishes that the conduct alleged by the Complainant did not occur. Indeed, the BWV conclusively disproves that NE#1 or any other officer used excessive force during this incident. As such, I recommend that this allegation be Not Sustained – Unfounded against NE#1.

Recommended Finding: **Not Sustained (Unfounded)**