



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 18, 2018

CASE NUMBER: 2017OPA-1180

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.400 - Use of Force Reporting and Investigation 2. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force	Sustained

Imposed Discipline

Oral Reprimand

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.400 - Use of Force Reporting and Investigation 2. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force	Not Sustained (Training Referral)

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, a Department Lieutenant, alleged that the Named Employees failed to immediately report a subject's complaint of handcuff pain and did not do so until after the subject was booked into the King County Jail.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.400 - Use of Force Reporting and Investigation 2. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force

On the date in question, Named Employee #1 (NE#1) was a Field Training Officer (FTO) and Named Employee #2 (NE#2) was a Student Officer assigned to NE#1. NE#1 and NE#2 responded as the backing officers to a domestic violence incident. Two other officers were primary. The primary officers developed probable cause to arrest the subject and placed him into custody. The primary officers brought the subject to the front of their patrol vehicle where he was recorded on In-Car Video (ICV). He was then searched incident to arrest. The subject did not make any complaints of pain at that point. After the primary officers made the decision to book the subject directly into the King County Jail, a sergeant came to the scene to screen the arrest. He spoke with the subject and this screening was captured on ICV. At no point during that conversation did the subject make any complaints of pain.



At the conclusion of the screening, NE#1 and NE#2 were assigned to transport the subject to the jail in their patrol vehicle. During the transport, the subject complained of pain from his handcuffs. Accordingly, the Named Employees pulled the patrol vehicle over in order to allow NE#2 to have the experience as a student of adjusting the handcuffs.

At his OPA interview, NE#1 stated that the complaint of pain was reported to both the primary officer and the sergeant when the Named Employees returned to the precinct from the jail. NE#1 stated that he did not report the complaint immediately because he “believed that it was the primary officer’s duty.” NE#1 said that it was not impractical to report the force, but stated that the subject had just seen a supervisor 10 minutes earlier.

NE#2 explained to OPA that, at the time of the incident, he was a Student Officer on his second rotation. This meant that he was only in his second month of work. NE#2 told OPA at his interview that he understood SPD policy to require force to be reported “when it’s reasonable.” He clarified that this usually meant “within a few minutes or seconds depending on the circumstances.” NE#2 recalled hearing the subject make a complaint of pain and stated that he asked NE#1 whether they should report it to a supervisor. NE#2 recounted that NE#1 told him that they would just pull over and re-adjust the handcuffs. NE#2 stated that he was not sure what to do, as this was the first time he had heard a complaint of pain. He said he deferred to his FTO when NE#1 made the decision to not immediately report.

SPD Policy 8.400-POL-2 requires that an officer who uses reportable force or hears a complaint of pain while on duty is required to immediately notify a supervisor of this matter unless it would be impractical to do so. The policy further instructs the officer to make this notification by calling the supervisor via radio. (SPD Policy 8.400-POL-2.)

Here, it is undisputed that the Named Employees heard the complaint of pain. It is also undisputed that they did not report the complaint of pain immediately to a supervisor via radio even though it was not impractical to do so. The failure to do so was in violation of policy.

I find it concerning that NE#1, who is a FTO responsible for training new officers, had such a lack of understanding of policy and, specifically, the force reporting policy, which is a crucial part of the Department’s obligations under the Consent Decree. Further, NE#1’s failure to correctly apply the policy resulted not only in an OPA investigation against him, but also against NE#2, who was relying on his FTO to learn how to do his job properly.

For these reasons, I recommend that this allegation be Sustained as against NE#1.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #1

8.400 - Use of Force Reporting and Investigation 2. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force

As discussed above, the complaint of pain made by the subject should have been reported to a supervisor. The failure to do so by both NE#1 and NE#2 constituted a violation of policy. However, NE#2 was a Student Officer with only a month of experience at the time of the incident. Moreover, as he made clear during his OPA interview, he relied on NE#1’s incorrect interpretation of policy when he did not immediately notify a supervisor of the complaint



of pain. As such, I do not believe it warranted to sustain this finding against him. Instead, I recommend that he receive a Training Referral.

- **Training Referral:** NE#2 should receive additional training from his chain of command concerning the requirement that he immediately report complaints of pain. He should be counseled on his failure to do so in this case and should be instructed that he should be careful to properly report in the future. This training and associated counseling should be memorialized in a PAS entry.

Recommended Finding: **Not Sustained (Training Referral)**