



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 31, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0216

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.400 - Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following:	Sustained Rapid Adjudication
# 2	8.400-POL-2 - Use of Force – Handcuff Discomfort Screening. 2. Sergeants Will Screen Complaints of Handcuff Discomfort	Allegation Removed
Imposed Discipline		
Oral Reprimand		

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:

OPA alleged that, while the Complainant made complaints of pain and handcuff discomfort, no use of force investigation was conducted by Named Employee #2 (NE#2).

ADMINISTRATIVE NOTE:

The Complainant made an allegation of excessive force and unprofessionalism against an officer, who is referred to here as Named Employee #1 (NE#1). The allegations against NE#1 were classified for Expedited Investigation and were separately evaluated in a DCM under this same case number.

The allegations against NE#2 were classified for full investigation. During the pendency of this investigation, NE#2 informed OPA she wished to resolve her case through Rapid Adjudication (RA). RA is provided for in the Seattle Police Officers’ Guild’s collective bargaining agreement (CBA) with the City. It allows for employees to recognize that their conduct was inconsistent with Department policies and standards, and to accept discipline for the policy violation rather than undergoing a full OPA investigation.

After reviewing the complaint and completing its intake investigation, OPA determined this case could be appropriate for resolution by RA. However, before proceeding with its recommendation, OPA sought the Office of Inspector General’s (OIG) input. The OIG concurred with the OPA’s determination. Consistent with the procedure in the CBA, OPA forwarded to the Chief of Police its recommended disposition and proposed discipline in the form of an oral reprimand. The Chief of Police concurred with OPA’s recommended findings and proposed discipline. NE#2



also agreed to the discipline and, in doing so, stipulated that the finding and discipline were final and could not be appealed or otherwise later disputed.

SUMMARY OF INVESTIGATION:

Officers were dispatched to drug store multiple times due to a male – the Complainant in this case – repeatedly coming into the store and causing disturbances. The officers were provided with a description of the Complainant, as well as with name and address. Based on the information they were provided, they had probable cause to arrest him for trespassing.

NE#1 and a backing officer went to the 5th floor of the Complainant's apartment building to attempt contact with him. While there, the Complainant was observed walking down the hallway and he verbally confirmed his identity. NE#1 and the other officer placed the Complainant under arrest and into handcuffs. Throughout their contact with the Complainant, he told the officers that he is not resisting. Based on review of Body Worn Video (BWV), the arresting officers did not appear to use any force on the Complainant other than that needed to control his arms and to place him into handcuffs. During this time, NE#1 informed the Complainant multiple times of the reason why he was being arrested. After the Complainant was placed into the rear of the patrol vehicle, he made a complaint of pain from the handcuffs.

The Complainant later alleged that NE#1 was very rude to him, never explained why he was arrested, and never read him his Miranda warnings. The Complainant also alleged that he was refused medical attention. The BWV footage revealed that he asked to see a doctor because of mental illness and neuropathy issues and not because of any injuries he sustained during this encounter.

As discussed above, OPA determined during its intake investigation that, while the Complainant made a complaint of pain and handcuff discomfort, no use of force documentation was completed by NE#2.

Named Employee #2 - Allegations #1

8.400 - Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following

SPD Policy 8.400-POL-1(3) requires that a sergeant review a force incident and classify the level of force use. If Type I, Type II, or Type III force is classified, the sergeant must make sure that it is properly investigated.

OPA determined that NE#2 was advised of the complaint of pain from the handcuffs. She further questioned the Complainant about the complaint of pain during her screening of this incident. NE#2 was told by the Complainant that the handcuffs hurt but that he wanted a doctor for mental health concerns and neuropathy. NE#2 appropriately asked the Complainant if he had any injuries other than the handcuff discomfort, and he informed her that he was not complaining about the handcuffs. Though it is reasonable to believe that the Complainant's handcuff discomfort was caused by his preexisting injury (neuropathy), the Complainant made multiple complaints of pain from the handcuffs during this encounter and policy required NE#2 to document those complaints. This was not done here.

By agreeing to proceed with RA, NE#1 recognized that her actions violated the Department's use of force reporting and investigation policy. OPA appreciates and commends NE#2 for taking accountability for this incident and for



agreeing to RA. OPA recommends this allegation be Sustained – Rapid Adjudication. This finding is both final and binding.

Recommended Finding: **Rapid Adjudication - Sustained**

Named Employee #2 - Allegations #2

8.400-POL-2 - Use of Force – Handcuff Discomfort Screening. 2. Sergeants Will Screen Complaints of Handcuff Discomfort

As a result of RA being agreed to and applied to NE#2's actions in the context of Allegation #1, the remaining allegation in this case was removed.

Recommended Finding: **Allegation Removed**