



## **CLOSED CASE SUMMARY**

ISSUED DATE: NOVEMBER 16, 2019

CASE NUMBER: 2019OPA-0345

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	6.010 - Arrests - 5. Sergeants Must Screen All Arrests Prior to Booking or Release	Not Sustained (Training Referral)
# 2	8.400 - Use of Force Reporting and Investigation - 4. The Sergeant Will Review the Incident and Do One of the Following:	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:**

It was alleged that the Named Employee did not complete an arrest screening template for this incident and that the Named Employee failed to properly classify force for investigation.

#### **ADMINISTRATIVE NOTE:**

As discussed below, the Complainant alleged that, due to an officer improperly listing him as the suspect on the report relating to this incident, he was required to spend approximately \$5,000 to dismiss charges against him. While OPA recognized how problematic and frustrating this must have been for the Complainant, given that it was a clear mistake on the officer’s part, OPA handled this issue via a Supervisor Action.

During its review of this case, OPA further determined that the officer appeared to make brief unintentional contact with the female arrestee’s neck when trying to hold her head up and that he failed to screen and report that neck contact. Moreover, OPA also determined that the officer placed a spit sock on the arrestee but did not document that. These matters were also handled via a Supervisor Action.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegations #1**

##### ***6.010 - Arrests - 5. Sergeants Must Screen All Arrests Prior to Booking or Release***

SPD officers responded to report of a woman who was potentially suffering from a mental health crisis. It was reported that the woman was walking in and out of traffic and was acting in an unsafe manner. After arriving at the scene, the officers evaluated the woman and made the decision to take her into custody based on their determination that an emergent detention was warranted. After she was handcuffed and given that she appeared to be physically unwell, the officers placed the woman into the recovery position (lying on her side). She began to move around, and the officers used their body weight to prevent her from doing so. At one point, one of the officers



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had her knee on the woman's body. As discussed below, the woman made a number of complaints of pain directed towards the officers.

The woman was ultimately secured and was placed on a gurney. She was transported from the scene in an ambulance. The officer who completed the documentation for this incident requested a Charge-By-Officer for pedestrian interference.

When he completed the report, the officer inadvertently included the wrong first name for the arrestee. As a result, the report referred to a male suspect instead of a female suspect and a warrant was ultimately issued for an individual who matched the male suspect's name. As a result, this individual – who is the Complainant in this case – was required to obtain a lawyer and seek to dismiss the incorrect charges against him. While the charges were ultimately dismissed, the Complainant indicated that he was required to spend nearly \$5,000 on attorney's fees. Given this, the Complainant filed this complaint with OPA.

During its investigation, OPA confirmed that the officer made an error when he improperly listed the Complainant as the suspect. As this was clearly a mistake, this reporting error was addressed by the officer's chain of command as a Supervisor Action.

OPA also determined that Named Employee #1 (NE#1), who was the officer's supervisor, reviewed the officer's report but did not create an arrest screening template. This appeared to be contrary to SPD Policy 6.010-POL-5, which requires an arrest screening template to be completed, as well as SPD Policy 15.020-PRO-2, which specifically requires a screening template where there is a Charge-By-Officer.

At her OPA interview, NE#1 acknowledged that she did not complete an arrest screening template for this incident. She stated that she was not aware that she had to do so at the time but had since reviewed policy and realized that it was a requirement. She confirmed that she now completes the appropriate screening paperwork in these situations.

Given the above and even though the failure to complete an arrest screening template was inconsistent with policy, I find that a Sustained finding is not warranted. Instead, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should ensure that she understands the requirement for completing an arrest screening template where there is a Charge-By-Officer. She should be counseled concerning her failure to do so here. This training and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

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



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**Named Employee #1 - Allegation #2**

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

While she was being taken into custody, the arrestee made multiple complaints of pain when she was being forcibly held down by two officers. Among the complaints made by the arrestee were: “you’re hurting me”; “ow, fuck”; “you’re fucking hurting me”; “I’m telling you, it’s hurting me”; and “my fucking arm.”

NE#1 came to the scene to screen the arrest. She spoke with one of the officers, who told her that the arrestee: “made a real vague complaint of pain, but not related to the handcuffing. She said something like...” NE#1 interjected and said: “Probably medically related.” The officers responded by saying: “Yeah, yeah, yeah...like ‘oh, they’re hurting, someone hurt me.’ I don’t know. She said something weird, but I don’t think it was us. We just used de minimis force.” NE#1 did not ask the officer any further questions about the specific force he used or further explore the arrestee’s complaints of pain. NE#1 also spoke to the other involved officer but did not ask that officer any questions about the force she used or the arrestee’s complaints of pain. NE#1 did not investigate the use of force further or request that the officers complete any force reports.

At her OPA interview, NE#1 stated that she believed the force to be de minimis because her officers would have told her had the force been of a higher level. She confirmed that she never clarified the arrestee’s complaints of pain with the officers because she believed the force to be de minimis and because SFD did not identify the arrestee as being injured. NE#1 did not explore the force or the complaints of pain with the arrestee and stated that she did not speak with the arrestee. NE#1 stated that she did not see any injuries on the arrestee but stated that she did not conduct an investigation into the force. She believed that the complaints of pain related to the arrestee being in crisis and told OPA that, in her experience, people in crisis made complaints of pain in the form of “excited utterances.” Notably, when asked by the assigned OPA investigator whether complaints of pain stemming from de minimis force needed to be investigated and documented, NE#1 said that she did not know.

SPD Policy 8.400-POL-4 governs the responsibility of sergeants to properly review and classify uses of force. With regard to the classification of force, SPD Policy 8.400-POL-1 indicates that force that results in the complaint of transitory pain should be classified and investigated as a Type I use of force.

Based on a review of the video, the arrestee made a number of complaints of pain that were related to force that was being used on her by officers. While this force was de minimis in nature, due to the complaints of pain, it was required to be investigated as Type I. When NE#1 failed to ensure that such an investigation occurred here, she acted contrary to policy.

While NE#1 stated that she did not know whether complaints of pain stemming from de minimis force needed to be investigated, this is clearly set forth in policy and is a requirement that is regularly complied with by SPD supervisors. Moreover, this is the second case in which NE#1 has been determined by OPA to have not properly screened force. In 2018OPA-0258, she received a Training Referral for failing to screen potential Type III force with FIT. While this case is somewhat different in that it dealt with a lower level of force, it raises the same concerns for OPA.

The above being said, OPA recommends that NE#1 receive a Training Referral here, even though a Sustained finding would be appropriate. In doing so, OPA recognizes that NE#1 was candid about her shortcomings during this



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incident and appears to be willing to learn from this case. However, any future failure to properly screen and investigate force will likely result in OPA recommending a Sustained finding.

- **Training Referral:** NE#1 should be retrained by her chain of command regarding the requirement that she properly classify and investigate force. She should be reminded of the categories of force set forth in SPD Policy 8.400-POL-1. She should further be instructed to more thoroughly and critically explore the force used by her officers and to not make assumptions prior to completing that investigation. Lastly, NE#1 should be informed that future failures to comply with SPD Policy 8.400-POL-4 will likely result in recommended Sustained findings. This training and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

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