



## CLOSED CASE SUMMARY

ISSUED DATE: MAY 1, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0433

### **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 (Expedited)

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)

#### Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)

***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 while he was detained following his arrest, an African American SPD officer glared at him and shoved him. The complainant further alleged that during his detention Unknown Employees laughed at him in an unprofessional manner.

### **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 involved employees. As such, OPA did not interview the involved employees in this case.

### **SUMMARY OF INVESTIGATION:**

This complaint originated from a previous complaint. During the Complainant's first interview in that case, the Complainant alleged that a tall, African American male officer shoved him in the shoulder while at the East Precinct holding cell area. The Complainant further alleged that officers laughed at him while he was in a cell. This investigation was initiated to examine the statements made by the Complainant during the investigation of the first complaint.



The Complainant declined to be interviewed further about his initial allegations. He did, however, provide OPA with the following email, “allegations I said were true just next time don’t push me in the shoulder when I’m handcuffed. I won’t forget it. I don’t need anything its okay let them do their jobs not many left with vaccination protocols coming in and we need them I was wrong. Keep the streets safe and people safe as yourselves thanks for the service you all do.”

OPA continued its investigation into the allegations and reviewed the original and associated Complaints, Computer Aided Dispatch (CAD) Call Report, Incident Report, Seattle Fire Department Reports, SPD holding cell footage, In Car video (ICV) and Body Worn Video (BWV). The Complainant’s interactions with Named Employees were tracked and reviewed from the scene to the East Precinct, then at the precinct to King County Jail. Both identified Named Employees were involved in the escorting of the Complainant during his arrest and subsequent detention.

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

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

##### ***8.200 - Using Force 1. Use of Force: When Authorized***

The Complainant alleged that Named Employee #1 (NE#1) used unauthorized force.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Officers shall only use “objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” 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 8.050.) The policy lists a number of factors that should be weighed when evaluating reasonableness. (See id.) Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” (Id.) Lastly, the force used must be proportional to the threat posed to the officer. (Id.)

BWV shows that NE#1 was in the vicinity when the Complainant was arrested but had no direct contact with him. Following this arrest, NE#1 was not involved in handcuffing the Complainant or placing him in the patrol vehicle.

On arrival at the Precinct, when the Complainant was walked from the patrol car into the cell, NE#1 held the cell door open. However, NE#1 had no physical contact with the Complainant.

Accordingly, OPA recommends that this allegation is Not Sustained – Unfounded (Expedited)

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

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

##### ***8.200 - Using Force 1. Use of Force: When Authorized***

Named Employee #2 (NE#2) was involved in the transport and escort of the Complainant from the scene to the Precinct and then to King County Jail (KCJ). On arrival at the Precinct, NE#2 escorted the Complainant out of the patrol vehicle and into the holding cell area. No comments, or indeed actions, were made by the Complainant which suggested any force, let alone excessive force was used. BWV depicts NE#2 with his left hand on the bicep area and



right hand on the left shoulder blade of the Complainant. NE#2's arm was extended out straight while walking. There was no movement of NE#2's arm or any indication (verbal) from the Complainant that a push had occurred.

When leaving the holding cell for transport to KCJ, NE#2 removed the Complainant from the cell. BWV showed the Complainant stating, "you're pushing me." NE#2 was observed holding his left arm near the bicep and his right hand is on the back with his elbow bent. There was no clear push or movement of the NE#2's arm which suggested a push occurred.

In this case, NE#2 used only *de minimis* force, which SPD Policy defines as "[p]hysical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to or are reasonably likely to cause any pain or injury." (SPD Policy 8.050). The policy goes on to include examples of *de minimis* force, such as "[u]sing hands or equipment to stop, push back, separate, or escort a person without causing any pain, or in a manner that would reasonably cause any pain." (Id.)

NE#2's use of *de minimis* force when escorting the Complainant, was reasonable. The *de minimis* force was also necessary in this situation, given that the Complainant was being placed under arrest and transported to the precinct and to King County Jail. Lastly, the *de minimis* force was proportional to the actions of the Complainant, who although verbalized a use of force, did not physically resist the escort.

Accordingly, OPA recommends that this allegation is Not Sustained – Lawful and Proper (Expedited)

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

### **Named Employee #3 - Allegation #1**

#### **5.001 - Standards and Duties 10. Employees Will Strive to be Professional**

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (Id.) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (Id.)

The Complainant alleged that a male African American officer laughed at him during his detention. OPA reviewed footage and identified two African American officers at the scene. However neither of these officers were observed laughing or glaring at the Complainant. As such, an unknown employee was listed to address the allegation of Professionalism.

After reviewing BWV and Holding Cell Video, OPA could not identify any laughing by any SPD Employees, regardless of their apparent race, at any time during the Complainant's detention.

Accordingly, OPA recommends that this allegation is Not Sustained - Unfounded (Expedited)

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