



## ***CLOSED CASE SUMMARY***

ISSUED DATE: APRIL 28, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0469

### **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 - Lawful and Proper (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 on October 1, 2021, Named Employee #1 (NE#1) placed the Complainant under arrest, during which time NE#1 "roughed up" the Complainant.

### **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:**

All relevant portions of the Named Employees' response were captured on Body-Worn Video (BWV). Accordingly, the relevant facts are not in credible dispute.

On October 1, 2021, at around 10:30 PM, NE#1 responded to a call of a trespass occurring at a Walgreens in the area of 2400 S Jackson Street. Once on scene, NE#1 spoke with a Walgreens security guard, who directed NE#1 to the trespass suspect (Complainant). NE#1 approached the Complainant and advised her that she was trespassing and could not come back to the Walgreens. NE#1 then left the scene at approximately 10:39 PM. Approximately twenty minutes later, NE#1 returned to the Walgreens, which the Complainant had returned to.

NE#1 made contact with the Complainant again, this time placing the Complainant under arrest for trespass. In response to this development, the Complainant issued a string of profane comments, yet overall remained cooperative with the process. NE#1 did not appear to use force beyond what was necessary to place handcuffs on the Complainant and escort the Complainant into a police vehicle, nor did the Complainant make any sort of complaint regarding pain or force.



After transporting the Complainant to the East Precinct building, the Complainant was escorted from NE#1's vehicle and into a holding cell, after which point the Complainant was ultimately processed as Charge by Officer (CBO). NE#1 then escorted the Complainant from the holding cell, unhandcuffed, and allowed to exit the East Precinct building on foot. NE#1 did not appear to use force beyond what was necessary to unhandcuff the Complainant and escort the Complainant out of the holding cell, nor was the Complainant observed as making any sort of complaint regarding pain or force.

**ANALYSIS AND CONCLUSIONS:**

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

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

The Complainant alleged that 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.)

In this case, NE#1 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.)

Considering the circumstances of this incident, NE#1's use of *de minimis* force when applying and removing handcuffs from the Complainant, as well as escorting the Complainant to and from Named Employee's vehicle and the East Precinct building would be reasonable, given that the Complainant was being placed under arrest for trespass. The *de minimis* force was also necessary in this situation, given that the Complainant was being placed under arrest and transported to the precinct. Lastly, the *de minimis* force was proportional to the actions of the Complainant, who did not physically resist the handcuffing or escorting.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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