



## ***CLOSED CASE SUMMARY***

ISSUED DATE: AUGUST 10, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0060

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL. 10 Employees Shall Strive to be Professional	Not Sustained - Inconclusive
# 2	6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Lawful and Proper
# 3	8.400 - Use of Force Reporting and Investigation 8.400-POL-2 Use of Force – Handcuff Discomfort Screening 1. Officers Shall Report Complaints of Handcuff Discomfort to a Supervisor	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 Complainant was arrested without probable cause and, when he complained of handcuff discomfort, mocked by Named Employee #1 (NE#1).

### **ADMINISTRATIVE NOTE:**

During its intake investigation, OPA identified that NE#1 failed to activate her BWV device while transporting the Complainant or while inventorying the Complainant's possessions which may have violated SPD Policy 16.090 - In-Car and Body-Worn Video 16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Employees Record Activity. This matter was returned to the chain of command to be handled via a Supervisor Action.

It was further alleged that an assisting officer, Named Employee #2 (NE#2) failed to screen handcuff discomfort as outlined in SPD Policy 8.400 - Use of Force Reporting and Investigation 8.400-POL-2 Use of Force – Handcuff Discomfort Screening 2. Sergeants Will Screen Complaints of Handcuff Discomfort. This matter was returned to the chain of command to be handled via a Supervisor Action.

On further examination, OPA reviewed BWV footage and the relevant police reports relating to the underlying arrest. This policy violation (SPD Policy 6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest) was subsequently 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 for this allegation based solely on its intake investigation.



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**SUMMARY OF INVESTIGATION:**

On 08/05/20 the Complainant was arrested by NE#1 for violating a No-Contact Order (NCO). The arrest was based on a 911 complaint made by a Community Member #1 (CM#1) who alleged that the Complainant was shining a flashlight into a window in violation of the NCO. A description of the subject was also provided by property staff. The NCO was verified prior to the arrest of the Complainant. The Complainant contacted OPA and further alleged that NE#1 was “taunting” him and that the handcuffs were on too tight during his detention.

OPA commenced an investigation and examined Computer Aided Dispatch (CAD) Call Report, Incident Report and 911 audio, Body Worn Video (BWV). OPA also interviewed the Complainant and Named Employee. NE#1’s entire response to, and investigation of, this incident was recorded on her BWV. NE#1’s entire response to, and investigation of, this incident was recorded on his BWV. As such, these underlying facts are not in credible dispute.

BWV confirmed that NE#1 detained the Complainant and identified him as the subject of the NCO. He was placed in handcuffs. The Complainant alleged that he was not within 500 feet of the residence where the no-contact order was in place. The Complainant alleged that he was visiting his girlfriend at the residence. Prior to Mirandizing the Complainant, NE#1 questioned the Complainant about a firearm used in a shooting the week before. After *Miranda*, NE#1 continued to question the Complainant about the location of a firearm used in a shooting which was related a named individual in the no-contact order. The Complainant was searched while handcuffed and a pipe and small bag of narcotics, believed to be methamphetamine, were found. NE#1 arrested the Complainant for violation of the NCO and under VUCSA (violation of the Uniform Controlled Substance Act).

**ANALYSIS AND CONCLUSIONS:**

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

***5.001 - Standards and Duties 5.001-POL. 10 Employees Shall 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 stated that he was wearing a pair of thicker latex mechanic’s type gloves. He stated that due to the tightness of the handcuffs and the additional layer of the glove sit was causing his hands to tingle. The Complainant alleged that NE#1 mocked him and was rude to him throughout his detention. The Complainant specifically alleged that NE#1 taunted him by saying “Oh your fingers are tingling, your fingers are tingling,” after he complained of fingers were tingling due to his handcuffs. NE#1’s BWV did not comport with the allegations. NE#1’s engagement with the Complainant can be perceived as “firm but fair.” The alleged statements were not captured on NE#1’s BWV. During the BWV review, OPA noted that an officer of the Complainant’s gender was available for the purpose of a search but was not used by NE#1. Although the Complainant did not make a complaint about the search, best practice and alignment with policy would be a same-gender search.



Precinct video was no longer available for the Complainant's detention to determine if the said statements were made at the Precinct. However, CAD indicates that medics were requested by NE#1 for a male complaining of tingling fingers. CAD Fire indicates that the Fire Department responded to the North Precinct. PCR Fire indicated "40 yom c/o wrist pn. Pt being held in the precinct, states falling and injuring self-several days prior and has pain in the wrist due to handcuff placement. Pt is found a/o, ambulatory on SFD (Seattle Fire Department) arrival." While CAD confirms that tingling was a complaint made, it does not confirm that NE#1 "taunted" the Complainant as alleged.

OPA cannot conclusively determine whether these statements were made by NE#1 as NE#1 separated from the Department on 05/23/22 and declined to be interviewed.

Accordingly recommends that this allegation be Not Sustained – Inconclusive.

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

***6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.

Prior to the arrest of the Complainant, the NCO was verified. The Complainant was detained by NE#1, who was also known to her. The Complainant was Mirandized and questioned by NE#1 about the location of a gun used in a previous incident where the victim is involved in the NCO. The Complainant was found to be in possession of two flashlights, which related to the 911 calls received. The search of the Complainant further revealed a glass pipe commonly used for smoking narcotics and a small blue zip bag containing a white crystal substance believed to be Methamphetamine. OPA believes that sufficient evidence of probable cause existed in this case which warranted the arrest of the Complainant.

Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

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

***8.400 - Use of Force Reporting and Investigation 8.400-POL-2 Use of Force – Handcuff Discomfort Screening 1. Officers Shall Report Complaints of Handcuff Discomfort to a Supervisor***

BWV at the scene does not show any complaint of handcuff pain. The Complainant alleged that he told NE#1 in the holding cell area that his fingers were tingling. He stated that due to the tightness of the handcuffs and the additional layer of the glove sit was causing his hands to tingle. Medics were requested with the note that they were being called Owing to the tingling as reported by the Complainant. The screening Segreant had no recollection of being requested to screen handcuff discomfort by NE#1. NE#1 separated from the Department on 05/23/22 and declined to be interviewed. As such is unknown whether NE#1 forgot to screen the discomfort or whether they ignored the discomfort. As the medics were called relative to the complaint made it would suggest that this was an unintentional error by NE#1. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral.



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- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1. The Training Referral should incorporate counseling and training on relevant sections of SPD Policy 8.400-POL-2 Use of Force – Handcuff Discomfort: Screening. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**