




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 18, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0302

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)
# 2	8.400-TSK-1 Use of Force - Officer's Responsibilities During a Handcuff Discomfort Screening	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 - Inconclusive (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.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) review and agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case. OIG also certified this investigation as thorough, timely, and objective.

EXECUTIVE SUMMARY:

The Complainant alleged Named Employee #1 (NE#1) used excessive force by applying extremely tight handcuffs and making him wait before relieving the discomfort. The Complainant also alleged Named Employee #2 (NE#2), an unknown employee, later used excessive force by applying handcuffs "just as tight" as NE#1.

SUMMARY OF INVESTIGATION:

The Complainant submitted an online OPA complaint outlining allegations against NE#1 and NE#2. OPA opened an investigation. During its investigation, OPA reviewed the complaint, Computer-Aided Dispatch data, incident report, body-worn video, and in-car video. OPA also made several unsuccessful attempts to interview the Complainant. On September 26, 2022, OPA called the number the Complainant listed in his OPA complaint. There was no answer, so OPA left a voicemail. On September 27, 2022, OPA emailed the account the Complainant listed in his OPA complaint, but there has yet to be a response. On October 4, 2022, OPA sent a follow-up email, but there has yet to be a response.



Computer-Aided Dispatch data showed on September 18, 2022, a 9-1-1 caller reported his roommate—the Complainant—grabbed him, broke his chain, and stole his belongings. NE#1 was dispatched and arrived about six minutes later. NE#1 wrote an incident report covering his response and preliminary investigation. In summary, it stated:

Officers, including NE#1, arrived and contacted Community Member #1 (CM#1)—the 9-1-1 caller. CM#1 indicated the altercation stemmed from CM#1 texting the Complainant's girlfriend. The Complainant reportedly grabbed CM#1's neck and broke his silver chain. CM#1 was uninjured. Later, the Complainant texted CM#1, "I will beat your ass." CM#1 also reported the Complainant stole \$400 worth of fishing equipment. Officers, including NE#1, relocated to the Complainant's and CM#1's shared apartment. They knocked on the door, but there was no answer. CM#1 consented to the officers entering the unit. When they attempted to push the door open, someone on the other side held it shut. After several minutes, the Complainant opened the door. An officer issued Miranda warnings, and NE#1 applied handcuffs. A sergeant screened the Complainant's arrest.

BWV captured NE#1's interaction with the Complainant. It was generally consistent with NE#1's incident report. In summary, it showed the officers' initial contact with CM#1. It also captured CM#1 showing officers text messages reportedly from the Complainant relating to CM#1's fishing equipment and the Complainant's threats. Further, it caught the officers' repeatedly announcing their office and attempting to enter the apartment. It also captured the Complainant's arrest and escort to a patrol car.

Moreover, BWV showed throughout the Complainant's interaction with NE#1 he never complained about handcuff discomfort. The sergeant's BWV captured the arrest screening. Again, the Complainant made no complaint of pain or discomfort. Similarly, in-car video (ICV) captured the Complainant's transport to jail, but no complaint of pain or discomfort was made. BWV is unallowed inside the jail, so what happened there was unrecorded. However, after the jail rejected the Complainant's admission, ICV captured the Complainant sobbing, and the transporting officer asked, "What was hurting? Is it your arm? Your thumb?... What happened to it?" The transporting officer also indicated he "saw a sore on it" and told the Complainant he was taking him to a hospital. The transporting officer asked whether the Complainant injured himself at work, and the Complainant replied he "burnt it pretty good" at his sawmill job. BWV showed the Complainant was treated at a hospital and returned to jail.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 used excessive force by applying extremely tight handcuffs.

An officer's use of force must be reasonable, necessary, and proportional. SPD Policy 8.200(1). 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 several 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.* Last, the force used must be proportional to the threat posed to the officer. *Id.*



Here, after probable cause was determined, NE#1 handcuffed the Complainant to execute the arrest. BWV captured a scabbed wound on the Complainant's left wrist:



BWV showed at no point during the handcuffing, escorting to the patrol car, or the sergeant's arrest screening did the Complainant report pain or handcuff discomfort.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

8.400-TSK-1 Use of Force - Officer's Responsibilities During a Handcuff Discomfort Screening

The Complainant alleged NE#1 failed to address his handcuff discomfort immediately.

Handcuff discomfort means discomfort or minor transient pain caused solely by wearing properly applied handcuffs. SPD Policy 8.050. It is reported and tracked not as a use of force but as "handcuff discomfort." SPD Policy 8.400-POL-1. Officers will report the complaint of handcuff discomfort resulting solely from wearing properly applied handcuffs to a supervisor. *Id.* Officers will also tell the supervisor what steps the officer took to ensure proper fit and address the complaint of discomfort. SPD Policy 8.400-POL-2.

Here, NE#1's duty to address the Complainant's handcuff discomfort was never triggered. Where *the complaint of handcuff discomfort* triggers officers' responsibilities, BWV showed the Complainant never complained during his interactions with NE#1 or the screening sergeant.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

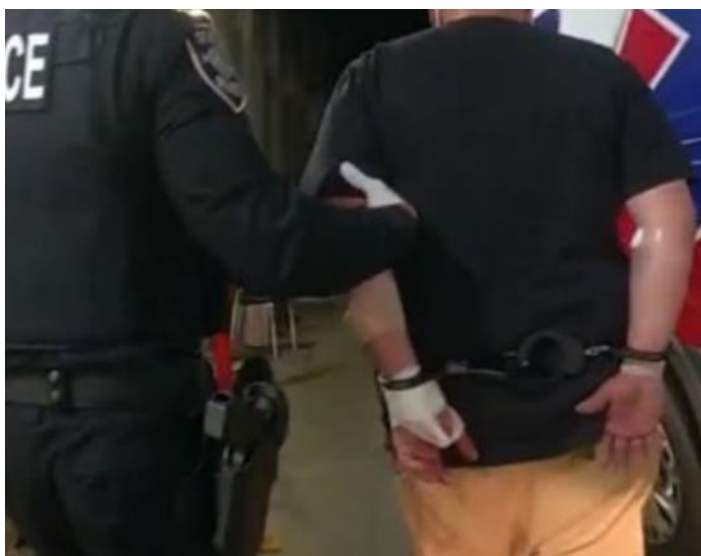
Recommended Finding: **Not Sustained - Unfounded (Expedited)**



Named Employee #2 - Allegation #1

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

Here, unlike NE#1, BWV did not capture NE#2 handcuffing the Complainant. It was unrecorded because jail policy does not allow filming during processing. So, there is insufficient evidence to determine whether NE#2 used excessive force to apply the Complainant's handcuffs. However, OPA does note the Complainant told NE#2 his injury stemmed from an accident at work. ICV also captured NE#2 expressing what appeared to be sincere concern about the Complainant's discomfort. Moreover, NE#2 directly transported the Complainant to a hospital where his hand was treated and bandaged:



While those actions call to question the Complainant's allegation, they fall short of exonerating NE#2. Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

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