



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 28, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0322

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	11.010 - Detainee Management 8. Officers Will Assist Detainees with Reasonable Requests for Water and Restroom Access.	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	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 Named Employees #1 and #2 (NE#1; NE#2) arrested her for driving under the influence (DUI). The Complainant alleged NE#1 refused to allow her to use a bathroom despite a medical condition, causing her to urinate on the floor. The Complainant also alleged NE#1 denied her water. Finally, the Complainant alleged NE#1 and NE#2 tightened her handcuffs in retaliation for her request for legal representation.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's 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.

OPA also noted the named employees' failures to properly screen handcuff discomfort complaints with a supervisor and complete detainee checks at thirty-minute intervals, as policy requires. OPA returned those allegations to their chain of command for a supervisor action.



SUMMARY OF INVESTIGATION:

OPA reviewed incident reports, body-worn video (BWV), and SPD detention logs. OPA also interviewed the Complainant.

A. Initial Complaint and OPA Interview of the Complainant

On September 30, 2022, the Complainant submitted an OPA complaint alleging the named employees mistreated her during a Driving Under the Influence (DUI) arrest. Specifically, the Complainant said despite her bladder issue that required her to frequently use the restroom, the named employees ignored her requests to use a bathroom. The Complainant alleged she was forced to urinate on a holding cell's floor. The Complainant also alleged even after consulting with an attorney, she did not understand the forms the named employees asked her to sign. The Complainant stated the named employees tightly re-applied handcuffs twice in retaliation for refusing to say she understood the paperwork. The Complainant said she was tightly handcuffed for six hours.

On October 10, 2022, OPA interviewed the Complainant. She said she told the named employees about her medical condition while she was transported to the West Precinct. The Complainant stated she was not allowed to use a restroom. Also, the Complainant said the named employees gave her insufficient drinking water during her detainment. The Complainant also stated the tight handcuffs bruised her. OPA requested photos of her bruises, but the Complainant did not provide them.

B. Body-Worn Video (BWV) & SPD Adult Detainee Log

The named employees' BWV captured their interactions with the Complainant. OPA also reviewed the SPD Adult Detainee Log, which documented the Complainant's booking, release, and cell-checks conducted by the named employees.

BWV showed NE#1 conducting a DUI investigation at the incident location. The named employees used two sets of handcuffs to restrain the Complainant. They also issued *Miranda* warnings. The Complainant stated she did not understand the *Miranda* warnings. NE#1 said she would explain the *Miranda* warnings at the precinct. NE#1 asked the Complainant whether she had medical conditions which could be mistaken for impairment. The Complainant replied she had a medical condition that caused pain in her bowels, bladder, and intestines and impacted her balance. NE#1 asked for the specific condition, which the Complainant provided. The Complainant did not state her condition required frequent restroom use.

The named employees transported the Complainant to the West Precinct. As NE#1 walked the Complainant into the precinct, the Complainant slipped her left hand from the handcuffs. BWV captured her raising her left hand with no handcuff attached. NE#2 re-handcuffed the Complainant's left hand. The Complainant was placed in a holding cell. The Adult Detainee Log showed the Complainant entered the cell at 03:10 AM.¹

¹ Daylight-Saving Time took effect that morning. At 02:00 AM, clocks jumped forward one hour to 3:00 AM.



Around 03:20 AM, BWV showed the Complainant doing a handstand in the cell.

Around 03:30 AM, NE#1 reissued *Miranda* warnings to the Complainant. The Complainant stated she understood her rights and requested a lawyer. Around 03:50 AM, NE#1 gave the Complainant a phone to speak with an on-call attorney. NE#1 told the Complainant she had twenty minutes for the call. Around 04:10 AM, NE#1 returned to take the phone, but the Complainant stated she needed more time. NE#1 gave the Complainant an additional five minutes. The Adult Detainee Log showed NE#1's cell check was at 04:10 AM.

NE#1 gave the Complainant an Implied Consent Warnings sheet. The Complainant stated she did not understand it. NE#1 attempted to clarify what was unclear to the Complainant. The Complainant replied she did not recall which forms the attorney told her to sign. The Complainant asked NE#1 to explain some of the Implied Consent Warning. NE#1 said she could not give advice but offered to re-read the sheet to the Complainant. The Complainant signed the Implied Consent Warning form but declined to sign Warning #4 concerning additional testing. NE#1 escorted the Complainant back to her cell.

At 04:37 AM, NE#2 conducted a cell check. During that cell check, NE#2 explained the named employees applied for a search warrant for a blood draw, and after that, the Complainant would be released instead of taken to jail. The Complainant asked NE#2 for water, which NE#2 provided.

The Adult Detainee Log Sheet showed another cell check was conducted at 05:10 AM. No BWV depicted this cell check.

At 05:24 AM, the Complainant signaled NE#2 for another cell check. The Complainant asked NE#2 why she needed to be handcuffed inside a holding cell. NE#2 explained it was department policy. The Complainant stated she urinated on the floor because she could not get anyone's attention.

At 05:34 AM, the Complainant told NE#2 her handcuffs were too tight. NE#2 adjusted the Complainant's handcuffs and advised her to keep her palms facing one another to reduce discomfort. The Complainant again questioned the need for the handcuffs. NE#2 again explained it was department policy.

At 05:56 AM, NE#2 gave the Complainant a cup of water. NE#2 also told the Complainant a judge approved a blood draw warrant.

C. Incident Report

NE#1's wrote the related incident report. It was generally consistent with BWV. Additionally, NE#1's report stated she checked the Complainant's holding cell several times and found her singing and doing yoga poses. NE#1 wrote she applied for a blood draw warrant after the Complainant could not provide breath samples.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

11.010 - Detainee Management 8. Officers Will Assist Detainees with Reasonable Requests for Water and Restroom Access

The Complainant alleged NE#1 failed to accommodate her medical need to use a restroom and give her water.

Officers will assist detainees with reasonable requests for water and restroom access. SPD Policy 11.010 - Detainee Management 8.

Here, the Complainant alleged she told NE#1 about her medical need to use a restroom frequently, and NE#1 failed to accommodate her. However, BWV did not show the Complainant telling the named employees about her required restroom needs. The Complainant only explained her condition caused bladder and bowel pain and imbalance.

NE#1 interacted with and checked on the Complainant several times before urinating in her cell. BWV did not capture the Complainant requesting to use a restroom, despite an extended interaction approximately one hour before the Complainant's in-cell urination. Also, a cell check was conducted at 05:10 AM, less than fifteen minutes before the Complainant reported she urinated on the floor. Moreover, NE#1 and NE#2 checked on the Complainant several times concerning handcuff discomfort and issues surrounding the underlying criminal investigation without indicating she needed to use a restroom. Furthermore, NE#2 gave the Complainant water upon request.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited

The Complainant alleged NE#1 tightly handcuffed her in retaliation for not signing the Implied Consent and requesting a lawyer.

SPD policy precludes its employees from engaging in retaliation. SPD Policy 5.001-POL-14. SPD employees are specifically prohibited from retaliating against a person who engages in activities including, but not limited to, "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." *Id.* Retaliatory acts are defined broadly under SPD's policy and include "discouragement, intimidation, coercion, or adverse action against any person. *Id.*

Here, BWV showed that NE#1 issued the Complainant Miranda and Implied Consent warnings. While the Complainant frequently re-stated her confusion and inability to recall the legal advice she received, OPA did not observe NE#1 taking retaliatory actions against the Complainant. Instead, NE#1 demonstrated patience while repeatedly explaining the Complainant's rights to her. The named employees also adjusted the Complainant's handcuffs twice after their initial application: once after arriving at the precinct and again about an hour after the Complainant stated she was confused by the Implied Consent form.



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

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

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

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