



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 21, 2019

CASE NUMBER: 2019OPA-0285

Allegations of Misconduct & Director’s Force - Reporting Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	Not Sustained (Training Referral)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Report All Uses of Force Except De Minimis Force	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 is alleged that the Named Employees failed to timely report the Subject’s complaint of handcuffing discomfort.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

8.400 - Use of Force Reporting and Investigation - 1. Officers Shall Report All Uses of Force Except De Minimis Force

On April 24, 2019, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a call relating to a car prowling incident. Two male suspects were identified at the scene and subsequently fled on foot before they could be apprehended by police. NE#2 called out to one of the suspects – referred to here as the Subject – to stop, but the Subject failed to do so. Both NE#1 and NE#2 chased after the Subject. NE#2 reached the Subject first and arrested him. To do so, NE#2 physically pulled the Subject down to the ground in what he described as a “hard takedown.” NE#2 then handcuffed the Subject. NE#2 did not use any other physical restraints or pain-compliance techniques at that time. NE#1 assisted NE#2 in lifting the Subject off of the ground and helped transport the Subject back to the precinct. At the time that he was taken into custody, the Subject did not complain of any injuries or discomfort from his handcuffs to either Seattle Fire Department personnel or the supervisor who responded to the scene to screen the incident.



However, while at the precinct, the Subject complained of discomfort from his handcuffs. In response to this complaint, NE#1 adjusted the handcuffs. The Subject complained of discomfort from the handcuffs a second time while he was being transported by the Named Employees to the King County Jail. In response to this second complaint, NE#1 offered advice to the Subject as to how to sit in the vehicle to lessen his discomfort while handcuffed.

At the time of the second complaint of handcuffing discomfort, NE#1 enquired of NE#2 whether a report should be made relating to the Subject's statements. NE#2 believed that a Handcuffing Event – the SPD documentation of complaints of pain from handcuffing – was only required if the complaint of pain was made during the initial handcuffing process. After the Subject was booked into the King County Jail, the determination was made by the officers that they should have immediately reported the Subject's complaints of handcuffing discomfort to a supervisor. NE#1 then self-reported this failure to a supervisor; however, given the late notice of the Subject's claims and given that the Subject was already in the custody of the King County Jail, the supervisor could not conduct a preliminary investigation to determine the actual level of force that had been used and to decide on the appropriate reporting that should be completed. The supervisor referred the officers' late notification to OPA, and this investigation ensued.

SPD Policy 8.400-POL-1 states that a complaint of discomfort from handcuffs is to be handled as a Handcuffing Event. SPD Policy 8.400-POL-2(1) further directs officers to report complaints of handcuff discomfort to a supervisor.

While the Named Employees did eventually report the Subject's complaints of handcuffing discomfort to their supervisor, they did so well after the fact and not within the timeframe contemplated by the policy. Moreover, this late reporting prevented their supervisor from completing a complete and thorough investigation into the Subject's complaints to determine whether a Handcuffing Event was appropriate rather than a higher level of force reporting.

Ultimately, the Named Employees' failure to timely report the complaints of handcuffing discomfort constituted a violation of policy. That being said and based on the video evidence, the Named Employees' lack of immediate reporting appears to have been due to their misunderstanding of the policy, which was relatively new at the time, rather than due to the intent to not report force. Moreover, they recognized their error and did report the force, even if beyond the window needed to allow an appropriate investigation to occur. For these reasons, OPA concludes that retraining rather than a Sustained finding is the appropriate result. As such, I recommend that this allegation be Not Sustained and issue the below Training Referral for both Named Employees.

- **Training Referral:** The Named Employees should receive retraining concerning the reporting requirements set forth in SPD policy 8.400-POL-2. The Named Employees should be counseled concerning their failure to immediately report the Subject's allegations of handcuffing discomfort and should be instructed to do so in the future. This retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #2 - Allegations #1

8.400 - Use of Force Reporting and Investigation - 1. Officers Shall Report All Uses of Force Except De Minimis Force

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1, Allegation #1).

Recommended Finding: **Not Sustained (Training Referral)**