



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 24, 2018

CASE NUMBER: 2018OPA-0636

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.400 - Use of Force Reporting and Investigation 2. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force	Sustained

Imposed Discipline

Oral Reprimand

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 Named Employee failed to immediately report force to a Department supervisor in violation of SPD policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

8.400 - Use of Force Reporting and Investigation 2. Officers, Including Witness Officers, Will Verbally Notify a Supervisor Immediately, Unless Not Practical, Following any Use of Reportable Force

Multiple individuals reported an erratic driver who was swerving into oncoming lanes of traffic. The driver pulled over and witnesses reported that he appeared to be unconscious in the driver’s seat. The driver, who was later identified as the Subject, was contacted by officers including Named Employee #1 (NE#1). He was slow to respond, but ultimately admitted that his driving had been poor. He stated that he had used marijuana several hours prior, but denied drinking any alcohol. He further told the officers that he was taking a number of other medications. The Subject was ultimately deemed to be impaired by a SPD drug recognition expert and was placed under arrest and handcuffed.

NE#1 was tasked with seating the Subject in the rear of a patrol vehicle. At that time, the Subject made multiple complaints of pain, including stating the following: “God it hurts fucking getting in here. Shit Goddammit!”; “It really fuckin...the fuck out of my leg”; and “My wrist is hurtin’ like a mother fucker.” Moreover, while in the rear of the patrol vehicle, the Subject said “ow” at least eight separate times. NE#1 did not report these complaints of pain to a supervisor.

When the Subject was at the precinct, he relayed his complaints, including his pain from handcuffing while in the patrol vehicle, to another officer. That officer did notify a supervisor and completed a Type I use of force report. The



supervisor determined that NE#1 had previously failed to report the complaints of pain and made an OPA referral. This investigation ensued.

SPD Policy 8.400-POL-2 states that officers, including witness officers, will verbally notify a supervisor immediately, unless not practical, following any use of reportable force. SPD Policy 8.400-POL-1 categorizes a complaint of transient pain, including that from the wearing of handcuffs, as Type I force that must be reported to a supervisor.

At his OPA interview, NE#1 stated that he believed that the Subject's complaints of pain were connected with his lack of mobility and his being seated in the rear of the patrol vehicle. He recognized, however, that the Subject did say that the pain was related, at least in part, to the handcuffs, and that this was reportable force under Department policy. When asked whether he immediately notified a supervisor when he heard that complaint, NE#1 responded as follows: "Not at that time. They transported him immediately afterwards and I stayed on scene to wait for the impound." He further stated that he later learned that the other officer was completing a report, so he did not feel the need to report to a supervisor at that time.

While I do not doubt NE#1 had good intentions, SPD policy is clear that he was required to immediately report the complaint of pain to a supervisor unless not practical. Here, there is no evidence that it would have been impractical for NE#1 to immediately radio or call a supervisor, report the complaint of pain, and ask the supervisor to come to the scene. These are the baseline steps required by the policy and represent the clear expectations of the Department. Force reporting is a crucial element of SPD's continued compliance with the Consent Decree and failing to do so, even if mistaken, represents a clear violation of policy.

For these reasons, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**