



## CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 15, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN, ON BEHALF OF DIRECTOR GINO BETTS, JR.  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0300

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force	Not Sustained - Lawful and Proper (Expedited)

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force	Not Sustained - Lawful and Proper (Expedited)

#### Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force	Not Sustained - Lawful and Proper (Expedited)

#### Named Employee #4

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force	Not Sustained - Lawful and Proper (Expedited)

#### Named Employee #5

Allegation(s):		Director's Findings
# 1	6.150 - Advising Persons of Miranda and the Right to Counsel, 6.150-POL-1 Advising Miranda Rights	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:

The Complainant alleged Named Employees #1-#4 (NE#1-NE#4) used excessive force when they used a team takedown to arrest him, causing an abrasion to his knee.



While screening the Complainant's allegations as an Unsubstantiated Misconduct Screening (UMS),<sup>1</sup> OPA alleged Named Employee #5 (NE#5) failed to advise the Complainant of his *Miranda* rights in a timely manner.

**ADMINISTRATIVE NOTE:**

The excessive force allegations against NE#1-NE#4 were approved for expedited investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing NE#1. As such, OPA did not interview NE#1-NE#4 in this case. On August 7, 2024, OIG certified OPA's expedited investigation as thorough, timely, and objective.

The remaining *Miranda* allegation underwent a full investigation. On November 8, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

**SUMMARY OF INVESTIGATION:**

On June 17, 2024, SPD officers, including NE#1-NE#4, were dispatched to a service call involving a domestic violence assault. The Complainant and his longtime girlfriend (Community Member #1 or CM#1) were in an argument, during which, the Complainant allegedly dragged CM#1 off a couch and pushed her, resulting in bruising on her neck. CM#1 stated the Complainant took her cellphone to prevent her from calling 911 to report the assault. CM#1 recorded portions of the incident on an old cellphone, which she showed officers. Thereafter, the named employees located the Complainant in a nearby vehicle and attempted to place him under arrest. However, the Complainant did not comply with officer commands and resisted arrest by tensing his arms and push away from officers. The named employees participated in a team takedown of the Complainant, bringing him to the ground. The Complainant sustained an abrasion to his left knee. The Complainant alleged the named employees used excessive, stating he was "manhandled," and complained of chest and leg pain.

NE#5 subsequently arrived on scene to screen the Complainant's arrest. NE#5 explained to the Complainant once he was seated in the car that he would need to read him his *Miranda* warnings. The Complainant requested assistance with the loosening of his handcuffs and NE#5 assisted him with this. NE#5 then talked to a third-party witness and explained a mandatory arrest is required in a DV case. NE#5 did not read the Complainant his *Miranda* Rights for over 20 minutes after the Complainant was safely taken into custody. During this time NE#5 and the Complainant briefly discussed the incident and NE#2's approach to the incident.

OPA investigated the allegations by reviewing the UMS documentation, computer-aided dispatch (CAD) call report, the incident report, and body-worn video (BWV). OPA contacted the Complainant multiple times, but he did not participate in an interview. OPA also interviewed NE#5.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 – Allegation #1**

***8.200 - Using force, 8.200-POL 1. Use of force***

<sup>1</sup> SPD supervisors may screen allegations of misconduct that are clearly refuted by evidence with OPA to determine whether a formal allegation is required. See OPA Internal Operations and Training Manual, section 8.1.



The Complainant alleged that NE#1, NE#2, NE#3, and NE#4 used excessive force.

SPD Interim Policy 8.200-POL-1 requires that force used by officers be “objectively reasonable, necessary, and proportional to the threat or urgency of the situation, to achieve a law enforcement objective while protecting the life and safety of all persons.” 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, considering the circumstances surrounding the event.” SPD Interim Policy 8.050. Reasonableness must be judged from perspective of a reasonable officer at the scene, *id.*, and allow for the fact that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. SPD Interim Policy 8.200-POL-1. The policy also 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 type and amount” of force used was reasonable and proportional to affect the lawful purpose intended or to protect against the threat. *Id.* Lastly, the force used must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

This allegation is not sustained. OPA proposed this allegation for expedited review, and OIG concurred that the evidence showed the misconduct did not occur as alleged.

OPA reviewed all BWV and relevant documentation for this incident. BWV showed NE#2 located the Complainant in a parked vehicle near the location of the incident. NE#2 knocked on the vehicle window, instructed the Complainant to exit the vehicle, introduced himself, and advised SPD was there regarding a disturbance between the Complainant and CM#1. The Complainant had his hands in his pockets, at which point NE#2 instructed him to take his hands out of his pockets several times. The Complainant began to walk away, at which point NE#2 told him he was not free to leave. NE#1, NE#3, and NE#4 arrived, and the Complainant was told he is under arrest. The named employees attempted to place the Complainant in handcuffs. BWV showed the Complainant tense up, pull away from officers, as well as verbally resist. The officers attempted to guide the Complainant away from the concrete sidewalk, towards a grassy area, and conduct a team takedown. The Complainant’s left leg hit the concrete just before the grass, causing an abrasion. NE#2 gave a verbal knee strike warning but did not strike the Complainant. Officers were subsequently able to handcuff the Complainant, who made multiple complaints of pain in his hands and arm, despite no additional force being used. Because the Complainant continued to shift his body and verbally resist, officers were unable to adjust his handcuffs. However, NE#2 inspected the handcuffs and NE#5 adjusted the handcuffs later when the Complainant was in the patrol vehicle. SFD was requested to the scene to evaluate the Complainant due to his complaints of pain; however, the Complainant declined evaluation.

OPA finds NE#1-NE#4 used force on the Complainant, but the force was objectively reasonably, necessary, and proportional. Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

**Named Employee #2 – Allegation #1**  
***8.200 - Using force, 8.200-POL 1. Use of force***

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**



**Named Employee #3 – Allegation #1**

***8.200 - Using force, 8.200-POL 1. Use of force***

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

**Named Employee #4 – Allegation #1**

***8.200 - Using force, 8.200-POL 1. Use of force***

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

**Named Employee #5 – Allegation #1**

***6.150 - Advising Persons of Miranda and the Right to Counsel, 6.150-POL-1 Advising Miranda Rights***

It was alleged that NE#5 failed to timely read the Complainant his *Miranda* rights.

SPD Policy requires sworn employees to advise all arrestees of their full *Miranda* rights as soon as practical after arrest, regardless of whether a custodial interview takes place. See SPD Policy 6.150-POL-1(1). Additionally, *Miranda* warnings must be given, “before questioning a person who is in custody.” SPD Policy 6.150-POL-1(2).

Here, no sworn employee gave the Complainant his *Miranda* rights until NE#5 did so, approximately seventeen minutes into his custodial interview with the Complainant and about thirty minutes after first contacting the Complainant. NE#5 was working as an acting sergeant for this incident and was interviewing the Complainant as part of the arrest screening and force review. Notably, NE#5 began his interaction with the Complainant immediately after arriving on scene by confirming that he knew why he was under arrest—an inquiry that could easily elicit an incriminating response. Later, NE#5 began another line of questioning by asking the Complainant what is “going on,” leading the Complainant to provide his version of events concerning his argument and physical interactions with CM#1. The Complainant also discussed his probation status for a previous domestic violence incident and his allegations of excessive force. This entire conversation took place after the Complainant was placed under arrest for domestic violence assault, while the Complainant was in handcuffs, and the Complainant was either being placed in the back of an SPD vehicle or after the Complainant was secured in the vehicle. NE#5 should have, at the very least, confirmed another officer provided the Complainant his rights before questioning him. The better practice would have been to re-*Mirandize* the Complainant before questioning him.

In his OPA interview, NE#5 explained he believed he provided the Complainant with his *Miranda* warning as soon as “practical” given that the Complainant was still upset, and that once he calmed the Complainant down, he read him *Miranda*. While an arrestee’s behavior can certainly dictate whether it is “practical” to read them *Miranda*, in such a situation, the interview itself should also be delayed until *Miranda* can be read. NE#5 acknowledged after reviewing his BWV that he could have advised the Complainant of his *Miranda* warnings sooner.



Ultimately, OPA finds that NE#5 potentially violated policy in this circumstance, but that his conduct was not willful and did not rise to the level of serious misconduct for the following reasons. First, it was not entirely unreasonable to assume—as NE#5 mistakenly did—that one of the apprehending officers had already provided the Complainant with his rights. Second, NE#5 noted that he was not attempting to investigate the alleged crimes but only conduct a use of force review, calm the Complainant down, answer any questions, hear his concerns, and explain the officers' actions. However, this is not the test for when *Miranda* warnings are required under law and policy. Third, NE#5 told the Complainant about three minutes after first encountering him that he was going to read the Complainant his *Miranda* warnings but, immediately afterwards, the Complainant alleged officer “fucked up” his leg and asked NE#5 to adjust his handcuffs (which NE#5 did). NE#5 then spoke to a third-party witness and NE#2 before reengaging with the Complainant about nine minutes later. In his OPA interview, NE#5 explained he intended to read the Complainant *Miranda* warnings but got “sidetracked” with these other issues. Fourth, OPA notes that NE#5 did, ultimately provide the Complainant his *Miranda* rights. Finally, OPA also notes that NE#5 has no prior discipline or training referrals for failing to provide *Miranda* warnings to an arrestee.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#5's chain of command should discuss OPA's findings with NE#5, review SPD Policy 6.150-POL-1 with NE#5, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented in Blue Team.

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