




CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 3, 2024

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0307

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 - Lawful and Proper (Expedited)
# 2	8.300 - Use of Force Tools, 8.300-POL-12 Use of Force - Firearms, 9. Pointing a Firearm at a Person is Type I Reportable Force	Allegation Removed

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 Employee #1 (NE#1) used excessive force while taking her into custody. The Complainant also alleged NE#1 pointed his firearm at her child, which NE#1 did not document.

ADMINISTRATIVE NOTE:

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

On August 18, 2023, OIG certified OPA’s investigation as thorough, timely, and objective.

During its intake investigation, OPA identified allegations that NE#1 did not properly report the Complainant’s allegations of handcuff discomfort or call a supervisor in response to the Complainant’s generalized and unfounded bias allegations. OPA returned these allegations to the chain of command to be handled via a Supervisor Action.

SUMMARY OF INVESTIGATION:

The Complainant filed a web-based complaint with OPA. The Complainant alleged she was in bed with her children when six SPD officers entered while using their flashlights, as if the Complainant were “a criminal with a gun.” The Complainant alleged she was “pushed on the bed [in] a rough manner,” held down, and tightly handcuffed, causing her to bruise. The Complainant alleged she was “dragged” from her home, despite being able to walk. The Complainant further alleged officers “pulled a gun out” on her and her child.



OPA opened an intake investigation. During its intake, OPA reviewed the complaint, computer-aided dispatch (CAD) call report, incident report, body worn video (BWV), and photographs provided by the Complainant. OPA also interviewed the Complainant over the phone and reviewed an additional written statement from her.

Objective CAD and BWV showed that, more likely than not, the following occurred.

NE#1 and other SPD officers responded to a 9-1-1 call for service. The CAD call remarks noted the call was a domestic violence disturbance in which the female party (the Complainant) had cut herself with a knife and stated she was going to kill their children, who were nearby.

After arriving on scene, NE#1 and other officers staged outside the Complainant's apartment. An officer, Witness Officer #1 (WO#1), was assigned as "lethal" cover. WO#1 drew his firearm, holding it in the "sul" position.¹ NE#1 spoke with the 9-1-1 caller and then contacted the Complainant in the bedroom. When asked about the knife, the Complainant produced a knife from under her pillow and surrendered it to NE#1. The Complainant told officers she did not want to hurt her children but refused to answer questions about whether she wanted to hurt herself. The 9-1-1 caller told officers that the Complainant cut herself in the arm while holding their baby. The 9-1-1 caller also told officers the Complainant had a history of self-harm. The Complainant showed NE#1 multiple lacerations on her arm and stated she did not cut herself for "attention" but, instead, to get the 9-1-1 caller to "listen" to her. The Complainant denied cutting herself while holding her children.

NE#1 decided to take the Complainant into custody under the Involuntary Treatment Act (ITA).² NE#1 explained his decision to the Complainant, telling her that they were going to send her to the hospital. The Complainant argued that the officers could not force her to go to the hospital. An officer took hold of the Complainant's arm as NE#1 picked up the Complainant's toddler, who the Complainant was holding. The Complainant initially refused to let go of her toddler. Officers placed the Complainant onto her stomach on her bed and placed the Complainant in handcuffs. The Complainant was then stood up and escorted out of her apartment.

OPA interviewed the Complainant by phone and accepted an additional written statement from her. The Complainant's interview and written statement were consistent with her original complaint. The Complainant stated officers were rough and applied handcuffs too tight. The Complainant specified that an officer matching NE#1's description was particularly rough. The Complainant expressed that she would have walked out on her own and that there should have been a female officer present. The Complainant clarified that no officer pointed a firearm at her children. Instead, the Complainant alleged the officers were prepared to draw their firearms.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 used excessive force while taking her into custody.

¹ The "sul" position is a trained firearm position. In the sul position, the firearm is drawn, but the muzzle is pointed down and not in the direction of any part of a person's body. See SPD Interim Policy 8.050 (defining "Type I" force to exclude the "sul" and "low ready" positions).

² See RCW 71.05.



SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. 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. Reasonableness must allow for the fact that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. *Id.* The policy also lists a number of 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.* Lastly, the force used must be proportional to the threat posed to the officer. *Id.*

OPA reviewed all BWV and relevant documentation for this incident. BWV shows that NE#1 and other officers utilized only *de minimis* force to grab the Complainant's arms, place her on her stomach, and place her in handcuffs. BWV showed the Complainant say “ow” in pain at times, but this appeared to be related to a handcuff discomfort issue. Furthermore, a review of BWV did not show, at any point, that NE#1 or any other officer pointing their firearms at the Complainant or her children. Rather, WO#1, had his firearm pointed downward in the sul position, and transitioned the firearm to his holster upon entering the Complainant’s room.

While NE#1 used *de minimis* force to take the Complainant into custody, this use of force was reasonable, necessary, and proportional under the totality of the circumstances. Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

Named Employee #1 - Allegation #2

8.300 - Use of Force Tools, 8.300-POL-12 Use of Force - Firearms, 9. Pointing a Firearm at a Person is Type I Reportable Force

The Complainant alleged that NE#1 pointed a firearm at her and her children. NE#1 did not document pointing his firearm at anyone.

SPD Interim Policy 8.300-POL-14(10)³ requires officers document pointing their firearm “at a person” as a Type I use of force. The policy specifies that “unholstering or displaying a firearm” without pointing it at a person is not reportable force.

This allegation should not have been classified against NE#1. As discussed above at Allegation #1, it did not appear that NE#1 ever unholstered his firearm. During the intake, OPA obtained evidence that showed no officers pointed their firearm at the Complainant or her children. OPA also obtained a statement from the Complainant in which she denied the officers pointed their firearms at her or her children. Because NE#1 never pointed his firearm at any person, there was not even a plausible allegation that he was obligated to report this non-occurrence.

³ OPA used the former policy numeration for this policy in its classification notice - SPD Policy 8.300-POL-12(9) (effective 04/15/21). The correct policy numeration was Interim SPD Policy 8.300-POL-(12)(9) (effective date 04/24/23. Revised effective date: 12/01/23). The substantive language in both policies were the same.



OPA is removing this allegation.

Recommended Finding: **Allegation Removed**