




CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 31, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0120

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Unfounded
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Unfounded
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

Named Employee #3

Allegation(s):		Director’s Findings
# 1	8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Unfounded
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

Named Employee #4

Allegation(s):		Director’s Findings
# 1	8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Allegation Removed
# 2	8.300 – Use of Force Tools; 9. When Feasible, Officers Will Issue a Verbal Warning to the Subject and Fellow Officers Before the Use of Any Less-Lethal Weapon	Sustained
# 3	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Inconclusive

Proposed Discipline

Written Reprimand and Re-Training to 9 Hours (1-Day) Suspension

Imposed Discipline

Written Reprimand



Named Employee #5

Allegation(s):		Director's Findings
# 1	8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Unfounded
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded

Named Employee #6

Allegation(s):		Director's Findings
# 1	8.300-POL-2 Use of Force - TASER/Conducted Electrical Weapons 9. Officers Will Summon Medical Aid as Soon as Feasible, Whenever a Subject Has Sustained a TASER application.	Not Sustained - Unfounded

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.

ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:

When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee’s chain of command and the department’s human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

EXECUTIVE SUMMARY:

It was alleged that the named employees failed to identify themselves and used unauthorized force against the Complainant. It was also alleged that Named Employee #4 (NE#4) failed to warn the Complainant before deploying a Taser, and Named Employee #6 (NE#6) failed to summon medical aid.

ADMINISTRATIVE NOTE:

The Office of Inspector General (OIG) certified OPA’s investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On February 21, 2023, the named employees responded to a shoplifter call. They arrived and tried detaining Community Member #1 (CM#1)—the suspected shoplifter. Named Employee #1 (NE#1), Named Employee #2 (NE#2), Named Employee #3 (NE#3), and NE#4 wrestled CM#1 to the ground, and NE#4 Tased him. An SPD administrative lieutenant submitted an OPA on the Complainant’s behalf after observing, during a chain of command review, the Complainant's claims of excessive force and the officers' failure to identify themselves.

OPA opened an investigation consisting of reviewing the complaint, computer-aided dispatch call report, incident report, body-worn videos, private videos, and use of force documents. OPA also interviewed the named employees and a store employee.



a. Computer-Aided Dispatch and Incident Report

Computer-aided dispatch (CAD) remarks stated:

“[PREVIOUSLY] VERBALLY [TRESPASSED] MALE IS IN STORE, MALE IS [A] KNOWN SHOPLIFTER NOT CONCEALING ITEMS CURRENTLY BUT IS NOT SUPPOSED TO BE ON PROPERTY, NO [WEAPONS]”

CAD updates indicated that the suspect concealed hair care products in his left pocket. Another update stated that the suspect robbed the store with a sword on a prior occasion. It was also noted that the suspect did not have the sword then but had “what looks like a toy gun” in his left hand. CAD noted that the suspected toy gun had an orange tip. The caller described the suspect as a light-complexioned Black man in his early 30s, about 6’1”, with a distinct black beard, wearing a dark green hat, camouflage jacket, black hoodie, white shirt, gray pants, and black shoes. It was also noted that the suspect entered the store’s men’s bathroom.

NE#2 wrote the related incident report. In summary, NE#2 wrote that he and NE#5, his partner, went to the incident location for the shoplifting call. It noted that officers formed a contact team and decided to use a ballistic shield to engage the suspect. It stated that officers contacted the suspect—later identified as CM#1—as he exited the men’s restroom. NE#3 announced, “Seattle Police. Show me your hands,” before CM#1 was taken down, Tased, and arrested. Officers recovered \$62.15 in store merchandise from CM#1. The incident report also noted prior reports of CM#1 shoplifting at the incident location: a January 22, 2023, incident captured on surveillance video and a February 17, 2023, incident when CM#1 allegedly entered with a sword. CM#1 was charged with shoplifting and released at the scene. The report stated that the Seattle Fire Department (SFD) responded but could not evaluate CM#1 due to his hostility.

b. Use-of-Force Documentation

NE#1, NE#2, NE#3, NE#4, and NE#5 uploaded use-of-force statements outlining the reasons for using force against CM#1 to Blue Team. NE#6 uploaded a use-of-force investigation report.

NE#4 wrote that officers planned to contain CM#1 in the men’s restroom since he reportedly had a pellet gun and a history of armed robbery. NE#4 stated that the officers verbally identified themselves when CM#1 exited the restroom. NE#4 also flagged CM#1’s “bulky clothing” and possible intoxication¹ as raising his threat assessment. NE#4 wrote that officers ordered CM#1 to raise his hands, but he did not comply. NE#4 estimated that officers spent five seconds issuing unsuccessful commands before grabbing CM#1’s arms “to prevent him from reaching for anything.” NE#4 stated that CM#1 resisted as the officers tried handcuffing him. NE#4 wrote that three officers could not overcome CM#1’s resistance to control his hands, and he was possibly armed. NE#4 wrote:

“The risk of [CM#1] becoming more aggressive or reaching for something was greater every second that the struggle continued. I did not believe there was time to try a spark test or issue a

¹ A store employee reported that CM#1 uses drugs in the store’s men’s restroom.



verbal taser warning due to three officers still struggling to control [CM#1] ...I drive stunned [CM#1] for pain compliance to deter him from continuing to resist.”

NE#4 described his Taser applications:

“I placed my Taser to [CM#1’s] chest and arced the switch for approximately half a second. [CM#1] fell to the ground. Although [CM#1] was laying [sic] down, officers were still actively trying to get his hands to his back. I didn’t want [CM#1] to reach for anything on his waistline that officers would not be able to see and had not been checked yet. I placed my taser on the rear of his left buttocks area and pressed the taser a second time. Due to the movement and resisting of [CM#1], my finger slipped from the button. At this time, [CM#1] was still combative and resisting arrest. I did not see [CM#1] cooperating with the commands to place his hands behind his back. This is when the third press of the button was done on [CM#1’s] left leg. [CM#1] stopped resisting arrest and was laying [sic] on the ground. I disengaged. I told [CM#1] to comply, or he will be tased again. I stepped back and let officers handcuff [CM#1].”

NE#1’s use-of-force statement stated that officers obtained CM#1’s photo upon arrival and were told he was still in the men’s restroom. Officers staged a parameter outside the restroom and contacted CM#1 once he exited. NE#1 stated that after CM#1 ignored orders to show his hands, NE#1 grabbed CM#1’s left arm, and other officers pulled CM#1 toward the ground. NE#1 stated that as CM#1 struggled with the officers, NE#4 applied a drive stun to CM#1’s upper torso. NE#1 controlled CM#1’s left arm, but his right arm was under his body. NE#1 wrote that NE#4 applied a second drive stun to CM#1’s lower body, and CM#1 stopped struggling.

NE#2’s statement indicated that officers contacted CM#1 as he exited the restroom holding a wooden object that looked like a gun. NE#2 also stated that CM#1 took a “bladed stance” while tensing his arms. NE#2 said officers grabbed CM#1 to prevent him from aiming the wooden gun at them or retreating into the restroom. NE#2 wrote that officers performed a team takedown, and NE#2 heard a Taser deploy as CM#1 resisted.

NE#3’s statement indicated that she carried the ballistic shield to protect officers from CM#1, who was possibly armed. Once CM#1 exited the restroom, NE#3 announced the officers’ presence and ordered CM#1 to show his hands, which he ignored. NE#1 stated that CM#1 was observably angry and clenched his hands into fists. NE#3 stated that she dropped the shield to grab CM#1’s left arm before the officers performed a team takedown. NE#3 wrote that she turned to see NE#4 aiming his Taser and heard NE#4 order CM#1 to stop resisting or he would be Tased again.

NE#5’s statement indicated that upon contacting CM#1 and his ignoring orders, NE#5 grabbed CM#1’s right arm. NE#5 wrote that as he, NE#1, NE#2, and NE#3 attempted a team takedown, he heard a Taser deployment, and NE#4 said, “Stop resisting, or you will be Tased again.” NE#5 stated that CM#1 positioned his right arm under his body. NE#5 heard another Taser deployment before the officers could control CM#1’s arms and handcuff him.

NE#6’s investigation guide statement stated that officers responded to a shoplifting call involving a suspect in the store with a pellet or BB gun. NE#6 also noted a report that CM#1 was armed with a sword on another occasion. NE#6 stated he could not interview CM#1 during his screening due to CM#1’s agitation. NE#6 also wrote that CM#1 had no observable injuries. NE#6 took a photo of CM#1 and several of the store.



Witness Employee #1 (WE#1)—an administrative lieutenant—reviewed the uses of force. He described CM#1 as argumentative and noncompliant with the officers' orders, making further de-escalation infeasible. WE#1 found that NE#4 applied the initial drive stun to gain CM#1's compliance as other officers tried taking him to the ground, that another drive stun on CM#1's left buttock to prevent him from possibly retrieving a weapon from his waistband, and a third drive stun on CM#1's left leg to stop his resistance. WE#1's review also noted that NE#4 issued minimal commands throughout the interaction, that NE#3 was the only officer covered by the ballistic shield and other infractions.

c. Taser Pulse Log

NE#4's Taser pulse log showed the following deployments:

Deployment #	Duration	Target Area (from video review)
1	0.60 second	Upper front torso
2	1.35 seconds	Left lower back
3	0.40 second	Left upper leg
4	0.07 second	No target area

d. Body-Worn and Store Videos

Body-worn video (BWV) showed that the officers conferred at the store's entrance upon arrival. NE#4 spoke with a store security officer, who stated that CM#1 concealed store merchandise and relocated to the men's restroom. Another store employee told NE#5 that CM#1 was "very aggressive." The officers discussed containing CM#1 in the restroom area. NE#6 arrived and handed NE#3 a ballistic shield. The officers staged outside the men's restroom.



NE#2 knocked on the restroom's door, and NE#4 drew his Taser. CM#1 exited, and NE#3 announced, "Seattle police. Come out with your hands up. Show us your hands." CM#1, holding a wooden gun with an orange tip, replied, "For what?"



The Later Recovered Toy Gun



Officers grabbed CM#1's arms, causing the toy gun to fall. CM#1 said, "Get your fucking hands up off of me." An officer replied, "No. Turn around." CM#1 reiterated, "Get your fucking hands up off of me," while pulling away and backing against a wall. NE#5 held CM#1's right arm. NE#3 dropped the ballistic shield and grabbed CM#1's left arm. NE#2, standing in front of CM#1, grabbed behind CM#1's neck and pulled him forward. With CM#1 bent forward, NE#3 positioned his Taser between the officers and delivered a drive stun to CM#1's front upper torso.



CM#1 screamed, "Ow!" The officers got CM#1 on the ground, and NE#3 yelled, "Get your hands out..." NE#4 delivered a drive stun four seconds later at CM#1's lower back.



CM#1 screamed, "Ah, man!" A second later, NE#4 applied a drive stunned at CM#1's upper left leg.



NE#4 commanded, "Comply, or you're gonna get Tased...Hands on your back, or you're gonna get Tased. Hands on your back now!" At that point, NE#1 and NE#3 controlled CM#1's left arm but NE#5 struggled to pull CM#1's right arm from under his body. After issuing more orders, the officers handcuffed CM#1.

NE#6 radioed for an AMR and additional units. A dispatcher estimated a 20-minute wait for an AMR. The Seattle Fire Department was at the scene when officers escorted CM#1 from the store.





e. Interviews

OPA could not schedule an interview with the Complainant because his associated phone numbers were out of service. OPA had no further contact information for him.

The named employees' interviews materially mirrored their use-of-force statements.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force

It was alleged that the named employees failed to exhaust de-escalation tactics before applying force.

“When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force.” SPD Policy 8.100-POL-1. Officers are also encouraged to use team approaches to consider whether any officer has successfully established rapport with the subject. *Id.* The selection of de-escalation options is to be guided by the “totality of the circumstances.” The policy gives several examples of de-escalation, emphasizing communication, time, distance, and shielding to minimize the need for force. *Id.* SPD policy requires officers to conduct a threat assessment to avoid unauthorized force.

Here, the factors informing the named employees' threat assessment included CM#1 reportedly robbing the store previously with a sword, CM#1 presently having what the caller believed was a toy gun, store employees describing CM#1 as “very aggressive,” and potential danger to the store's employees and customers. To mitigate those concerns, as encouraged by the policy, the officers used a team approach, including designating a less-lethal/Taser officer, a lethal officer, a contact/hands-on team, and a ballistic shield officer. The contact team consisted of five officers and a sergeant. Upon contacting CM#1, NE#3 ordered him to show his hands. CM#1 appeared surprised to find the officers outside the men's restroom. Less than two seconds after ordering him to show his hands, the officers grabbed CM#1's arms. The named employees told OPA that it was necessary to quickly control CM#1's arms due to his reported history of using deadly weapons and his holding a wooden object that looked like a rifle, a threat yet to be dispelled. They also said that creating distance was infeasible because the officers wanted to contain CM#1 within the restroom's parameter, away from the store's employees and customers, due to his potential deadly threat. However, if the named employees thought CM#1 possibly possessed a real rifle, it is unclear why NE#3 was the only officer behind the ballistic shield, which she dropped to go hands-on with CM#1. The other officers surrounded CM#1 without cover. Nevertheless, despite that questionable tactical decision, OPA does not find that the named employee failed to utilize available de-escalation tactics.

Accordingly, OPA recommends this finding be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #1 - Allegation #2

8.200 - Using Force (1) Use of Force: When Authorized

It was alleged that the named employees used unauthorized force against CM#1.

Force used by officers must be reasonable, necessary, and proportional. SPD Policy 8.200(1). Officers shall only use “objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” *Id.* 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 consider that officers are often forced to make “split-second decisions” under tense, dynamic circumstances. *Id.* 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 amount of force used was reasonable to effect the lawful purpose intended.” *Id.* Last, the force used must be proportional to the threat posed to the officer. *Id.*

Here, NE#4 was the only officer who used reportable force against CM#1. NE#1, NE#2, NE#3, and NE#5 applied control holds unintended to cause injury. Among the officers involved in CM#1’s takedown, NE#2 used the most significant force by grabbing the back of CM#1’s neck and pulling him toward the ground. Still, that SPD-trained tactic did not amount to reportable force. Not only was it unintended to cause pain, but CM#1 did not complain of pain when it was performed.

Accordingly, OPA recommends this finding be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force

It was alleged that the named employees failed to exhaust de-escalation tactics before applying force.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #2

8.200 - Using Force (1) Use of Force: When Authorized

It was alleged that the named employees used unauthorized force against CM#1.

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

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #3 - Allegation #1

8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force

It was alleged that the named employees failed to exhaust de-escalation tactics before applying force.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 - Allegation #2

8.200 - Using Force (1) Use of Force: When Authorized

It was alleged that the named employees used unauthorized force against CM#1.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #4 - Allegation #1

8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force

It was alleged that the named employees failed to exhaust de-escalation tactics before applying force.

Here, unlike his colleagues, NE#4 skipped a de-escalation step. The department explicitly encourages communication, like warning a subject verbally or with arcing before deploying a Taser. See SPD Policy 8.100-POL-1. However, without a verbal or visual warning, NE#4 Tased CM#1 three times. Nevertheless, where Named Employee #4 – Allegation #3 best addresses NE#4’s failure, OPA removed this allegation.

Recommended Finding: **Allegation Removed**

Named Employee #4 - Allegation #2

8.300 – Use of Force Tools; 9. When Feasible, Officers Will Issue a Verbal Warning to the Subject and Fellow Officers Before the Use of Any Less-Lethal Weapon

It was alleged that NE#4 unjustifiably failed to warn CM#1 and his fellow officers before Taser deployments.

“Before using any less lethal weapon, officers will issue a verbal warning to the subject, other officers, and other individuals present, that the weapon will be used and will defer using the less-lethal weapon a reasonable amount of time to allow the subject to comply with the warning. Verbal warnings will include specifying the weapon to be used. When employing a team tactics approach, verbal warnings may come from any officer involved in the incident.” SPD Policy 8.300-POL-9. However, “A verbal warning is not required if giving the warning would compromise the safety of



the officer or others. In such circumstances, only the deploying officer will document his/her reason for believing his/her safety would have been compromised in his/her use of force statement.”

Here, NE#4 told OPA that CM#1’s combativeness and threat level prevented him from issuing warnings before Taser deployments. However, before NE#4’s Taser applications, CM#1 no longer possessed the toy rifle and was, at best, uncooperative. CM#1’s resistance included unforcefully pulling away once and stiffening himself to prevent officers from taking him to the ground. Although four officers grappled with CM#1, they appeared to have a handle on the situation. None called for a Taser deployment. Instead, after the officers tussled with CM#1 for about nine seconds, NE#4 positioned his Taser between the officers and pressed it against CM#1’s upper body. NE#4’s failure to warn CM#1 deprived CM#1 of the opportunity to submit before being Tased and subjected his colleagues to an accidental Tasing as they struggled with CM#1.

After the initial Tasing, the officers had CM#1 facedown on the ground. Officers controlled CM#1’s left arm, but CM#1’s right arm was under his body. NE#4 told OPA that he Tased CM#1 again without warning because he was unsure whether CM#1 would use his free right hand to retrieve the potentially deadly wooden rifle-shaped object in his possession. However, BWV showed that NE#4 stood on the toy rifle during the second Taser deployment.



Rather than allowing CM#1 an opportunity to submit to that Taser deployment, about a second later, NE#4 Tased him again without warning.



OPA did not find that issuing a verbal warning was unsafe or unfeasible. Instead, the lack of warning possibly caused unnecessary Taser deployments to CM#1 and danger to the contact team trying to handcuff him.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #4 - Allegation #3

8.200 - Using Force (1) Use of Force: When Authorized

It was alleged that the named employees used unauthorized force against CM#1.

Here, had NE#4 warned CM#1 before Tasing him and CM#1 ignored those warnings, OPA would find NE#4's use of force objectively reasonable, necessary, and proportional under the circumstances. However, since that did not happen, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #5 - Allegation #1

8.100 – De-Escalation; 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force

It was alleged that the named employees failed to exhaust de-escalation tactics before applying force.

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

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #5 - Allegation #2

8.200 - Using Force (1) Use of Force: When Authorized

It was alleged that the named employees used unauthorized force against CM#1.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #6 - Allegation #1

8.300-POL-2 Use of Force - TASER/Conducted Electrical Weapons 9. Officers Will Summon Medical Aid as Soon as Feasible, Whenever a Subject Has Sustained a TASER application.

It was alleged that NE#6 failed to summon medical aid after CM#1 was Tased.

Here, BWV and CAD updates confirmed that NE#6 did request medical aid after CM#1 was Tased. Moreover, SFD was at the scene when CM#1 was escorted to a patrol car. However, CM#1's agitation, primarily concerning being Tased multiple times, prevented them from evaluating him.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**