



CLOSED CASE SUMMARY

ISSUED DATE: JULY 4, 2024

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

CASE NUMBER: 2024OPA-0080

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 (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

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:

Named Employees #1, #2, #3, and #4 (NE#1, NE#2, NE#3, and NE#4) responded to a domestic violence (DV) call involving Community Member #1 (CM#1) assaulting her family and attempting suicide. The Complainant alleged that the named employees assaulted her and were biased against her.



ADMINISTRATIVE NOTE:

During its intake investigation, OPA observed the following:

- NE#1 texted on her personal cellphone while driving to the DV call. OPA sent NE#1's potential SPD Policy 13.080-POL-11 (Prohibited Activities During Use of Department Vehicles) violation to her chain of command for Supervisor Action.¹
- NE#1 told CM#1 to act like an adult. OPA sent NE#1's potential SPD Policy 5.001-POL-10 (Employees Will Strive to be Professional) violation to her chain of command for Supervisor Action.
- NE#2 drove his police vehicle, with emergency equipment activated, at speeds exceeding 80 MPH in a 25 MPH zone. OPA sent NE#2's potential SPD Policy 13.030-POL-5 (Officers Are Responsible for the Safe Operation of Their Police Vehicle) violation to his chain of command for Supervisor Action.

This case was 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 the named employees. As such, OPA did not interview the named employees in this case.

On April 26, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On February 12, 2024, the Complainant—an administrative lieutenant—submitted an OPA complaint via Blue Team, writing that the named employees responded to a 911 call involving CM#1 reportedly assaulting her mother and brother and attempting suicide, establishing probable cause for DV assault and an Involuntary Treatment Act detention.² The Complainant wrote that after the named employees arrived, CM#1 attempted to leave, resisted, and assaulted the named employees. The Complainant wrote that CM#1 was handcuffed and alleged that the named employees assaulted her and were biased against her.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and police and use of force reports. CM#1's attorney did not respond to OPA's request to interview CM#1.

B. Computer-Aided Dispatch (CAD) Call Report

On November 24, 2023, at 10:25 PM, CAD call remarks noted, "[REPORTING PARTY'S] SISTER HITTING [REPORTING PARTY'S] MOM." At 10:26 PM, CAD noted, "A LOT OF SCREAMING AND YELLING" and that the reporting party's sister tried to grab a knife. At 10:28 PM, CAD noted that the reporting party's sister was naked and attempted suicide.

¹ Supervisor Action generally involves a minor policy violation or performance issue that is best addressed through training, communication, or coaching by the employee's supervisor. See OPA Internal Operations and Training Manual section 5.4(B)(ii).

² The ITA provides that an officer may take into custody and deliver a person to a facility when the officer reasonably believes that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. See RCW 71.05.153(2).



C. Body-Worn Video (BWV)

The named employees responded to the incident location and activated their BWV, capturing the following:

NE#2, NE#3, and NE#4 entered a bedroom where CM#1, seated naked on a bed, cried next to her mother. The mother exited the bedroom as officers clothed CM#1 with a blanket. CM#1 stood, but NE#3 and NE#4 seated her, telling her not to stand. CM#1 told the officers not to touch her and stood again. NE#3 and NE#4 grabbed CM#1 and guided her to the ground on her stomach. NE#2 and NE#3 applied pressure on CM#1's back. CM#1 shouted, "Please, let me go!" NE#4 handcuffed CM#1. CM#1 repeatedly screamed and swore at the officers. NE#2 pressed his hand against the back of CM#1's head. CM#1 shouted about breathing difficulties and cried out to her mother. NE#1 entered the bedroom. CM#1 kicked NE#3 and NE#4, and NE#3 grabbed CM#1's ankles. NE#4 told CM#1, "Stop kicking!" NE#3 exited the bedroom and interviewed CM#1's mother and brother.³ NE#2 knelt on CM#1, and CM#1 grabbed NE#2's groin region. NE#2 said, "Ow, shit!" Officers kept CM#1 on the ground while CM#1 explained she was trying to commit suicide. CM#1 shouted, "You guys are so fucking biased!" NE#1 repositioned the blanket over CM#1, who shouted, "Stop touching me!" CM#1 rolled to her side and shouted, "This is literally assault! Do you guys not realize what you're doing is assault?" NE#1, NE#2, and NE#4 applied control holds, then stood CM#1. The named employees stood CM#1, and NE#3 said, "Do not kick me." The named employees escorted CM#1 to the living room, and NE#4 said, "Stop kicking my legs." CM#1 repeatedly cried out to her mother. The named employees escorted CM#1 outside, placed her on a gurney, and applied soft restraints on her. NE#4 uncuffed CM#1, and American Medical Response transported CM#1 to a hospital.

D. Police and Use of Force Reports

NE#3's police report was consistent with BWV observations. Additionally, each named employee's type II⁴ use of force report was consistent with BWV observations, noting the following:

- NE#1 described CM#1 kicking, flailing, and thrashing her body around on the ground, so NE#1 "maintained control of [CM#1's] upper body" until paramedics arrived. NE#1 wrote that she applied pressure to CM#1's upper body to prevent CM#1 from sitting up on the gurney. NE#1 wrote that she also controlled CM#1's legs.
- NE#2 described CM#1 as intoxicated and noncompliant with officers' attempts to control her movements and to prevent her repeated kicking and grabbing. NE#2 wrote that CM#1 attempted to grab his genitals when he knelt down. NE#2 wrote that he applied his shin against CM#1's lower back to control her hips.
- NE#3 described CM#1 as agitated and noncompliant, requiring her to be handcuffed to prevent her from leaving or assaulting anyone. NE#3 wrote that CM#1 "violently" kicked officers and "thrashed violently." NE#3 wrote that he grabbed CM#1's ankles to prevent further kicks and applied control holds.
- NE#4 described CM#1 as intoxicated, escalated, and assaultive. NE#4 wrote that she and NE#3 "brought [CM#1] to the ground gently." NE#4 wrote that she handcuffed CM#1 for kicking officers, then controlled her legs to prevent further kicks. NE#4 noted that CM#1 was combative and resistive during escort.

³ CM#1's mother and brother said CM#1 punched them after they prevented her from committing suicide. CM#1's mother also said CM#1 attempted to grab a knife but was unsuccessful.

⁴ Type II is force that causes, or is reasonably expected to cause, physical injury greater than transitory pain but less than great or substantial bodily harm. SPD Interim Policy 8.050 (effective May 19, 2023). Type II force includes a takedown that causes injury or is reasonably expected to cause injury. SPD Interim Policy 8.400-POL-1 (effective April 24, 2023).



ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)

The Complainant alleged that the named employees used unauthorized force.

Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all persons. SPD Interim Policy 8.200(1) (effective April 24, 2023). Reasonability must consider that officers are often forced to make split-second decisions about the force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the officers' actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. SPD Interim Policy 8.050 (effective May 19, 2023). A proportional use of force must reflect the totality of circumstances surrounding the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to apply. *Id.*

Here, the named employees responded to a call involving DV assault, a possible ITA detention based on CM#1's attempted suicide, and CM#1's attempt to arm herself with a knife. The named employees' use of force was objectively reasonable because CM#1 was noncompliant upon contact, resulting in her arrest. NE#3 and NE#4 guided CM#1 to the ground, and NE#4 handcuffed CM#1. CM#1 was agitated and combative despite being handcuffed. CM#1 grabbed NE#2's groin region and kicked NE#3 and NE#4. The named employees' use of force was necessary to restrict CM#1's movements and prevent CM#1 from kicking them. BWV captured the named employees applying control holds like grabbing CM#1's ankles or applying pressure on her back to keep her against the ground. The named employees' use of force was proportional because they utilized department-trained control holds and subdued CM#1 as a team. Overall, a preponderance of the evidence indicates that the named employees' use of force was objectively reasonable, necessary, and proportional under 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

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that the named employees were "so fucking biased."

Biased policing means "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well as other discernible personal characteristics of an individual." SPD



Policy 5.140-POL. It includes different treatment based on race. *See id.* Employees are forbidden from making decisions or taking actions influenced by bias, prejudice, or discriminatory intent. *See* SPD Policy 5.140-POL-2.

OPA found no evidence supporting CM#1's interpretation of bias-based mistreatment. As reflected in Named Employee #1 – Allegation #1, the named employees responded to a DV assault call and a potential ITA detention situation based on CM#1 reportedly attempting suicide. NE#4 articulated that CM#1 was handcuffed for officer safety, given that CM#1 was noncompliant. NE#3 interviewed CM#1's mother and brother, who reported that CM#1 assaulted them, giving officers probable cause to effect a mandatory arrest for DV assault. The named employees' arrest decision was motivated by probable cause for DV assault, officer safety and not bias. Additionally, the named employees' control holds were a response to CM#1's combativeness.

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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #2 – Allegation #1

8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)

For the reasons 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 #2 – Allegation #2

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 – Allegation #1

8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)

For the reasons 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 #2

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #4 – Allegation #1

8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)

For the reasons 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 #2

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**