



## ***CLOSED CASE SUMMARY***

ISSUED DATE: NOVEMBER 12, 2022

FROM: DIRECTOR GINO BETTS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0153

### **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 - 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 Employee # 1 (NE#1)—an unknown employee—allegedly used unauthorized force.

### **ADMINISTRATIVE NOTE:**

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) review and approval, believed it could reach and issue recommended findings based on its intake investigation, without interviewing the involved employees.

Witness Officer #1 (WO#1) also allegedly used profane language to order the subject to stop, in violation of SPD Policy 5.001-POL 10 (Employees Will Strive to be Professional). OPA returned that allegation to the chain of command to process as a Supervisor Action.

### **SUMMARY OF INVESTIGATION:**

On April 25, 2022, WO#1 observed an armed robbery suspect (the Subject) driving a recently reported stolen vehicle. WO#1 attempted to conduct a traffic stop, but the Subject refused commands and sped off in the stolen vehicle. A high-speed pursuit ensued. During that vehicle pursuit, the Subject crashed into a roundabout and fled on foot. WO#1 found the Subject hiding in bushes. The Subject was arrested.

During his arrest, the Subject claimed an officer (NE#1—an unknown employee) stepped on his neck, obstructing his breathing.

During its investigation, OPA reviewed the original web complaint, Computer-Aided Dispatch (CAD) records, the Incident/Offense report (Incident Report), witness statements, body worn video (BWV), and Use of Force (UOF) Investigation and Statement Guides. BWV captured SPD officers' response to, and investigation of, this incident.



BWV showed WO#1 pursued the Subject on foot. After a short foot chase, WO#1 found the Subject hiding in bushes. Additional officers arrived and used control holds to position the Subject on his stomach for prone handcuffing. The Subject repeatedly exclaimed he could not breathe. Officers inspected to ensure nothing obstructed his breathing. Thereafter, the Subject was placed in the recovery position, brought to his feet, and arrested without further incident. A loaded firearm was recovered from the stolen vehicle. Seattle Fire Department (SFD) and a supervising officer arrived in response to the Subject's allegation of an officer stepping on his neck. Both screened the Subject, neither found evidence of injury.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

NE#1 allegedly stepped on the Subject's neck during his arrest.

SPD Policy 8.200(1) requires officers use reasonable, necessary, and proportional force. 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. The policy lists several factors to weigh 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.*

OPA reviewed BWV and Use of Force Statements and reviews. BWV showed officers only used control holds, not Type I or II force. No officer was captured applying pressure to the Subject's neck. Nor did the supervising officer or SFD employees, who examined the Subject, note evidence of injury. Instead, BWV showed the Subject was pulled out of bushes, put on his stomach, handcuffed, and put in the recovery position following the allegation. All of that happened within 45-seconds.

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

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