



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 20, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0345

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
# 2	5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy	Allegation Removed
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Unfounded
# 3	6.180-POL-7– Custodial Searches 2. Generally, Officers Will Not Search Suspects of the Opposite Gender	Allegation Removed
# 4	5.140-POL - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained - Unfounded
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Training Referral
# 3	6.180-POL-7– Custodial Searches 2. Generally, Officers Will Not Search Suspects of the Opposite Gender	Not Sustained - Unfounded
# 4	5.140-POL - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	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.

EXECUTIVE SUMMARY:

The Complainant alleged the named employees used unauthorized force against her. During her arrest, the Complainant called the named employees racist. The Complainant also alleged that Named Employee #2 (NE#2) and Named Employee #3 (NE#3) failed to have a female officer search her. Last, the Complainant alleged NE#3 sexually assaulted her during a search incident to arrest.



ADMINISTRATIVE NOTE:

The Office of Inspector General certified this investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On October 19, 2022, Witness Employee #1 (WE#1)—a sergeant—sent OPA a complaint via Blue Team on the Complainant's behalf. WE#1's complaint was based on interviews with the named employees, the Complainant, Community Member #1 (CM#1)—a witness, and Community Member #2—a witness—following the Complainant's arrest. On October 24, 2022, the Complainant submitted her own OPA complaint. OPA opened an investigation. OPA reviewed the incident report, use of force documents, body-worn videos, and computer-aided dispatch data. OPA also interviewed the Complainant, named employees, and CM#1.

Computer-aided dispatch data showed the named employees responded to an assault. The 9-1-1 call taker noted:

10 MIN AGO, [REPORTING PARTY] WAS [ASSAULTED] BY [A] CLIENT AT [THE] RESPONSE LOCATION, [REPORTING PARTY] BELIEVES CLIENT RETURNED TO [APARTMENT] AT [MENTAL HEALTH FACILITY,] [SUSPECT] HAS HAD A TAZER IN THE PAST AND HISTORY OF BARICADDING SELF IN UNIT

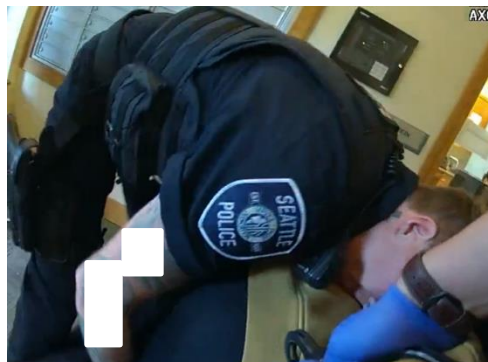
NE#2 interviewed Community Member #3 (CM#3)—the 9-1-1 caller and the Complainant's former social worker—who reported the Complainant pushed her to the ground. CM#3 directed the named employees to the Complainant's residence. The named employees determined there was probable cause for the Complainant's arrest and relocated to her building. They contacted and tried to handcuff the Complainant, who stiffened her arms and repeatedly told the named officers to "break my arm." She also complained of pain: "You're hurting me."

As NE#2 handcuffed the Complainant's right wrist, NE#3 pulled the Complainant's legs from behind, causing her to land face down on the tiled floor.

NE#3's body-worn video (BWV) view as he pulled the Complainant's legs from behind.



Profile of NE#3 pulling the Complainant's legs from behind.



The Complainant screamed, "That's racist," and pulled and stiffened her arms as the officers handcuffed her. While on her right side, the Complainant kicked at NE#3. NE#3 knelt on the side of her right thigh to control her legs. The Complainant screamed that NE#3 was "going to break [her] leg." NE#3 repositioned to holding the Complainant's right thigh with his arms. She screamed, "He's touching me inappropriately," and "He's touching my ass." The officers put the Complainant on her backside, sitting on the floor. She complained about handcuff discomfort, and NE#2 loosened the handcuffs. NE#2 and NE#3 lifted the Complainant and escorted her to the front of a cruiser. The Complainant repeatedly screamed, "I'm being kidnapped." NE#3 appeared to pat down the Complainant's front jacket pocket when she rammed her shoulder into him and yelled, "Why are you touching my vagina?"



While escorting the Complainant to another cruiser, NE#2 told her, "You just got a felony assault charge." The Complainant requested a "woman cop." NE#2 and NE#3 put the Complainant into a tabletop position, NE#3 grabbed the back of her neck, and they tried to put her in the back of a cruiser. BWV captured a thud as the officers tried to put her in the cruiser, and the Complainant screamed in pain. She reissued her request for "a woman cop" and repeated the accusation that NE#3 touched her vagina: "You touched my vagina. I want the woman cop to help me." NE#1—a woman—approached the Complainant and told her a sergeant was en route. The Complainant calmed and sat in the cruiser without resistance when NE#1 escorted her, and the male officers disengaged. WE#1 arrived and screened the arrest.



ANALYSIS AND CONCLUSIONS:

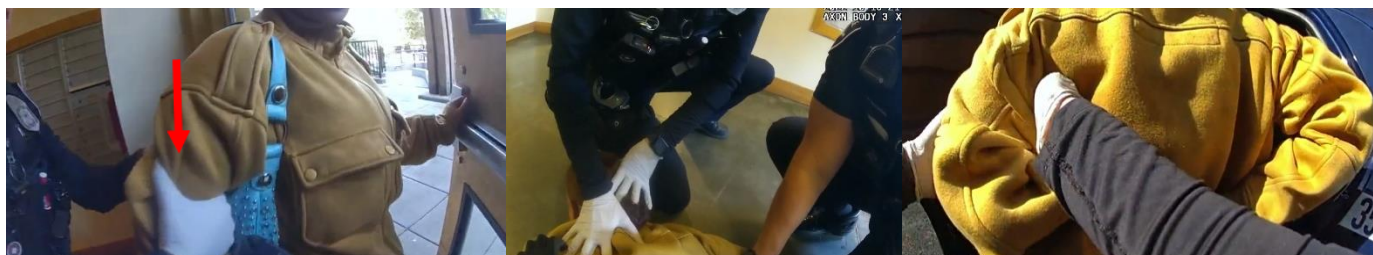
Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 used excessive force against her.

An officer's use of force 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." 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 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, BWV showed NE#1 had physical contact with the Complainant three times: 1) NE#1 grabbed the Complainant's arm to prevent her from leaving, 2) Held her as handcuffs were applied, and 3) At the Complainant's request, escorted the Complainant into a cruiser:



Overall, NE#1's arm grab was objectively reasonable, necessary, and proportional to control and lawfully detain the Complainant, constituting *de minimis* nonreportable force.

Accordingly, OPA recommends the allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

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 NE#1 was racist.

Bias-based policing is prohibited. SPD Policy 5.140-POL. Bias-based policing is "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." *Id.* It includes differential treatment based on a subject's race. *See id.*



Here, during her arrest, the Complainant repeatedly said, “This is racist.” However, BWV did not show the named employees doing or saying anything indicating inferior treatment based on the Complainant’s race.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy

It was alleged NE#2 sexually assaulted her.

Employees must adhere to laws, city policy, and department policy. SPD Policy 5.001(2).

Here, the Complainant’s OPA complaint alleged an officer rubbed her “vagina and pubic bone,” specifically her “right vaginal lip.” However, BWV, including WE#1 screening, demonstrated the allegation was made against NE#3, not NE#2.

Accordingly, OPA recommends this allegation be removed.

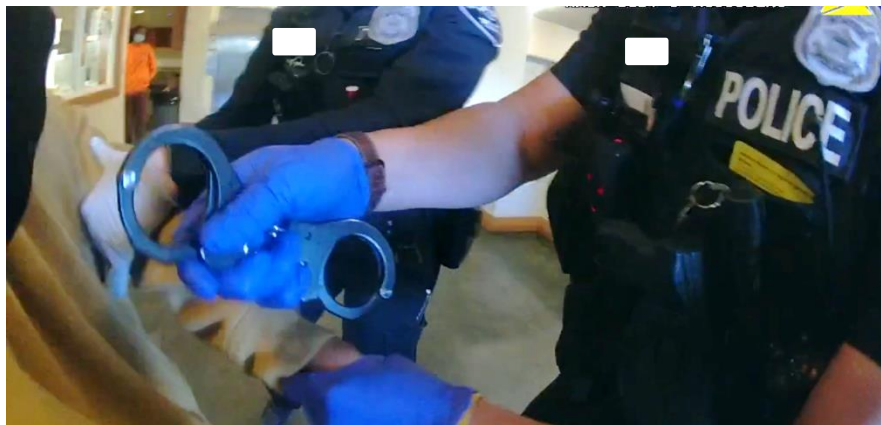
Recommended Finding: **Allegation Removed**

Named Employee #2 - Allegation #2

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

The Complainant alleged NE#2 used excessive force against her.

Here, after the officers established probable cause to arrest the Complainant for assaulting CM#3, they contacted her and ordered her to stop. Instead, the Complainant continued out a door before NE#1 grabbed her right arm, and NE#3 grabbed the left. NE#2 tried to handcuff her right wrist before NE#3 performed a takedown.





The Complainant pulled and stiffened her arms as the named employees worked to handcuff her. On the ground, the Complainant continued to kick at NE#3 and stiffened and pulled her arms. NE#2 applied no more than control holds: holding her left arm and shoulder. Moreover, when the Complainant repeatedly screamed, “The fucking cuffs are hurting me,” NE#2 immediately adjusted them.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #3

6.180-POL-7– Custodial Searches 2. Generally, Officers Will Not Search Suspects of the Opposite Gender

It was alleged NE#2 searched a suspect of the opposite gender.

Officers may search suspects of the opposite gender if there is a reasonable likelihood the suspect possesses a weapon or object capable of injury or facilitating escape, the officer believes the suspect possesses evidence that will be destroyed or lost, or there is no officer of the same gender readily available to conduct the search. SPD Policy 6.180-POL-7(2).

Here, BWV showed NE#3 grabbed the Complainant’s jacket pocket, not NE#2.

Accordingly, OPA recommends this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #2 - Allegation #4

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

The Complainant alleged NE#2 was racist.

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

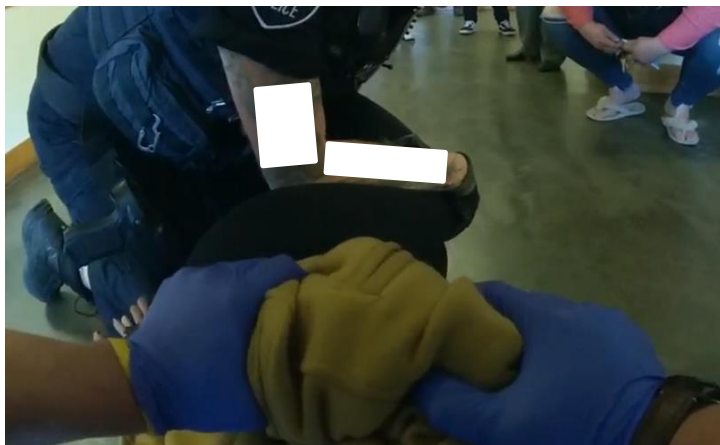
Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 - Allegation #1

5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy

It was alleged NE#3 sexually assaulted her.

Here, officers held the resisting Complainant on the ground. After the Complainant repeatedly kicked him, NE#3 held her right thigh to stabilize her legs.



At that point, she repeatedly yelled, “He’s touching me inappropriately,” and “He’s touching my ass,” when he did not. Similarly, BWV showed NE#3 grabbed the outside of the Complainant’s left front jacket pocket before she screamed, “Why are you touching my vagina?” However, BWV showed NE#3 did not come near the Complainant’s “vagina and pubic bone,” as alleged in her complaint.

Accordingly, 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

The Complainant alleged NE#3 used excessive force against her.

Here, upon contacting the Complainant, NE#3 ordered her to stop. The Complainant continued out the door, leading to NE#1 and NE#3 grabbing her arms. The Complainant stiffened and twisted her arms as NE#1, and NE#2 tried to handcuff her. Suddenly, without warning or direction from NE#2 (the primary officer), NE#3 pulled the Complainant’s legs from under her, causing her to slam face down onto the hard floor. While the named officers had intel that the Complainant was known to carry pepper spray, NE#3’s double-leg takedown was not objectively reasonable, necessary, or proportional to carry out their lawful purpose. At that point, the Complainant’s resistance did not exceed stiffening and twisting her arms. There were three officers to control the Complainant, and two were men. BWV showed all three officers were significantly taller than the Complainant, and NE#2 and NE#3 were notably larger. NE#3 was so much stronger than the resisting Complainant that he single-handedly took her down. There was no evidence of planning before the named officers’ contact with the Complainant and sparse communication during her apprehension. Overall, before NE#3’s aggressive takedown, the named employees could have benefitted from coordination and planning.

Accordingly, as NE#3 has no prior allegations or discipline, OPA recommends this allegation be Not Sustained – Training Referral.



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- Required Training: NE#3's chain of command should discuss OPA's findings, review SPD Policy 8.200-POL-1 with him, and provide appropriate retraining and counseling. Retraining and counseling should be documented and maintained in Blue Team.

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

Named Employee #3 - Allegation #3

6.180-POL-7– Custodial Searches 2. Generally, Officers Will Not Search Suspects of the Opposite Gender

It was alleged NE#3 searched a suspect of the opposite gender.

Here, BWV showed NE#3 only grabbed the Complainant's front jacket pocket rather than conducting a frisk or search.

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

Named Employee #3 - Allegation #4

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

The Complainant alleged NE#3 was racist.

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

Recommended Finding: **Not Sustained - Unfounded**