




## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 30, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0247

### **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)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (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) and Named Employee #2 (NE#2) detained the Complainant pursuant to the Involuntary Treatment Act (ITA). The named employees handcuffed the Complainant after she attempted to leave. The Complainant alleged the named employees slammed her face against the ground, causing a broken jaw.

### **ADMINISTRATIVE NOTE:**

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 involved in this case.

On July 11, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

On June 4, 2023, the Complainant filed an online OPA complaint. The Complainant wrote, "He told me I could leave, and then the female officer proceeded to grab my arm as I was leaving [,] and he threw me on my face which I've had my [jaw] broken in three different places."

OPA opened an intake investigation, reviewing the OPA complaint, computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident report. OPA also interviewed the Complainant.



On May 19, 2023, at 12:13 PM, CAD call remarks noted, “IN FRONT OFFICE, HIGH/[INTOXICATED] FEMALE RESIDENT REFUSING TO LEAVE AND YELLING AT STAFF, [THREATENED] TO HIT STAFF, NO [WEAPONS] SEEN.”

The named employees responded to an apartment building with their BWV activated. BWV showed:

The named employees met Community Member #1 (CM#1)—the property manager—at the front door. CM#1 said the Complainant confronted her in an office and demanded an air conditioning (AC) unit because the Complainant’s was broken. CM#1 said apartment staff called the police when the Complainant fought a staff member and refused to leave.

The Complainant, agitated and sweating, approached the named employees. The Complainant said someone broke into her apartment and touched her AC unit. The Complainant said she had asked the apartment’s staff for a new AC unit for months. The Complainant also said she was schizophrenic and bipolar. NE#1 told the Complainant that apartment staff did not want her in their office. NE#1 suggested the Complainant return to her apartment, but she refused and walked away. The named employees spoke with CM#1. CM#1 reported that the Complainant harassed her and apartment staff. NE#1 recommended evicting the Complainant.

NE#1 re-approached the Complainant, who was in the lobby yelling at another resident. NE#1 again suggested the Complainant return to her apartment, but she again refused. While the Complainant yelled at the resident in the lobby, NE#1 told NE#2, “We might have an ITA.”<sup>1</sup> NE#2 agreed, saying the Complainant was a danger to others. NE#2 said CM#1 expressed concern about leaving her office, fearing the Complainant would attack her. NE#1 radioed for assistance.

The Complainant yelled in the lobby for about 20 minutes while the named employees stood by. The Complainant walked away from the lobby, and NE#2 grabbed her right arm. The Complainant said she was going to her apartment, but NE#2 said, “No.” NE#1 approached, grabbed the Complainant’s right arm, and said, “Stop.” The named employees moved the Complainant’s arms behind her and guided her face forward onto a cushioned bench.



<sup>1</sup> Under the ITA, a police officer may take into custody and transport to a hospital someone they believe “is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm.” RCW 71.05.153(2)(a).



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*NE#2's BWV captured the Complainant being handcuffed on the cushioned bench.*

The Complainant asked, "You're putting me in cuffs for nothing? Can you give me my phone?" NE#2 told her that she was not free to go, and the named employees sat her on the bench. NE#1 told the Complainant that she was going to a hospital, not jail. American Medical Response personnel arrived, secured the Complainant on a gurney, and transported her out of the building.

NE#2 wrote an incident report consistent with the events captured on BWV.

On July 11, 2023, OPA interviewed the Complainant. The Complainant said she was walking to her apartment when NE#2 grabbed her. The Complainant said she pulled away because NE#2 should not have grabbed her. The Complainant said NE#1 slammed her face against the ground. The Complainant said she broke her jaw several times prior to this incident and now had lingering pain from being slammed. The Complainant said she did not know why she was arrested and not *Mirandized*.

#### **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.

An officer's use of force must be objectively 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 when the force is applied 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" under tense, dynamic circumstances. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary when "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.* The force must also be proportional to the threat posed to the officer. *Id.*

Here, the named employees detained the Complainant pursuant to the ITA. The named employees believed the Complainant was in a mental health crisis and a danger to others. The named employees handcuffed the Complainant after she attempted to leave. The named employees used *de minimis* force<sup>2</sup> to grab the Complainant's arm, position her onto a cushioned bench, and handcuff her. As BWV showed, the Complainant's head never contacted the cushioned bench. The Complainant did not express pain when she was handcuffed. Instead, the Complainant asked why she was being handcuffed and whether she could get her phone.

Under the circumstances, the named employees used objectively reasonable, necessary, and proportional *de minimis* force. Their use of force was objectively reasonable because the Complainant, in an agitated state, posed a danger to other community members. Their use of force was necessary to prevent her escape, and there was no reasonably

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<sup>2</sup> *De minimis* force is physical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to, or are reasonably likely to, cause any pain or injury. SPD Policy 8.050.



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effective alternative to handcuffing her as she was noncompliant and verbally aggressive. Their use of force was proportional because they used *de minimis* force to handcuff her on a cushioned bench, unlikely to cause pain.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

**Named Employee #2 – Allegation #1**

***8.200 – Using Force, 1. Use of Force: When Authorized***

The Complainant alleged NE#2 used excessive force.

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)**