
Issued Date: FEBRUARY 19, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0372

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)

Named Employee #3

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)

Named Employee #4

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)

Named Employee #5

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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Named Employee #6

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
-

Named Employee #7

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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Named Employee #8

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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Named Employee #9

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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Named Employee #10

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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Named Employee #11

1. **Allegation #1:** 8.200 - Using Force (1) Use of Force: When Authorized
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)
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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 he was “beaten” by SPD officers on three different dates.

Administrative Note:

OPA determined that the Complainant also alleged NE#2, NE#7, NE#9 failed to activate their body-worn video (BWV) when required by policy. OPA reviewed all documents related to this complaint, including BWV, and determined this allegation was unfounded. These allegations were processed as "FYI" Supervisor Actions, meaning the allegation was determined to be unfounded and the involved employees were so notified.

OPA also determined that NE#5 may have failed to complete a "Sergeant Arrest Screening Supplement." This would be a minor policy violation. OPA returned this allegation to the chain of command to process as a Supervisor Action.

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG's) review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On December 13, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

The Complainant filed a complaint with OIG on August 23, 2023. OIG forwarded the complaint to OPA. The Complainant alleged, among other things (In addition to his excessive force complaints, the Complainant also alleged, "you got a serious problem with [sic] the 03/13/2023 incident at pioneer square park, officer shows, but refuses to help the guy obviously having a Fentanyl OD situation, leaving myself and a random guy to help him instead." OPA was unable to locate any evidence to clarify what this allegation referenced) that officers used excessive force against him by "beating" him on three dates:

- "08/13/2021 beaten by spd officers not asking me first due to misinformation given by lihi staff at [Residence]."
- "09/16/2022 beaten by spd officers not asking first, then delivered to spd central, BODYCAMs OFF, not recording the big fat blonde male spd officer bending my left hand backwards to breaking point, continuing to do so in the presence of 4 - 5 other officers [sic], 'You are breaking my left wrist. i play piano.' nope i was put naked in my cell for over 24 hours with idiotic medical ignoring my DEMAND TO SPEAK WITH A PSYCHIATRIST. NAKED FOR OVER 24 HOURS! BEING BEATEN EVERY TIME EXCEPT THE ONE TIME, TWO OFFICERS SHOW AT MY DOOR DUE TO LIHI CALL. in less than a minute I explain, they leave, within earshot, not 20' away, these two officers directly witness my neighbor two doors down yelling death threats at me. the officers leave. you have a serious problem with spd records denying me access to the s4766 store video showing me getting kicked in my stomach ha;lf [sic] a baker's dozen times."
- "03/14/2023, two officers cannot pigpile move me, four officers beating me up, instead of asking what is going on, six officers piled on me here at the [apartment], with witnesses, a gal spd says, hospital' I hand her my keys and we go. your spd officers do not listen when \$ dangles instead of HUMAN."

OPA opened an intake investigation. During its intake, OPA reviewed the complaint, computer-aided dispatch (CAD) call reports, incident reports, and body-worn video (BWV). OPA also corresponded with the Complainant by email.

1. Complainant's Emails

OPA reached out to the Complainant by email to offer an interview or opportunity to provide a statement. The Complainant communicated with OPA by email only. In his emails, the Complainant wrote, among other things, the following:

- **09/13/2023 Email:** "What are All the SPD Incident Report Numbers for All the calls made to 911 with my name associated with the reason for each call also noted. Some are for getting me to ER. MOST are from LIHI/[residence] staff regarding some itch they have for 911 when they hear me coming. The last three, especially, from [name], were issuing some 'secret code' he learned to make SPD Stupid enough to forget to ask me what is going on prior to dumping my skiinkky bony ass onto our marble lobby floors, especially the 3/14/2023 one with my left hand swelled-up and purple-bone-bruised, 'we will take you to jail. Stop Resisting Stop Resisting.' Too Funny, that bit, 'You simply cannot move me.' Then two more idiots tainted by lihi lies helped those two not move me. Then two more spd idiots, all, 'stop Resisting!!!' The 7th, a fembot, says, 'we are taking you to the hospital.' Upon which i surrendered my mail & apt keys, and off we went, the six malebot officers slackjawed."
- **09/16/2023 Email:** "my 'recorded' statements you can find on YouTube since those incidents occured pay attention"
- **09/18/2023 Email:** "That matches with a few of the communiacion avenues I have adapting along the way to getting these and their inter-related resulting aftermaths. My recording studio for an infographic record of my testimony in my own words for public consumption. Gimme a few weeks? I just discovered half of my Three-Prong 120VAC Outlets are missing the code-required EARTH GROUND Wire, the Green one for the odd-shaped prong, thus creating a fire hazard the code compliance office of Seattle has ignored."

2. CAD Call Reports, Incident Reports, and BWV

OPA determined the Complainant was involved in three SPD incidents on August 13, 2021 (Incident #1), September 15, 2022 (Incident #2), and March 14, 2023 (Incident #3).

a. Incident #1

Incident #1 concerned a 9-1-1 assault call from a residential building (Residence) where it was reported an "irate tenant is hitting staff," with no injuries or weapons involved.

NE#4 wrote an incident report concerning Incident #1. NE#4 completed the report as a behavioral crisis noting that the Complainant was detained under Washington's Involuntary Treatment Act (ITA). NE#4 wrote that the Complainant was observed walking with staff from the Residence's community room. NE#4 documented officers asking the Complainant to stop, and the

Complainant became agitated and attempted to walk away. NE#4 documented that officers attempted to place the Complainant in handcuffs, and the Complainant responded by tensing his body and refusing to be placed in handcuffs. NE#4 wrote officers took the Complainant to the ground, placed the Complainant in handcuffs, and put the Complainant in the recovery position—where the Complainant continued to kick in the direction of officers.

OPA reviewed BWV from Incident #1. The BWV was consistent with NE#4's documentation. BWV confirmed officers used only SPD-trained, *de minimis* force to place the Complainant into custody. SPD Policy defines *de minimis* force as that meant to separate, guide, and/or control without the use of force that would be reasonably likely to cause pain or injury. See SPD Policy 8.050 – Use of Force Definitions.

b. Incident #2

Incident #2 concerned a 9-1-1 assault call from the Residence where it was reported, “manager being hit by guest,” with no weapons involved.

NE#9 completed an incident report for Incident #2. NE#9 documented arresting the Complainant for assault. NE#9 wrote that officer arrived and spoke with the Residence Manager, who reported the Complainant pushed a member of residence staff and the Manager. The Manager also reported the Complainant pushed him again against a wall, causing a scratch that drew blood. NE#9 documented observing the Complainant continue to confront staff members, causing a female staff member to grab pepper spray to defend herself from being assaulted. NE#9 also documented observing the Complainant push another employee in an elevator. NE#9 wrote officers detained the Complainant in handcuffs without incident.

OPA reviewed BWV from Incident #2. The BWV was consistent with NE#9's documentation. BWV confirmed officers used only SPD-trained, *de minimis* force to place the Complainant into custody.

c. Incident #3

Incident #3 concerned a 9-1-1 disturbance call from the Residence where it was reported there was a resident causing a disturbance by yelling and threatening to throw the staff. It was also reported that the resident had an open wound on his head. It was reported there were no weapons involved.

NE#6 wrote an incident report for Incident #3. NE#6 documented detaining the Complainant under the ITA and completing a Charge-by-Officer (CBO) harassment report. See SPD Policy 15.020 – Charge-By-Officer (CBO). The CBO program allows patrol officers and sergeants to refer completed misdemeanor investigations to the Seattle Law Department in lieu of a custodial arrest. NE#6 documented meeting with a Residence staff member who stated the Complainant approached him in an agitated manner and accused him of “being in on” something. The staff member stated the Complainant told him he had “maced” people in the past, “knocked people out,” and was going to “kick his ass.” The staff member stated he took the threats seriously because the Complainant had assaulted Residence staff in the past. NE#6 documented meeting with another staff member who stated the Complainant's mental state was deteriorating, the

Complainant was filming people, he appeared to be developing delusions, and was threatening staff. NE#6 documented contacting the Complainant and attempting to place him in handcuffs. NE#6 wrote the Complainant resisted and was placed in the prone position for handcuffing after a “controlled team takedown.”

OPA reviewed BWV from Incident #3. The BWV was consistent with NE#6’s documentation. BWV confirmed officers used only SPD-trained, *de minimis* force to place the Complainant into custody.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

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

The Complainant alleged that different named employees used excessive force by “beating” him on three dates.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. 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. Reasonableness must allow for the fact that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. *Id.* The policy also lists a number of 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.* Lastly, the force used must be proportional to the threat posed to the officer. *Id.*

OPA reviewed all relevant documentation, including BWV, for all three incidents references by the Complainant. BWV showed officers used only SPD-trained, *de minimis* force to place the Complainant into custody on each occasion.

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

For the reasons set forth above 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 #1**8.200 - Using Force (1) Use of Force: When Authorized**

For the reasons set forth above 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 #1**8.200 - Using Force (1) Use of Force: When Authorized**

For the reasons set forth above 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 #5 – Allegation #1**8.200 - Using Force (1) Use of Force: When Authorized**

For the reasons set forth above 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 #6 – Allegation #1**8.200 - Using Force (1) Use of Force: When Authorized**

For the reasons set forth above 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 #7 – Allegation #1**8.200 - Using Force (1) Use of Force: When Authorized**

For the reasons set forth above 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 #8 – Allegation #1**8.200 - Using Force (1) Use of Force: When Authorized**

For the reasons set forth above 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 #9 – Allegation #1

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

For the reasons set forth above 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 #10 – Allegation #1

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

For the reasons set forth above 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 #11 – Allegation #1

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

For the reasons set forth above 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)**
