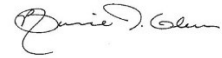

Issued Date: MARCH 9, 2024



From: Deputy Director Bonnie Glenn on Behalf of Director Gino Betts, Jr.
Office of Police Accountability
Case Number: 2023OPA-0418

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 Standards and Duties, 10 Employees Shall Strive to be Professional
Finding: Sustained
 2. **Allegation #2:** 8.200 - Using Force (1) Use of Force: When Authorized
Finding: Not Sustained - Management Action
 3. **Allegation #3:** 5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication.
Finding: Not Sustained - Unfounded
- **Imposed Discipline:** Written Reprimand

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 Named Employee #1 (NE#1) pushed Community Member #1 (CM#1) to the ground at the King County Jail. NE#1 also allegedly repeatedly attempted to confront King County Jail (KCJ) staff to obtain information about allegations against him.

Administrative Note:

On February 16, 2024, the Office of Inspector General (OIG) reviewed the investigation and certified it as thorough, timely, and objective.

Summary of Investigation:

OPA opened an investigation, reviewing the OPA complaint, Seattle Police Department (SPD) incident and supplemental reports and use of force (UOF) documents, KCJ incident and staff reports, CCTV footage, photographs, email correspondence, and OPA interviews. Despite several attempts, OPA could not reach CM#1 for an interview.

A. OPA Complaint

On September 13, 2023, Witness Supervisor #2 (WS#2)—a KCJ major—submitted an online OPA complaint. WS#2 wrote that on September 8, 2023, around 1626 hours, NE#1 brought CM#1 to the jail. WS#2 reported that, at the jail, NE#1 reportedly used force against CM#1, resulting in CM#1 being medically deferred and sent to Harborview Medical Center (HMC). The Complainant stated a KCJ staff member witnessed NE#1's use of force, and NE#1 repeatedly attempted to confront the KCJ staff about the allegation, but a KCJ sergeant prevented it. The Complainant wanted to report the incident without initiating an OPA complaint but could not reach an SPD supervisor after waiting an hour on SPD's non-emergency line.

B. NE#1's Seattle Police Department Incident Report and Type I – Use of Force (UOF) Statement

NE#1 completed an SPD incident report and a Type I use of force statement, as directed by his sergeant. NE#1 explained that, on September 8, 2023, at 1534 hours, he responded to [a supermarket] for a shoplifting and threatening subject. The 9-1-1 caller provided the suspect's description, matching CM#1. A store manager also identified CM#1, who stood across the street, as the offender. The manager told NE#1 that the shoplifted items were recovered, but CM#1 took a shopping cart. A store employee requested CM#1 be trespassed from the store due to his aggressive and threatening behavior.

NE#1's incident report also indicated that a seventeen-year-old female reported that CM#1 followed her around a [light rail station] asking her age. SPD records described CM#1 as a threat to officers and cautioned that he may be armed. CM#1 also had a felony warrant issued by the King County Superior Court for failure to register as a sex offender. NE#1 verified the warrant via SPD dispatch. NE#1 and another SPD officer arrested CM#1 and transported him to the KCJ.

NE#1 arrived at the KCJ and deactivated his in-car video (ICV) and body-worn video (BWV) cameras per SPD policy. At KCJ's sally port, NE#1 removed his weapons and tools and escorted CM#1 into the booking area. NE#1's UOF statement described CM#1 as agitated during the escort. NE#1 wrote that CM#1 repeatedly stated his intention to go to a hospital and that he would tell the KCJ staff he ingested narcotics.

NE#1 estimated that the KCJ's holding room, where he awaited CM#1's booking, was approximately 7' x 15' ft. NE#1 stated, "[CM#1's] agitation increased in the holding area, and he began yelling and swearing." NE#1 indicated that the KCJ correctional officer at the processing desk observed CM#1's behavior and notified other staff members about CM#1's uncooperativeness.

NE#1 stated CM#1 walked to the south end of the holding area, near a computer and printer stationed for law enforcement use. NE#1 stated CM#1 continued to yell. NE#1 directed CM#1 to sit on a bench opposite the computer station. CM#1 remained near the computer equipment. NE#1 grabbed CM#1's left t-shirt sleeve and escorted him towards the bench. NE#1 stated that CM#1 yelled, stiffened his body, and thrust back against NE#1. NE#1 stated he gripped CM#1's arm and placed CM#1's leg between his own. NE#1 stated that as he escorted CM#1 to the bench, "[CM#1] resisted by flexing his body. Furthermore, when CM#1 reached the bench, he

leaned back into [NE#1] and placed his right foot on it.” NE#1 stated CM#1’s right foot pushed off the bench, forcing his back into NE#1. NE#1 stated that he put a forearm on CM#1’s back and pushed him away. NE#1 stated that CM#1 lost his balance, stumbled, and fell to the ground. NE#1 wrote that CM#1 complained about pain and needing to go to a hospital. NE#1 explained, “The physical interaction was intended solely to control and guide [CM#1] away from me.” NE#1’s UOF statement also noted that he was alone with CM#1 in the holding room, and CM#1 showed no signs of an inability to comply—like a mental health crisis, medical emergency, developmental disability, or physical limitations—insisting CM#1’s noncompliance “[was] deliberate resistance, not an inability to follow commands.”

After falling, NE#1 stated CM#1 refused to stand up. NE#1 called the Seattle Fire Department [SFD] to provide medical aid. SFD’s assessment noted no severe injury or loss of consciousness and a full range of motion, equal pulse, and equal sensation.

NE#1 stated that CM#1 was medically declined at the KCJ due to his claimed narcotic ingestion and back and head pain. He was transported to HMC. NE#1 stated, “After an assessment for narcotic ingestion, [CM#1] was cleared by HMC. Officers then transported CM#1 back to KCJ for booking.” NE#1’s UOF statement noted, “The force was necessary to prevent injury to myself. The force was meant to control and guide [CM#1] away from me.” NE#1’s sergeant screened NE#1’s force at HMC.

C. Chain of Command Review

NE#1’s chain of command reviewed his use of force. His sergeant, lieutenant, and captain reviewed the KCJ CCTV video and related documents and found NE’s force objectively reasonable, necessary, proportionate, and consistent with SPD policies and training. They also stated that NE#1 used department-trained tactics to control CM#1 and prevent further assault.

D. King County Jail – CCTV Video

KCJ’s CCTV captured the incident but did not have audio. It was consistent with NE#1’s Type I UOF statement and his chain of command’s reviews. It was also consistent with the witness KCJ correctional officer’s account up to when NE#1 and CM#1 approached the bench in the holding room.

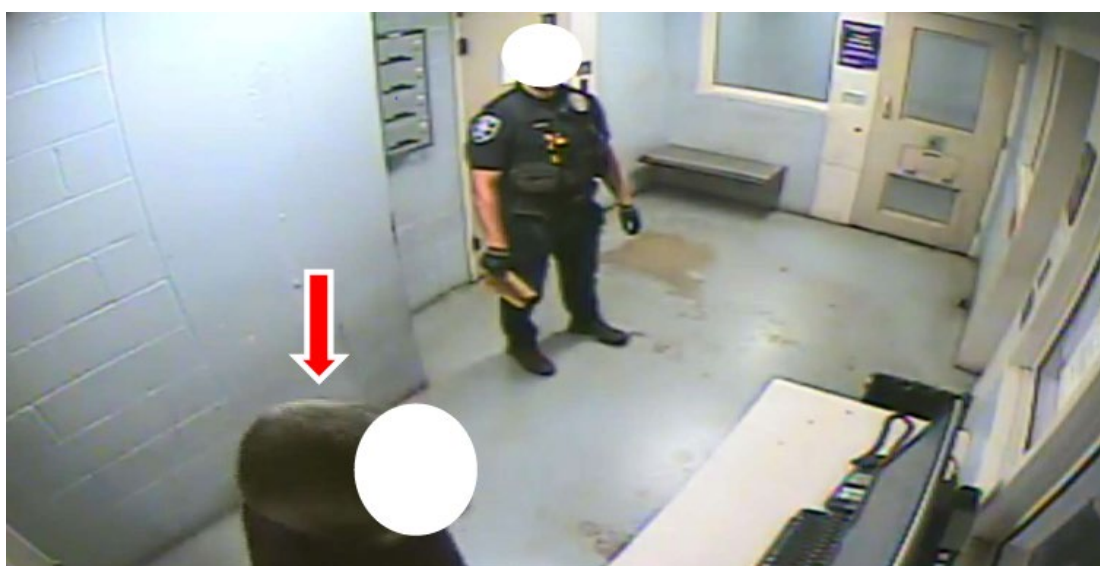
The following facts are undisputed:

- NE#1 escorted CM#1 to KCJ’s sally port,
- CM#1’s hands were handcuffed behind his back when he entered KCJ,
- CM#1, listed at 5’9”, is shorter than NE#1 ,
- CM#1 approached the holding room’s computer station and was directed toward the bench at the opposite end,
- NE#1 and CM#1 exchanged words,
- CM#1 did not relocate to the bench despite NE#1 mouthing an order while gesturing toward it,
- NE#1’s right hand grabbed CM#1’s left t-shirt sleeve,
- NE#1 moved CM#1 towards the bench as CM#1 stiffened his legs to resist,

- When NE#1 and CM#1 got to the bench, CM#1 leaned back into NE#1.

At that point, Witness Officer #1 (WO#1) – a KCJ correctional officer – reportedly heard CM#1 yelling at NE#1 and saw via CCTV surveillance NE#1’s attempt to pin CM#1 against a wall. WO#1 described CM#1 as resisting NE#1 before NE#1’s arms extended and appeared to push CM#1 to the ground.

The holding room video shows an elevated northwest view, capturing NE#1 and CM#1’s back as NE#1 escorted CM#1 to the bench. During the escort, at one point, CM#1’s feet lifted off the ground, and his head was above NE#1’s, suggesting CM#1’s right foot pushed off the bench to elevate himself or NE#1 lifted CM#1. CM#1, with his feet off the ground, also observably leaned back into NE#1, whose hand or forearm appears to be at CM#1’s back. Additionally, NE#1’s shoulders rotated right as CM#1, who either jumped or was pushed, fell toward the right side of the frame.



The arrow points to CM#1, standing by the computer equipment.



NE#1 points to the bench, motioning for CM#1 to relocate.



NE#1 is grabbing CM#1's t-shirt sleeve.



NE#1 moves CM#1 towards the bench as CM#1 stiffens his legs against the floor.



CM#1 still stiffens his legs and pulls away during the escort.



The arrow points to NE#1's left hand, which is trying to control CM#1's left arm/shoulder area. NE#1's right arm is not captured.



CM#1's hands are cuffed behind his back, and his feet are off the ground—the shorter CM#1's head is above NE#1's head, and his left foot is elevated. CM#1's right foot is not captured. NE#1's left hand holds CM#1's left arm. NE#1's right arm/hand is not captured.



CM#1 appears to be lowering as NE#1 holds CM#1's left shoulder area. NE#1's right arm is not captured, but his right elbow is bent.



CM#1 is back at a lower level than NE#1, and his feet are not captured.



CM#1 fell toward the right with his feet off the ground. NE#1 arms are bent, but his hands are not captured.



CM#1 fell with his feet extended and his hands cuffed. NE#1's shoulders shifted right during the fall.



NE#1's right arm extended toward CM#1's fall.



CM#1 is on the ground with his head lifted.



CM#1 moved closer to the wall.



CM#1's head is against the wall.



NE#1 is looking toward CM#1, on the ground, with his head against the wall.

E. King County Jail Staff Reports

Witness Officer #1 (WO#1)

WO#1's report stated he was working on September 8, 2023, when NE#1 brought CM#1 to KCJ's Intake, Transfer and Release (ITR) area. NE#1 entered the pre-book sally port around 1630 hours. From a CCTV monitor, WO#1 observed CM#1 yelling at NE#1 and NE#1 escorting CM#1 toward the holding room's southeast corner. WO#1 described CM#1 as actively [and aggressively] trying to escape NE#1. WO#1 also described NE#1 as attempting to pin the resistant CM#1 against a wall. WO#1 described NE#1's arms as briefly extending, appearing to push CM#1 on the ground.

CM#3 quickly called Witness Supervisor Officer #1 (WSO#1) for assistance. WSO#1 reported the incident to WSO#3, an acting captain. NE#1 provided his supervisor's contact phone number.

Witness Officer #2 (WO#2)

WO#2's report stated they worked at KCJ on September 8, 2023, and recalled NE#1 and CM#1 entering the sally port area around 1620 hours. WO#2 described CM#1 as yelling and screaming. WO#2 stated that they, along with WSO#1, WO#1, and Witness Officer #3 (WO#3), responded to the pre-book sally area where CM#1 was on the ground. CM#1 complained about "serious back pain that prevented him from standing up or moving normally." Jail Health Services (JHS) rejected CM#1 due to a possible back injury. WO#2 reported that SFD and American Medical Response (AMR) were called to transport CM#1 to a hospital.

Witness Officer #3 (WO#3)

WO#3 reported that on September 8, 2023, around 1630 hours, CM#1 was uncooperative with NE#1 in the pre-book sally area: "CM#1 screamed at NE#1 and rushed towards him at which time [WO#3] called for [WSO#1]." WSO#1 directed WO#3 to open the sally area door. WO#3 entered and saw CM#1 on his back in the corner of the room "while NE#1 was standing a few feet away." CM#1 claimed, "[NE#1] threw him to the ground, and his back and head hurt." Witness Nurse Officer #5 (WNO#5) evaluated CM#1 and declined him "... due to his claimed back and head injury." WO#3 observed "a small red mark on the back of [CM#1's] head."

WO#1 reported seeing NE#1 push CM#1 to the ground. WO#3 stated that NE#1 overheard the accusation and requested to speak with WO#1, but WSO#1 refused.

NE#1 again "urged for [WSO#1] to give him more information on what [WO#1] said. WSO#1 replied, "she would be in contact with his supervisor." NE#1 repeatedly requested more information and WSO#1 repeatedly replied, "no [she] would be in touch with [NE#1's] supervisor." NE#1 then left.

Witness Officer #4 (WO#4)

WO#4's report stated that NE#1 arrived at KCJ with CM#1, screaming and yelling. WO#4 reported that CM#1 was on his back on the floor when WSO#1 arrived. CM#1 was medically rejected at KCJ, and an AMR transported him to a hospital.

Witness Supervisor Officer #1 (WSO#1)

WSO#1's supervisor incident report included the witness statements of WO#1, WO#2, WO#3, and WO#4. Witness Supervisor #4 (WSO#4), an SPD captain, uploaded the CCTV footage.

The report explained that on September 8, 2023, around 1626 hours, NE#1 arrived at the KCJ with CM#1. WSO#1 heard noises from the pre-book sally and saw NE#1 and CM#1. WSO#1 wrote, "It appeared that [NE#1] was struggling with [CM#1]." She and other officers responded to the sally port area. CM#1 was on the floor with his head propped against the southeast wall. CM#1 yelled that he could not get up because his back was injured. WO#1 told her he witnessed, via CCTV monitor, NE#1 push CM#1, who was handcuffed, to the ground.

WO#1 contacted WNO#5 and asked NE#1 to leave the area while they awaited WSO#1. CM#1 reported ingesting narcotics.

WSO#1 told NE#1 that CM#1 was medically declined at KCJ due to complaints of hitting his head and injuring his back during the fall. NE#1 contacted SFD. WSO#1 asked NE#1 whether another SPD officer would relieve him. NE#1 said “no.” WSO#1 told NE#1 that CM#1 and a KCJ officer alleged that NE#1 pushed CM#1. NE#1 stated, “he was going to contact his supervisor.”

WSO#1 reported that while awaiting SFD, NE#1 repeatedly asked to talk with the officer who accused him of pushing CM#1. WSO#1 wrote, “I told him that the officer will be providing me with a report but that I would not allow him to talk to him. I told him that even I had not had an opportunity to fully speak with the officer. I told him that the officer’s report will go through our chain of command process and then be available to his supervisors upon request.” WSO#1 also stated that NE#1 requested the CCTV footage. WSO#1 wrote, “I told him that the footage will be available for his supervisor to request but that currently it was a weekend, and no one was available to provide the video now.” NE#1 waited to speak with WSO#1 again after the AMR departed with CM#1. NE#1 again asked to speak with the officer or for WSO#1 to speak with the officer because NE#1 wanted to know what was reported so that he could inform his supervisor. WSO#1 told NE#1 his supervisor could contact her directly and provided the ITR sergeant’s office phone number.

WSO#1 also wrote that WO#3 saw CM#1 rush toward NE#1 and quickly called for WSO#1’s assistance. WSO#1 contacted WSO#3 –an acting captain—and reported the incident.

WSO#1 reviewed the CCTV footage and wrote:

“I reviewed the video of the incident on Monday, September 11, 2023. The video shows [NE#1] pointing to [CM#1] to move from the left side of the prebook sallyport to the right side. [CM#1] does not move. [NE#1] then takes ahold of [CM#1’s] shirt with his left hand and moves him toward the right side of the sally port toward the bench. [CM#1] appears to be pushing back against NE#1. [NE#1] then uses both hands to control [CM#1]. [CM#1] appears to still be resisting, and [NE#1] swings [CM#1’s] upper body to the right and lets go of [CM#1]. [CM#1] lands on his back on the floor. [CM#1] was in handcuffs and was unable to break his fall. I am unable to tell from the video if he hit his head on the wall, but [CM#1] did allege [that] his head hit the wall.”

Supervisor’s Incident Report – page four (DAJD) 23-01777 – RMS Incident No. DAJD

Witness Supervisor Officer #2 (WSO#2)

WSO#2 approved WSO#1’s supervisor incident report and submitted an online OPA complaint after multiple attempts to reach SPD’s non-emergency line.

F. OPA Interviews

NE#1

OPA interviewed NE#1 on December 13, 2023. NE#1 was shown the KCJ CCTV footage and elected to read his Type I UOF statement verbatim. NE#1 explained that his contact with CM#1 escalated throughout their interaction. NE#1 said CM#1 claimed to ingest narcotics to avoid booking at KCJ and had repeated outbursts. NE#1 explained that CM#1 stood near a computer, which CM#1 could have damaged or used as an improvised weapon since it was not bolted down. NE#1 ordered CM#1 onto a bench. NE#1 believed CM#1 fell to the ground after pushing off the bench with his right foot. NE#1 thought, after looking at the video, CM#1 might have landed on his right foot before falling. NE#1 denied pushing CM#1 to the ground.

NE#1 believed WSO#1 was disinterested, describing her as “extremely annoyed” with the situation. NE#1 denied having a “confrontation” with KCJ’s staff but said WSO#1 may have perceived it differently.

Additionally, NE#1 stated:

“I would say that [CM#1] initiated the confrontation, starting from the point at the [supermarket] where he threatened to kill people, to the point of the jail, to previous contacts he’s had with police, which are documented and documented. He initiated the contact. He initiated the aggression towards me. He pushed off a counter that he fell to the ground.”

NE#1 described his use of force as consistent with SPD’s policies and training and his documentation as “truthful and complete.”

Witness Officer #1 (WO#1)

WO#1’s account was consistent with his witness statement. WO#1 stated he was monitoring the CCTV and heard shouting from the pre-book sally. WO#1 said he was preparing to enter the room when he saw NE#1 push CM#1 into the corner. WO#1 stated that his CCTV view was the same as the footage provided to OPA. WO#1 also stated it was difficult to say with certainty that NE#1 shoved CM#1 to the ground.

Witness Supervisor Officer #1 (WSO#1)

WSO#1’s account was consistent with her written statement. She was the sergeant on duty at the time in question. Her office was situated behind WO#1’s post. She recalled hearing loud voices from the pre-book sally and responded. She explained that she briefly glanced at the CCTV feed and saw CM#1 fall. WSO#1 stated, “She did not see enough of the footage or the incident itself to say certainly what occurred.” When WSO#1 spoke with CM#1, who was on the floor, he was agitated and complained of a head/back injury. WSO#1 asked NE#1 to leave the room to de-escalate the situation. WSO#1 had KCJ’s nurse examine CM#1 and asked NE#1 to call SFD. NE#1 repeatedly asked WSO#1 what CM#1 and WO#1 had told her. NE#1 persisted and asked to speak with WO#1 and to see the video. WSO#1 did not allow NE#1 to view the video. WSO#1 indicated she did not find NE#1 unprofessional or angry, but she felt it was best to separate him from witnesses or evidence. She felt that “perhaps [NE#1] was too persistent about seeking information from the KCJ staff.” WSO#1 stated she did not find NE#1’s use of force unreasonable but thought it was necessary to report since CM#1 was handcuffed and was either pushed or fell to the ground. WSO#1 also believed that, in a correctional setting, more effort should have been given to prevent a detainee from falling while handcuffed.

Witness Supervisor #2 (WSO#2)

WSO#2 told OPA that he tried to report the incident to NE#1's chain of command but was unsuccessful, so he referred the matter to OPA. WSO#2 indicated that a KCJ correctional officer witnessed NE#1 appear to shove CM#1 to the ground. Also, he explained that NE#1 insisted on speaking to the witness correctional officer and persisted despite a KCJ sergeant telling him to leave the issue alone. WSO#2 did not believe NE#1's use of force was consequential.

CM#1

CM#1's last known contact information listed a disconnected phone number. Additionally, a jail check showed that CM#1 was not in custody. OPA was unable to reach CM#1 after several attempts.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

5.001 Standards and Duties, 10 Employees Shall Strive to be Professional

The Complainant alleged that NE#1's persistent asks for information about allegations against him was unprofessional.

SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers," whether on or off duty. Id. Additionally, employees must "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." Id.

OPA found NE#1's persistent attempts to confront the KCJ officer, accusing him of pushing CM#1 and eliciting information from the KCJ supervisor to be unprofessional. While NE#1's curiosity was understandable, repeatedly requesting to speak with WO#1 or have WSO#1 act as a proxy during KCJ's investigation was not. Similarly, NE#1's request for the video and repeated requests for more information about the allegation were unprofessional. While NE#1 told WSO#1 and OPA that he sought to obtain information to apprise his supervisor, WSO#1 had told him that KCJ would report the incident to SPD. Therefore, a preponderance of the evidence established that NE#1's repeated requests during KCJ's investigation undermined public trust in himself and the department.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 – Allegation #2

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

The Complainant alleged that NE#1 pushed CM#1 to the ground while handcuffed.

The force used by an officer 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."

Reasonableness depends “on the totality of the circumstances” known to the officer when force is used and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” SPD Policy 8.050. Reasonableness must consider that officers are often forced to make “splitsecond decisions” under tense, dynamic circumstances. *Id.* Several factors 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.*

SPD Policy 8.050 defines force as “any physical coercion by an officer in the performance of official duties, including the following:

De minimis force is physical interaction meant to separate, guide, and/or control without using control techniques that are intended to or are reasonably likely to cause any pain or injury. This includes “using hands or equipment to stop, push back, separate, or escort a person without causing any pain, or in a manner that would reasonably cause any pain.”

At a minimum, NE#1 used de minimis force to escort CM#1, who actively resisted, to a bench. CM#1 stood near a computer station but showed no interest. There was no imminent danger to NE#1, CM#1, or anyone else, particularly with CM#1’s hands cuffed behind his back. SPD’s policy strictly prohibits force against restrained persons except when reasonable, necessary, and proportionate to protect an officer, the subject, or a member of the public from physical injury. See SPD Policy 8.200(2). With relatively low-level force, NE#1 admittedly pushed his forearm into CM#1’s back after CM#1 pushed his back onto NE#1. Although CM#1 and WO#1 reported that NE#1 threw CM#1 to the ground, OPA’s frame-by-frame review of the incident is inconclusive. Similarly, OPA did not observe NE#1 pin CM#1 against a wall, as WO#1 reported. Nevertheless, reasonable alternatives to using force against a handcuffed subject existed, like allowing CM#1—who presented no observable threat—to roam the room or requesting KCJ’s assistance to relocate CM#1 in a controlled fashion.

Also, the CCTV footage showed mutual yelling and agitation from CM#1 and NE#1. Moreover, NE#1 aggressively grabbed CM#1’s left t-shirt sleeve, forced him to the bench, and placed his forearm into CM#1’s back—actions that were not objectively reasonable, necessary, or proportionate under the circumstances.

Overall, the evidence established that NE#1 used de minimis—nonreportable— force to move a handcuffed subject to a bench, which—based on a plain reading of SPD Policy 8.2000 – POL-2— is strictly prohibited absent exceptional circumstances. OPA finds that SPD Policy 8.2000 – POL-2 should explicitly state its limited application to reportable force if that is SPD’s actual intent.

Accordingly, OPA recommends this allegation be Not Sustained – Management Action.
Recommended Finding: **Not Sustained - Management Action**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication.

The Complainant alleged that NE#1's reporting of the incident was untruthful.

Department employees must be truthful and complete in all communications. SPD Policy 5.001-POL-11.

OPA did not find NE#1's reporting untruthful or incomplete. NE#1's use of force statement detailed his perception of what occurred. OPA found no material omission of fact.

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

Recommended Finding: **Not Sustained - Unfounded**