
Issued Date: FEBRUARY 25, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0481

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** Force - Use - 8.200, 2. Use of Force: When Prohibited.
 - a. **Finding:** Not Sustained - Unfounded

Named Employee #2

1. **Allegation #1:** Force - Use - 8.200, 2. Use of Force: When Prohibited.
 - a. **Finding:** 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 named employees allegedly choked Community Member #1 (CM#1) during his arrest.

Administrative Note:

On October 16, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

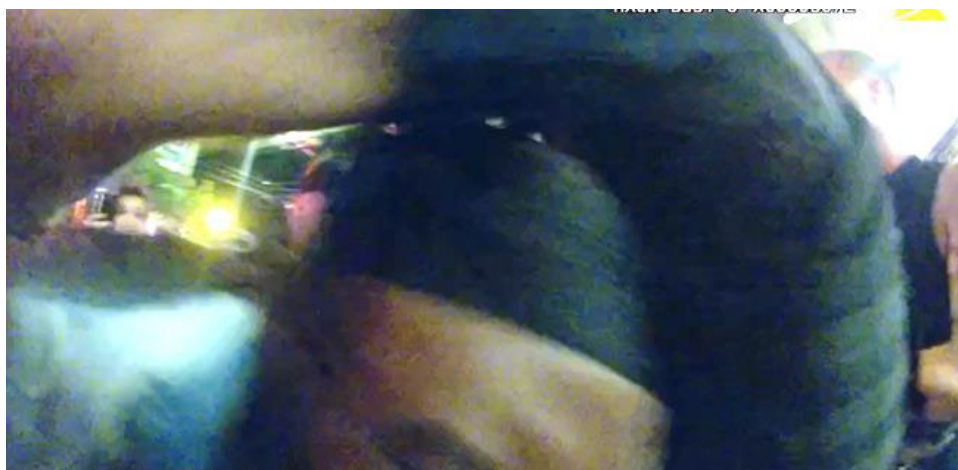
Witness Employee #1 (WE#1) authored the related incident report. She wrote that officers responded to an August 20, 2023, 9-1-1 call directing, "[CHECK] FOR VIOLENT CUSTOMER PUTTING HANDS ON [BAR] STAFF, SITTING ON PEOPLE, GETTING IN [EVERYONE'S] FACE, AND [HARASSING] CUSTOMERS. NO [WEAPONS.]" WE#1 indicated that a bartender identified CM#1 as the offender and that she repeatedly asked him to leave. WE#1 also documented customers describing CM#1 as "aggressive" and "grabbing...women on the dance floor." The bartender also reportedly showed WE#1 redness on her arm that she attributed to CM#1 grabbing her elbow, causing pain and discomfort.

Named Employee #1 (NE#1) wrote a supplemental report describing CM#1's arrest. NE#1 wrote that WE#1 told him there was probable cause for CM#1's arrest. NE#1 stated that he approached CM#1, who spoke with another officer and told him he was under arrest. NE#1 described CM#1 as 6'2" and roughly 200 pounds. NE#1 indicated that as he and other officers tried handcuffing CM#1, CM#1 "used his body weight...against officers as static resistance." NE#1 wrote that CM#1 was handcuffed and placed in a patrol car.

Body-worn videos (BWV) showed:

CM#1 sat near the bar when NE#1 told him, "Right now, you're under arrest. Stand up." CM#1 replied, "For what?" An officer reached for CM#1's left hand, which CM#1 pulled towards his stomach. CM#1 requested a sergeant. Officers ordered CM#1 to stand, but CM#1 refused. Officers tried controlling CM#1's arms while ordering him to stop resisting.

CM#1 replied, "I ain't stopping, boy. Stop what?" Officers tried positioning CM#1's hands behind his back for handcuffing.



CM#1 yelled, "Hold on," "This is assault," and "Ow! Ow! That hurt." Officers sat CM#1 on the ground and handcuffed CM#1's left wrist.



CM#1 continued pulling his right hand away, but officers eventually controlled and handcuffed it. During the struggle, an unidentified person in the crowd said, “I saw you choke him.” Whether the accusation was directed at NE#1 or NE#2 was unclear. NE#1 reported the allegation to the Complainant—the reviewing sergeant.

NE#1’s OPA interview was consistent with his supplemental report. Additionally, NE#1 said due to a sizeable combative crowd forming, officers used the least force necessary to arrest CM#1 before officers lost control of the scene. NE#1 denied choking CM#1 or applying any neck restraints.

NE#2 told OPA that the crowd was “loud and chaotic” when he arrived. He also described CM#1 as intoxicated and tensing and pulling away as officers struggled to apply handcuffs. NE#2 said due to CM#1’s resistance, the officers used a controlled takedown. Specifically, NE#2 said he controlled CM#1’s head by pulling the back of CM#1’s head forward as NE#1 attempted a “body wrap.” NE#2 also denied applying force to CM#1’s neck.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

Force - Use - 8.200, 2. Use of Force: When Prohibited.

NE#1 allegedly choked CM#1 during his arrest.

Officers are prohibited from using neck and carotid restraints in all circumstances. SPD Policy 8.200-POL-2.

While officers used control tactics to arrest CM#1, BWV showed no officer choking him or applying neck or carotid restraints. NE#2 locked his hands behind CM#1’s head to pull him toward the ground for handcuffing, a department-trained technique, which possibly looked like choking to an unaware onlooker in a chaotic crowd. Similarly, with CM#1 sitting and bent forward, NE#1 reached over the back of CM#1’s head, trying to control CM#1’s hands. No evidence supports the allegation that CM#1 was choked, something CM#1 never alleged during WE#1’s arrest screening.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

Force - Use - 8.200, 2. Use of Force: When Prohibited.

NE#2 allegedly choked CM#1 during his arrest.

For the reasons above, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**