




## CLOSED CASE SUMMARY

ISSUED DATE: JUNE 22, 2024

FROM: DIRECTOR GINO BETTS, JR.   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0014

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Unfounded (Expedited)

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)

#### Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties, 5.001-POL 10. Employees Will Strive to be Professional	Sustained

#### Imposed Discipline

Written Reprimand
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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.***

### **ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*

### **EXECUTIVE SUMMARY:**

Named Employees #1, #2, and #3 (NE#1, NE#2, and NE#3) responded to Community Member #1's (CM#1) reported mental health crisis at his apartment. The Complainant—CM#1's case manager—alleged NE#1 used unauthorized force by unholstering his Taser before engaging CM#1. The Complainant alleged NE#2 and NE#3 removed the naked Complainant from his apartment and attempted to escort him. The Complainant alleged NE#3 accused CM#1 of being high on methamphetamine. The Complainant alleged that NE#3 told CM#1 to press his head against an elevator door



and subsequently pressed CM#1's head against it, causing an audible "thud." It was alleged that NE#3 jokingly asked NE#2 whether she wanted to search a nearly naked CM#1 and laughed.

**ADMINISTRATIVE NOTE:**

The allegations against NE#1 and NE#2 underwent an 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 NE#1 and NE#2. The use of force allegation against NE#3 also underwent an Expedited Investigation, but the professionalism allegation underwent a full investigation.

**SUMMARY OF INVESTIGATION:**

**A. OPA Complaint**

On January 3, 2024, the Complainant filed an OPA complaint, writing that the involved officers responded to CM#1, reportedly experiencing a mental health crisis possibly caused by narcotics. The Complainant wrote that officers drew their Tasers, removed the naked CM#1 from his apartment, and attempted to escort him to a police cruiser. The Complainant wrote that an officer accused CM#1 of being high on methamphetamine. The Complainant wrote that an officer told CM#1 to press his head against the elevator door and subsequently pressed CM#1's head against it, causing an audible "thud."

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, behavioral crisis reports, body-worn video (BWV), and emergent evaluation card. OPA also interviewed the Complainant, Community Member #3 (CM#3)—a worker at CM#1's building, and the named employees.

**B. Computer-Aided Dispatch (CAD) Call Report, Behavioral Crisis Reports, and Body-Worn Video (BWV)**

**1. First Response**

On January 3, 2024, at 3:30 AM, CAD call remarks noted, "RES[IDENT] EXPERIENCING PSYCHIATRIC EPISODE. THROWING REFRIGERATOR PARTS AND GLASS INTO [THE] HALLWAY. NO [WEAPONS]. POSS[IBLY] INTOX[ICATED]."

NE#1's first behavioral crisis report documented that NE#1 and NE#3 responded to CM#1's apartment based on a caller reporting that CM#1, possibly experiencing a psychiatric episode, threw items into the hallway and banged on his apartment door. NE#1 wrote that glass pieces were on the ground outside CM#1's apartment, and CM#1 banged loudly on his door. NE#1 wrote that he attempted to engage CM#1 by asking whether CM#1 needed hospitalization, but CM#1 remained silent. NE#1 wrote that the banging resumed as he and NE#3 departed. NE#1 wrote that the caller said there was no threat of harm to CM#1 or other residents and that mental health professionals would arrive later. NE#1 determined there was an insufficient basis for an Involuntary Treatment Act (ITA) detention.<sup>1</sup>

BWV captured this initial response to CM#1's apartment and was consistent with NE#1's first behavioral crisis report.

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<sup>1</sup> The ITA provides that an officer may take into custody and deliver a person to a facility when the officer reasonably believes that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. See RCW 71.05.153(2).



## 2. Second Response

On January 3, 2024, at 8:10 AM, CAD call remarks noted, “CLIENT LOCKED IN HIS ROOM, [REPORTING PARTY] THINKS HE[’]S A DANGER TO HIMSELF, WATER COMING OUT FRONT UNDER THE DOOR, CAN HEAR THINGS CRASHING AND BREAKING, ALSO THROWING HIS BODY AND HEAD AGAINST THE DOOR. SUBJ[ECT] IS IN CRISIS. NO [WEAPONS] BUT THIS SUBJ[ECT] MAKES ANYTHING A [WEAPON].”

The named employees responded to the incident location and activated their BWV, capturing the following:

NE#1 entered the apartment lobby and spoke with Community Member #2 (CM#2), a case manager, who expressed concern about CM#1’s safety because CM#1 slammed his body against his door, damaged property, and threw items. CM#2 said water spilled from CM#1’s apartment, and CM#2 described CM#1 as escalatory. The Complainant entered the lobby and asked NE#1 to intervene because “it’s really bad.” The Complainant said CM#1 broke items and beat his door. NE#1 told NE#3 that CM#1 would be detained under the ITA.

The Complainant said CM#1 was “elevated” as the named employees and Witness Officer #1 (WO#1) approached CM#1’s apartment. NE#1 unholstered his Taser, knocked on CM#1’s door, and announced himself. WO#1 unholstered his firearm.<sup>2</sup> CM#1, naked, opened the door and spoke unintelligibly throughout the encounter. NE#3 told CM#1 to step out, and CM#1 complied. NE#2 and NE#3 positioned CM#1’s arms behind his back, and NE#2 handcuffed CM#1. NE#1 re-holstered his Taser. The Complainant asked officers to clothe CM#1. NE#2 wrapped a jacket around CM#1’s waist. WO#1 told CM#1 he was going to the hospital. Officers escorted CM#1 to the elevator, and NE#3 asked CM#1, “How much meth did you smoke?” CM#1’s response was unintelligible. NE#3 said, “You smoked a ton of meth today. You’re super high. Your pupils are all dilated.”<sup>3</sup> Officers escorted CM#1 inside the elevator. NE#3 said, “Put your forehead on the door.” CM#1 pressed his head against the door, and an audible “thud” was heard.<sup>4</sup> NE#3 said, “There we go. Just relax.”

Officers escorted CM#1 outside. NE#3 asked NE#2, “You gonna search him?” NE#3 laughed, and NE#2’s response was inaudible. “You wanna search him?” NE#3 laughed again, with no response from NE#2. Officers placed CM#1 in the backseat of a patrol car. American Medical Response employees transported CM#1 to a hospital.

NE#1’s second behavioral crisis report was consistent with BWV observations.

## C. OPA Interviews

### 1. The Complainant

On January 12, 2024, OPA interviewed the Complainant. The Complainant said she heard a disturbance in CM#1’s apartment and thought CM#1 was in a “full-blown crisis.” The Complainant expressed displeasure with NE#1

<sup>2</sup> NE#1 and WO#1 never aimed their weapons at CM#1. Their weapons were aimed at the ground.

<sup>3</sup> NE#1’s second behavioral crisis report documented that CM#1’s dilated pupils and rapid speech suggested narcotic consumption.

<sup>4</sup> CM#1 pressed his head against the elevator door while NE#3 held CM#1’s left arm and NE#2 held CM#1’s right arm. NE#2 and NE#3 never physically contacted CM#1’s head.



unholstering his Taser in response to someone experiencing a mental health crisis who posed no threat. The Complainant said NE#1 should not have armed himself with his Taser since officers' prior contacts with CM#1 were cordial. The Complainant said officers forcibly removed CM#1 from his apartment without asking him to exit. The Complainant also said officers arrested CM#1 naked without allowing him to get dressed. The Complainant said she suggested officers clothe CM#1 because they were escorting him despite his being naked. The Complainant said NE#3 accused CM#1 of excessively smoking methamphetamine. The Complainant believed NE#3 should not have instructed CM#1 to press his head against the elevator door since CM#1 posed no threat to officers.

## **2. Community Member #3 (CM#3)**

On January 18, 2024, OPA interviewed CM#3, an apartment employee. CM#3 said CM#1 was loud and threw items into the hallway, which CM#3 described as normal behavior. CM#3 said CM#1 was a known methamphetamine user with a mental disorder. CM#3 believed CM#1 posed no threat to anyone, even in his elevated state. CM#3 said CM#1 was nonviolent. CM#3 said he watched on the security camera as the officers contacted CM#1. CM#3 believed officers acted cautiously upon contacting CM#1 but thought they removed CM#1 from his apartment too quickly while CM#1 was naked. CM#3 believed the officers wanted to secure CM#1 in the hallway quickly.

## **3. Named Employee #1 (NE#1)**

On April 9, 2024, OPA interviewed NE#1. NE#1 said he responded to CM#1's apartment twice. NE#1 said he heard a disturbance and saw broken glass in the hallway during his second response. NE#1 said officers interacted with CM#1 more than a dozen times. NE#1 described CM#1 as uncontrollable after CM#1 used methamphetamine. NE#1 said CM#1 posed a threat to officers, noting that CM#1 was escalated and could arm himself with a damaged item. NE#1 also noted the broken glass around CM#1's apartment could injure CM#1 and officers during a struggle. NE#1 said he, as the less lethal force operator, unholstered his Taser but did not deploy it. NE#1 denied using force and said unholstering a Taser was not reportable force, even if he pointed it at CM#1. NE#1 said CM#1 complied with police commands.

## **4. Named Employee #2 (NE#2)**

On April 9, 2024, OPA interviewed NE#2. NE#2 said a field training officer supervised her during the incident. NE#2 said she responded for an ITA detainment and was assigned as the hands-on officer. NE#2 said CM#1 posed a threat to officers, noting that CM#1 was known to make weapons, was escalated, appeared to be intoxicated from narcotics, was nonsensical, and had broken items around his apartment. NE#2 said she handcuffed CM#1 for officer safety. NE#2 said CM#1 was not permitted to dress inside his apartment due to concern about his arming or barricading himself. NE#2 denied using force except for applying control holds during CM#1's escort. NE#2 denied hearing unprofessional statements during the encounter.

## **5. Named Employee #3 (NE#3)**

On April 16, 2024, OPA interviewed NE#3. NE#3 said he had multiple prior disturbance-related contacts with CM#1. NE#3 said CM#1 was typically high on methamphetamine during those contacts. NE#3 said he saw CM#1 use drugs and CM#1 admitted to using drugs. NE#3 said he responded to CM#1's apartment for an ITA detainment and saw CM#1 wet, naked, and high with dilated pupils. NE#3 said CM#1 was not permitted to reenter his apartment to get dressed since CM#1 was unpredictable and could arm himself. NE#3 said officers immediately handcuffed CM#1 to



de-escalate the situation. NE#3 acknowledged accusing CM#1 of being methamphetamine intoxicated because CM#1 was “super high” and known to use methamphetamine regularly. NE#3 also wanted to evaluate CM#1’s self-awareness and the way drugs affected his cognition. NE#3 said others may have construed his statement as offensive but noted it calmed CM#1 and de-escalated the situation. NE#3 said he directed CM#1 to press his head against the elevator door so CM#1 was faced away from the officers, providing greater control for officers in case CM#1 acted erratically. NE#3 denied using force or saying anything unprofessional.

On June 18, 2024, OPA reinterviewed NE#3 about why he asked NE#2 whether she wanted to search CM#1—who was naked except for a coat around his waist—and then laughed. NE#3 replied that it was an “attempt at levity” to lighten the mood because NE#2 appeared “nervous” and “uncomfortable.” NE#3 said he would have prevented a search had NE#2 initiated one, knowing it was unnecessary since CM#1 was naked. NE#3 denied intending to demean, degrade, or embarrass NE#2 or CM#1.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 – Allegation #1**

#### ***8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)***

The Complainant alleged that NE#1 used unauthorized force by unholstering his Taser before engaging CM#1.

Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all persons. SPD Interim Policy 8.200(1) (effective April 24, 2023). Reasonability must consider that officers are often forced to make split-second decisions about the force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the officers’ actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. SPD Interim Policy 8.050 (effective May 19, 2023). A proportional use of force must reflect the totality of circumstances surrounding the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force to apply. *Id.*

NE#1 unholstered his Taser and activated it before engaging CM#1. NE#1 also did not aim his Taser at CM#1. This was not a reportable use of force. Therefore, the Complainant’s allegation is unfounded.

However, even if it constituted a use of force, it was objectively reasonable for NE#1 to arm himself with his Taser. There were clear indicators of escalated conduct during NE#1’s second response to CM#1’s apartment. Multiple apartment employees expressed concern about CM#1’s safety, given his escalatory behavior, like slamming his body against his door, damaging property, and throwing items everywhere. CM#1 was also known to make weapons. NE#1 was also aware of CM#1’s drug history and uncontrollable behavior. The named employees coordinated a team approach before contacting CM#1, assigning NE#1 as the less lethal operator. The environment posed a danger to the officers because of the broken glass and the possibility that CM#1 could arm himself with an item. These circumstances warranted having a Taser ready to deploy.



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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #2 – Allegation #1**

***5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional***

The Complainant alleged that NE#2 was unprofessional by attempting to escort CM#1 while he was naked.

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.* Employees will avoid unnecessary escalation of events, even if those events do not end in reportable uses of force. *Id.* Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity as an insult or any language derogatory, contemptuous, or disrespectful toward anyone. *Id.*

NE#2 wrapped a jacket around CM#1’s waist after she handcuffed CM#1. Although the Complainant requested officers clothe CM#1, no evidence suggested NE#2 would have escorted CM#1 while he was naked. The named employees neither initiated CM#1’s escort nor indicated any intent to keep CM#1 unclothed. Notably, NE#2 wrapped a jacket around CM#1’s waist in front of CM#1’s apartment.

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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #3 – Allegation #1**

***8.200 – Using Force, 1. Use of Force: When Authorized (Effective April 24, 2023)***

The Complainant alleged that NE#3 used unauthorized force by forcibly removing CM#1 from his apartment and pressing CM#1’s head against the elevator door.

After CM#1 opened his apartment door and NE#3 instructed him to exit, CM#1 complied. BWV did not capture CM#1 attempting to retreat or resist, disproving the Complainant’s allegation that NE#3 forcibly removed CM#1 from his apartment. After CM#1 exited his apartment, NE#3 grabbed CM#1’s arm and assisted with CM#1’s arrest. NE#3 told OPA that CM#1 was prohibited from reentering his apartment and needed to be handcuffed to de-escalate the situation. BWV captured NE#3 using only *de minimis*<sup>5</sup> control holds throughout his encounter with CM#1.

Additionally, BWV disproved NE#3’s alleged use of force in the elevator. When NE#3 instructed CM#1 to place his forehead against the elevator door, CM#1 complied, pressing his head hard enough to produce an audible “thud.” BWV captured NE#2 and NE#3, holding CM#1’s arms during that motion. NE#1 explained that his instruction was intended to limit CM#1’s ability to act erratically.

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<sup>5</sup> *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,” including using “control holds or joint manipulation techniques in a manner that does not cause any pain.” *SPD Interim Policy 8.050 (effective May 19, 2023).*



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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

**Named Employee #3 – Allegation #2**

***5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional***

The Complainant alleged that NE#3's attempt to escort CM#1 outside while naked and accusing CM#1 of being methamphetamine intoxicated were unprofessional. It was also alleged that NE#3 unprofessionally asked NE#2 whether she wanted to search a nearly naked CM#1 and then laughed.

First, as outlined in Named Employee #2 – Allegation #1, NE#3 did not attempt to escort a naked CM#1. Accordingly, this part of the allegation is unfounded.

Second, asking whether CM#1 was "super high" on methamphetamine was not unprofessional. Conversely, it reflected NE#3's observations ("your pupils are all dilated") and familiarity with CM#1 from prior contacts concerning CM#1 being high on methamphetamine. NE#3 claimed his comment was intended to evaluate CM#1's self-awareness and cognition. NE#3 also claimed his statement de-escalated the situation and calmed CM#1. BWV did not refute NE#3's representation. Without more, there is no evidence that NE#3 intended to demean CM#1.

Third, NE#3 twice asked NE#2 whether she wanted to search CM#1 and laughed. OPA finds NE#3's attempt at "levity" was unprofessional, particularly considering CM#1's proximity as NE#3 joked and laughed. Even if, as NE#3 suggested, NE#2 was nervous or uncomfortable, comforting NE#2—a police officer—was not the priority. Also, there were other ways to lighten the mood besides jokes at CM#1's expense. CM#1 was nearly naked, handcuffed, reportedly experiencing a mental health crisis, and being escorted to a patrol car outside in broad daylight. SPD requires employees to "treat all people with dignity" and "treat everyone with respect and courtesy." SPD Policy 5.001-POL. OPA also recognizes that NE#3 received an oral reprimand and retraining in November 2020 for "mimicking [a] Subject's tone of voice" in a way that "served no legitimate law enforcement purpose" and was also argumentative and dismissive of a Subject. See 2020OPA-0315. Given this, NE#3 was familiar with SPD's professionalism policy and the importance of treating community members with respect and courtesy. NE#3's inappropriate questions and subsequent laughter fell short of department standards.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**