




## CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 14, 2024

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

CASE NUMBER: 2024OPA-0090

### 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 - Lawful and Proper (Expedited)

#### Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Lawful and Proper (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 - Lawful and Proper (Expedited)
# 2	16.130 - Providing Medical Aid, 16.130-POL-2 Officers Providing Medical Aid, 1. Recognizing the Urgency of Providing Medical Aid ...	Not Sustained - Unfounded (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:

The Complainant alleged Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) used unauthorized force to arrest her at a demonstration. The Complainant also alleged NE#3 failed to request medical aid for her timely.

### ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that 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 in this case.

On March 29, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

### SUMMARY OF INVESTIGATION:

The Complainant filed a web-based complaint alleging officers used excessive force when arresting her at a demonstration. Specifically, the Complainant stated she was "chased down and confronted by an officer while attempting to film a dogpile and arrest." The Complainant stated the officer confronted and "shoved" her before



tackling her and arresting her with the assistance of other officers. The Complainant said she was tackled and pinned, and an officer put a knee on her neck and injured her shoulder. The Complainant also alleged she did not receive medical treatment at the scene despite telling officers she was having an asthma attack.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, incident report, body-worn video (BWV), and precinct video. OPA communicated with the Complainant by email, but she declined to give a recorded interview and deferred answering questions. The Complainant stopped responding to OPA's emails after OPA requested a copy of her cell phone video and asked if she would respond to questions by email.

NE#3's incident report documented his working at a demonstration when officers attempted to take several suspects into custody. NE#3 wrote he was "providing cover" to several officers who were arresting a suspect when he observed a person—later identified as the Complainant—walking in the street towards officers. NE#3 wrote he approached her and advised her to leave the street "multiple times." NE#3 wrote that the Complainant had a cell phone in one hand and used her other hand to push NE#3 on his upper chest. NE#3 wrote he "pushed her hand away and told her not to touch me." The Complainant pushed NE#3 again in the chest. NE#3 wrote he attempted to take the Complainant into custody when she tried to pull away. NE#3 wrote that he and a Department of Corrections (DOC) officer took the Complainant to the ground. NE#3 documented the Complainant "turtled" her arms by pulling them into her chest and stomach as she was lying on the ground. NE#3 documented NE#1 and NE#2 assisting with placing the Complainant in handcuffs. When the Complainant stated she was having trouble breathing, officers handcuffed her and rolled her onto her side. NE#3 wrote that the Complainant was assisted to her feet and transported to the West Precinct, where the Seattle Fire Department evaluated her.

OPA reviewed the named employees' BWV. BWV was consistent with NE#3's incident report. The named employees and DOC officer appeared to use no more than *de minimis* force<sup>1</sup> to lower the Complainant to the ground in a controlled manner,<sup>2</sup> roll the Complainant onto her stomach, overcome the Complainant's resistance, gain control of the Complainant's hands, place her in handcuffs, and then transition the Complainant to the recovery position. At one point, NE#1 put his knee across the Complainant's shoulder—parallel to the Complainant's body—to control the Complainant's right hand.

---

<sup>1</sup> *De minimis* force is defined as "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. De minimis force includes the use of control holds or joint manipulation techniques in a manner that does not cause any pain, 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[.]" SPD Interim Policy 8.050.

<sup>2</sup> NE#3 and the DOC officer each appears to hold the Complainant's arm as she was lowered to the ground. The Complainant appeared to first contact the ground with her legs and buttocks. NE#3 appeared to lose his grip on NE#3, but the DOC officer continued lowering the Complainant onto her back.



*NE#1's knee is circled in green.*

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***8.200 - Using force, 8.200-POL 1. Use of force: When Authorized***

The Complainant alleged that NE#1 used excessive force.

For the reasons articulated at Named Employee #3, Allegation #1, 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, 8.200-POL 1. Use of force: When Authorized***

The Complainant alleged that NE#2 used excessive force.

For the reasons articulated at Named Employee #3, 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, 8.200-POL 1. Use of force: When Authorized***

The Complainant alleged that NE#3 used excessive force.

Any force used by an officer must be “objectively reasonable, necessary, and proportional to the threat or urgency of the situation, to achieve a law enforcement objective while protecting the life and safety of all persons.” 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, considering the circumstances surrounding the event.” SPD Interim Policy 8.050. Reasonableness must be judged from the perspective of a reasonable officer at the scene, *id.*,



and consider that officers are often forced to make “split-second decisions” under tense, dynamic circumstances. SPD Interim Policy 8.200-POL-1. There are several factors to weigh when evaluating reasonableness. *See id.* Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the type and amount” of force used was reasonable and proportional to effect the lawful purpose intended or to protect against the threat. *Id.* Last, the force must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

All three named employees used *de minimis* force to arrest the Complainant. Their use of force was objectively reasonable, necessary, and proportional. NE#3 had probable cause to arrest the Complainant for, at the very least, obstruction. After the Complainant disregarded NE#3’s orders and pulled away, it was objectively reasonable for NE#3 to take the Complainant to the ground to safely effect his lawful purpose of placing the Complainant in handcuffs. Similarly, the named employees used objectively reasonable force to overcome the Complainant’s resistance, gain control of her hands, and put her into handcuffs. Given the Complainant’s active resistance, there was no reasonable alternative to using force, and the named employees used the lowest possible force category. This low category of force was proportional to overcoming the Complainant’s resistance.

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

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

#### **Named Employee #3 - Allegation #2**

##### ***16.130 - Providing Medical Aid, 16.130-POL-2 Officers Providing Medical Aid, 1. Recognizing the Urgency of Providing Medical Aid ...***

The Complainant alleged that NE#3 failed to request medical aid for her at the scene.

Employees assisting a sick or injured person must determine the nature and cause of a person’s injury or illness and provide first aid or call for Emergency Medical Services as needed, except for injuries that can be treated with basic first aid. SPD Policy 16.130-POL-2(1). The policy further states, “[a]fter requesting a medical aid response, officers will render aid within the scope of their training unless aid is declined.” *Id.* Officers are required to provide medical assistance consistent with their training, with priority being given to officers certified as EMTs. *Id.* The consent of unconscious subjects is presumed under the policy. *Id.* Employees are expected to follow SPD standing orders from the SPD/SFD medical director, their training, and the SPD Manual concerning applying certain forms of first aid. *Id.*

Here, the Complainant complained she had asthma. After the Complainant was handcuffed, officers immediately put her into the recovery position and told her to take deep breaths. Officers assisted the Complainant to her feet, and she exhibited no difficulty walking, talking, yelling, or breathing. As the Complainant repeatedly said she was suffering an asthmatic attack, NE#3 asked how to treat that issue and learned she did not have an inhaler with her. The Complainant did not appear to require immediate medical treatment. The CAD call report showed that NE#3 requested that a medic meet them at the West Precinct’s sally port, where video showed the Complainant being evaluated by SFD. Video later showed the Complainant laughing and talking with another arrestee, and the Complainant was booked into King County Jail without further medical treatment.

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

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