



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 9, 2024

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

CASE NUMBER: 2024OPA-0093

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
# 2	6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest	Not Sustained - Lawful and Proper

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) used excessive force against her and arrested her without probable cause.

ADMINISTRATIVE NOTE:

On July 16, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant filed a web-based complaint alleging NE#1 used excessive force against her and arrested her without probable cause while she was participating in a protest. The Complainant wrote she was exercising her First Amendment rights when "a group of about ten police charged into our crowd." The Complainant wrote she was "pushed backward to the ground by those police," which caused her to hit her head on the pavement. The Complainant wrote she was arrested, but a nurse at King County Jail examined her head and sent her to the hospital because she had a "large lump" on her head.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, incident report, body-worn video, and photographs provided by the Complainant. The Complainant declined to be interviewed by OPA and instead answered questions by email. OPA also interviewed NE#1.

The CAD call report showed that, on February 9, 2024, multiple police officers—including NE#1—were assigned to work at a demonstration involving two to three dozen protesters.

In his incident report, NE#1 wrote that a demonstrator (Community Member #1 or CM#1) was blocking a vehicle attempting to enter a hotel parking lot. Police ordered CM#1 to move. CM#1 refused, and an SPD supervisor ordered his arrest. NE#1 wrote that, as officers apprehended CM#1, he observed a person—later identified as the Complainant—moving towards the scene, then stepping backward into CM#1 "to try and block officers from apprehending him." NE#1 wrote that he "grabbed" the Complainant's shoulder to move her away from the arrest



scene and commanded her to move. NE#1 described the Complainant as “shrugged off” his direction and “pushed harder into the arrest.” NE#1 wrote that he “grabbed” the Complainant and “told her to move again” while pulling her away. NE#1 wrote the Complainant “fell to the ground,” and he arrested her for obstruction.

OPA reviewed NE#1’s BWV, consistent with NE#1’s incident report. NE#1’s BWV showed the Complainant approaching to obstruct CM#1’s arrest:



The Complainant in an orange vest (indicated by a green arrow) approaching police officers apprehending CM#1 (indicated by red arrow).

NE#1’s BWV also showed NE#1 reaching towards the Complainant as she appeared to hold on to CM#1.



BWV from another officer also showed NE#1 using his hands to grab the Complainant.



NE#1 (blue arrow) using his hands to push on the Complainant (green arrow).

NE#1's BWV also showed the Complainant as she was falling and immediately after she fell.



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Complainant (in orange vest) as she was falling.



Complainant (green arrow) immediately after she fell.

The Complainant provided OPA with written responses to emailed questions. The Complainant's responses were consistent with her initial complaint. Specifically, the Complainant alleged that a group of police "charged" into the



group of protesters “without warning” and described being “pushed backward to the ground by those police,” causing her head to hit the ground. The Complainant stated this caused her to suffer a “head lump” (“hematoma”) but that treating doctors told her she likely did not suffer a concussion. The Complainant also alleged soreness, swelling, and other minor injuries. The Complainant provided photographs of her head injury and a photo of the top sheet of her medical paperwork.



Photograph of Complainant's injury.

OPA interviewed NE#1, whose statement was consistent with his incident report and BWV. NE#1 described the force he used against the Complainant as *de minimis* force¹ in a “push/pull manner” to move the Complainant no more than a foot out of the way. NE#1 stated the Complainant pushed back and pulled away from him, causing her to fall suddenly. NE#1 said he did not believe his actions caused the Complainant to fall as he was not using much force. Instead, NE#1 stated his belief that the Complainant may have lost her footing when she fell off the sidewalk. NE#1 denied violating policy, saying he had probable cause to arrest the Complainant for obstructing an arrest and that the force he used was *de minimis* and within policy.

ANALYSIS AND CONCLUSIONS:

¹ “*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.” SPD Policy 8.050. SPD policy provides examples of *de minimis* force, such as “using hands or equipment to stop, push back, separate or escort . . . without the use of sufficient force to cause pain.” SPD Policy 8.400. *De minimis* force is the lowest level of force defined by SPD Policy.



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.

SPD Interim Policy 8.200-POL-1 requires that force used by officers 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 allow for the fact that officers are often forced to make “split-second decisions” under tense, dynamic circumstances. SPD Interim Policy 8.200-POL-1. The policy also lists several 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 type and amount” of force used was reasonable and proportional to effect the lawful purpose intended or to protect against the threat. *Id.* Lastly, the force must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

NE#1 used objectively reasonable, necessary, and proportional force. As discussed below at Named Employee #1, Allegation #1, the Complainant intentionally and physically interfered with uniformed police officers effecting a lawful arrest. *See* Seattle Municipal Code 12A.16.010 – Obstructing a Public Officer. NE#1 used a *de minimis* level of force—a “push/pull”—to relocate the Complainant after ordering her multiple times to move. Although NE#1’s use of force was later classified as “Type I” due to the Complainant’s report of pain, and the Complainant later developed visible bruising, NE#1 did not use an amount of force reasonably likely to cause significant pain or injury. Nor did a reasonably effective alternative to the use of force appear to exist—the Complainant was intentionally physically interfering with a lawful arrest and refused multiple commands to move. Moreover, the type and amount of force employed by NE#1 was the lowest level available to effect his lawful purpose, even if the Complainant suffered a slightly higher level of injury than would usually be expected due to falling because of NE#1’s push/pull, losing her balance, tripping over her own feet, or falling off a sidewalk edge. Also, NE#1’s level of force was proportional to the level of resistance and interference the Complainant chose to employ to obstruct the police officers.

Finally, during her arrest, the Complainant repeatedly accused NE#1 of “hitting” her as well as “pushing” her. OPA did not observe any evidence to corroborate the Complainant’s allegation that NE#1 “hit” her. BWV suggests the opposite. More likely than not, NE#1 did not “hit” the Complainant.

Because NE#1 did use force to “push/pull” the Complainant, but the level of force was within policy, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #1 - Allegation #2

6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest

The Complainant alleged that NE#1 arrested her without probable cause.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and



Department policy. Probable cause exists when the facts and circumstances within an officer's knowledge are sufficient to support a reasonable belief that an offense has been or is being committed. *See State v. Fricks*, 91 Wash.2d 391, 588 P.2d 1328 (1979); *State v. Gluck*, 83 Wash.2d 424, 426–27, 518 P.2d 703 (1974).

As documented in NE#1's incident report and corroborated by BWV, NE#1 and other officers were ordered to arrest CM#1 after he blocked a vehicle against the lawful orders of a police officer and refused to move after being ordered to do so. When uniformed SPD officers attempted to make that arrest, BWV conclusively showed the Complainant physically interfering with the arrest even after NE#1 told her to move. Moreover, NE#1 described—and BWV corroborated—the Complainant physically resisting NE#1's attempts to move her using *de minimis* force. NE#1 had probable cause to arrest the Complainant for obstructing a public officer.²

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

Recommended Finding: **Not Sustained - Lawful and Proper**

² A person is guilty of obstructing a public officer when, among other things, they "intentionally and physically interfere with a public officer" or "intentionally hinder or delay a public officer by disobeying an order to stop given by such officer." SMC 12A.16.010.