



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 11, 2024

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

CASE NUMBER: 2024OPA-0127

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 (Effective April 24, 2023)	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 (Effective April 24, 2023)	Not Sustained - Lawful and Proper (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:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a fire near a ramp and arrested the Complainant for obstruction. The Complainant alleged that the named employees used unauthorized force by slamming him against the ground.

ADMINISTRATIVE NOTE:

This case was approved for 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 the named employees. As such, OPA did not interview the named employees in this case.

On April 22, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On March 15, 2024, the Seattle City Attorney's Office forwarded the Complainant's complaint to OPA. The Complainant wrote that he went to see a fire near a building he owned and encountered the named employees, who were aggressive and threatened arrest if he did not stay away. The Complainant alleged, "I believe that I was tripped and slammed to the asphalt pavement with both arms behind my back, unable to break my fall. Both officers then jumped on my back and placed knees on my back shoulders and the middle of my back." The Complainant wrote that he was arrested for obstruction.



OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), in-car video (ICV), witness video, police report, and use-of-force statement. OPA also interviewed the Complainant and Community Member #1 (CM#1)—a witness.

On March 10, 2024, at 3:50 PM, CAD call remarks noted, “GO [WITH SEATTLE FIRE DEPARTMENT] FOR TENT ON FIRE.”

The named employees’ BWV captured the following:

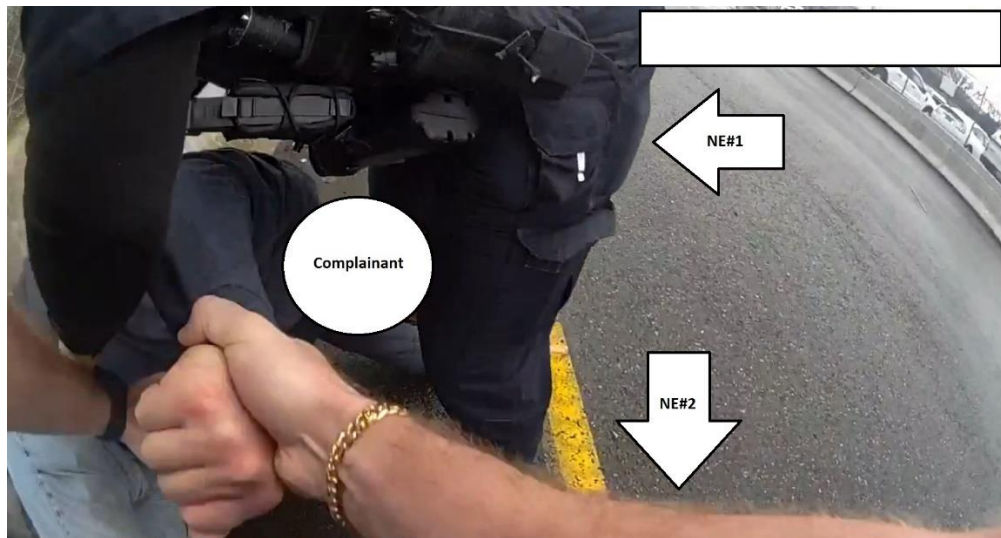
NE#1 walked past CM#1 on a ramp and directed her to leave. NE#1 approached the Complainant and told him to leave. The Complainant refused, saying emergency vehicles blocked the ramp. NE#1 again ordered the Complainant to leave, but he refused, extended his arms, and goaded NE#1 to arrest him. NE#1 warned the Complainant about handcuffing him if he did not get off the ramp, but the Complainant insisted on staying and threatened to sue NE#1. NE#2 parked his vehicle on the ramp, approached the Complainant, and ordered him to exit the ramp. The Complainant demanded the homeless people be removed from the area. NE#2 again ordered the Complainant to leave, but again, the Complainant extended his arms and goaded the named employees to arrest him. The Complainant refused to leave, saying he wanted to see what was happening since he owned the adjacent building. NE#1 noted potential dangers from the fire, like fumes or explosions from propane tanks.

The Complainant walked toward NE#2’s patrol cruiser, saying he would stand behind it. NE#1 grabbed the Complainant’s left arm as NE#2 pressed his hand against the Complainant’s chest. NE#2 told the Complainant, “No, you won’t.” The Complainant pulled his arm away from NE#1 and said, “Get your fucking hands off me.” NE#1 grabbed the Complainant’s left arm while NE#2 grabbed his right arm and positioned it behind his back. NE#1 grabbed the Complainant’s shoulder and pushed down, causing the Complainant to bend forward:



The Complainant fell, landing on his left side:¹

¹ According to NE#2’s police report, the Complainant “collapsed to the ground.” Additionally, CM#1’s recording captured the Complainant appearing to lose balance as he was bent forward. The Complainant’s head did not contact the ground when he fell.



The named employees rolled the Complainant onto his stomach, positioned his arms behind his back, and handcuffed him. NE#1 pressed his knee against the Complainant's left shoulder during handcuffing. The named employees escorted the Complainant to NE#1's patrol vehicle, where NE#1 told the Complainant he was being arrested for obstruction.

NE#2's police report was consistent with BWV observations. NE#1's type II² use of force statement documented the Complainant's fall as follows:

While still holding [the Complainant's] left wrist, I grabbed the back of his sweatshirt with my right hand and pulled toward me and down. Generally, I attempt to get resisting suspects on the ground where their size is no longer an advantage. I also find it removes the arm "tug of war" that occurs when a suspect is standing. This caused [the Complainant] to apparently lose balance and fall onto his left side. I believe [the Complainant] lost his balance partially because I was pulling him forward but also because we were on a sloped off-ramp. I had no intention of [the Complainant] freefalling to the ground, and after reviewing my footage, it appears my right hand, which had a hold of his sweatshirt, lost grip as he fell, causing him to fall uncontrolled.

On March 15, 2024, OPA interviewed the Complainant. The Complainant acknowledged he refused to comply with NE#1's order to leave but asserted his right to see what was happening since he owned the adjacent building. The Complainant alleged that the named employees slammed him against the ground.

On March 27, 2024, OPA interviewed CM#1. CM#1 said the named employees had no valid reason to remove witnesses from the ramp since a firetruck fully blocked it. CM#1 said the named employees threw the Complainant to the ground and pressed their knees against his back. CM#1 believed this use of force was unnecessary.

² Type II is force that causes, or is reasonably expected to cause, physical injury greater than transitory pain but less than great or substantial bodily harm. SPD Interim Policy 8.050 (effective April 24, 2023). Type II force includes a takedown that causes, or is reasonably expected to cause, injury. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).



ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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

The Complainant alleged that the named employees used unauthorized force.

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. *Id.*

The force was objectively reasonable in removing the noncompliant Complainant, who was ordered to leave multiple times due to the safety risks of the fire near the ramp. The force was necessary to prevent the Complainant from reaching NE#2's patrol vehicle, parked on the ramp. The force was proportionate with the officers' interest in arresting the Complainant, who disregarded lawful police commands. Here, the named employees utilized control holds to handcuff the Complainant, but he appeared to have lost balance and fell on his side, contrary to the Complainant's assertion that he was slammed against the ground. The named employees modulated their use of force after they handcuffed the Complainant. Overall, a preponderance of the evidence shows the named employees' use of force was objectively reasonable, necessary, and proportional under the circumstances.

Accordingly, 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 (Effective April 24, 2023)

For the reasons at Named Employee #1—Allegation #1, OPA recommends that this allegation be Not Sustained—Lawful and Proper (Expedited).

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