



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 15, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0130

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	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	8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	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 #3

Allegation(s):		Director's Findings
# 1	8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	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 #4

Allegation(s):		Director's Findings
# 1	8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	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 #5

Allegation(s):		Director's Findings
# 1	8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	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), #2 (NE#2), #3 (NE#3), #4 (NE#4), and #5 (NE#5)—Special Weapons And Tactics (SWAT) officers—responded to a call involving the Complainant allegedly assaulting a security guard. The Complainant barricaded himself in his apartment, was armed with knives, and had a history of mental health and substance abuse issues. To execute the Complainant's arrest, NE#1 deployed a noise flash diversion device (NFDD), NE#2 deployed an oleoresin capsicum (OC) aerosol grenade, NE#3 deployed a Taser, NE#4 deployed a 40mm less lethal launcher and a pepper ball launcher, and NE#5 applied his knee against the Complainant's back and pressed the muzzle of his rifle against the Complainant's upper back. The Complainant fell into a broken window after being Tased, causing a laceration to his right arm. It was alleged that the named employees inadequately de-escalated before using force. The Complainant alleged that the named employees used unauthorized force.

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 May 2, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

OPA completed its factual investigation within the 180-day period but did not timely file this DCM by the September 14, 2024, deadline given time constraints. As this was certified as an Expedited Investigation, no potential discipline was precluded by this untimeliness.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On March 18, 2024, OPA responded to a Force Investigation Team (FIT) callout and learned that SPD officers responded to an assault call involving the Complainant allegedly striking a victim with a chair, and then barricading himself in his apartment. SPD's hostage negotiation team (HNT) unsuccessfully negotiated the Complainant's surrender, requiring SWAT officers to deploy less lethal force. After officers entered the Complainant's apartment, an officer deployed his Taser, causing the Complainant to collide with a broken window that officers previously breached. The Complainant alleged that the named employees used unauthorized force.



OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), police reports, use of force reports, FIT reports, application for a search warrant, photographs, training records, and medical records. The Complainant's attorney did not respond to OPA's request to interview the Complainant.

B. Computer-Aided Dispatch (CAD) Call Report

On March 17, 2024, at 10:43 PM, CAD call remarks noted, "SEC[URITY] GUARD [ASSAULTED]" and was bleeding badly. At 10:47 PM, dispatch noted that officers located the suspect's apartment and had probable cause for assault. At 10:48 PM, dispatch noted that the suspect had knives in the apartment and used them during the assault. At 10:49 PM, dispatch noted the suspect's history of self-harm, suicidal attempts, having mental health issues, and using narcotics. At 10:55 PM, dispatch noted that the suspect barricaded his door. At 11:13 PM, dispatch noted an HNT callout. At 11:35 PM, dispatch noted officers' attempts to contact the suspect, who was considered armed because he was seen waving a knife. At 12:48 AM, dispatch noted a SWAT callout. At 1:04 AM, dispatch noted a judge approving a search warrant, authorizing SPD to enter the suspect's apartment.

C. Body-Worn Video (BWV)

BWV captured the following:

Officers developed probable cause to arrest the Complainant for assault,¹ secured an apartment hallway, and coordinated an arrest plan. The Complainant barricaded his apartment door. SWAT officers arrived, utilized a public address (PA) system, and knocked on the Complainant's door, attempting to communicate with him, but he did not respond. SWAT officers coordinated less lethal deployments, repeatedly warned the Complainant of these deployments, and attempted to persuade him to exit, but he did not respond. NE#1 and NE#4 were staged outside. NE#1 deployed an NFDD.² NE#4 deployed two rounds from a 40mm less lethal launcher, breaking the Complainant's window. After several minutes, NE#4 deployed multiple pepper balls into the Complainant's apartment.³ No person was injured or struck by projectiles

A SWAT officer breached the Complainant's door using a ram.⁴ A refrigerator obstructed the doorway, and a washer and dryer were behind the refrigerator. NE#5 raised his rifle over the refrigerator and ordered the Complainant to exit with his hands raised. NE#2 threw an OC aerosol grenade into the apartment, and the officers slowly retreated to the hallway.⁵ The Complainant disobeyed commands to exit. SWAT officers reapproached, removed the refrigerator, and ordered the Complainant to exit. The washer and dryer partially obstructed the doorway. SWAT officers slowly retreated to the hallway as the Complainant repeatedly shouted, "Back up!" NE#3 deployed his Taser through the gap

¹ A witness officer's police report stated that the Complainant, known for causing multiple disturbances at his apartment building, assaulted a security guard, causing significant bleeding due to a laceration to his head.

² NE#1's use of force report stated that an NFDD deployment "is minimal force and usually convinces suspects to surrender without injury to persons or property. It helps mitigate an escalation of force by having any suspects/subjects give up." NE#1 noted that the NFDD detonated on the awning as intended. This diversionary device is commonly referred to as a flashbang.

³ NE#4's use of force report stated that a pepper ball launcher uses compressed air to fire small balls that act as an irritant, akin to a pepper spray. NE#4 noted that the Complainant showed no signs of being affected by these deployments.

⁴ NE#2's use of force report stated that a reconnaissance robot deployed into the apartment found the Complainant holding a knife.

⁵ NE#2's use of force report stated that he deployed the OC aerosol grenade to prevent the Complainant from attacking SWAT officers as they retreated.



between the refrigerator and stacked washer and dryer when the Complainant appeared near the doorway. NE#3 appeared to have missed. The Complainant moved the washer and dryer to further obstruct the doorway.

NE#3 and NE#5 reapproached the doorway. NE#3 deployed his Taser, and NE#5 shouted, "He's down! He's down!" NE#5 knocked over the washer and dryer and entered the apartment with NE#3 and other SWAT officers. The Complainant stood near the broken window and grabbed a suitcase while facing the officers. NE#3 deployed his Taser, and the Complainant fell backward, dropped the suitcase, and flailed his arms above and behind him, striking the broken window. Sounds of glass breaking could be heard. SWAT officers grabbed the Complainant, guided him to the ground in the prone position, and handcuffed him. NE#5 pressed the muzzle of his rifle against the Complainant's upper back during handcuffing, as the Complainant was still resisting, tensed up and fighting. Also, NE#5 was aware there were shards of glass the Complainant could have access to and could slash officers. A SWAT officer applied a tourniquet to the Complainant's right arm, which was lacerated. SWAT officers carried the Complainant to Seattle Fire Department personnel, who evaluated him.

D. Force Investigation Team (FIT) Interview

On March 18, 2024, FIT interviewed the Complainant. The Complainant acknowledged hearing warnings but denied assaulting anyone. The Complainant said he barricaded his door because he believed officers were trying to kill him. The Complainant described less lethal deployments being fired into his apartment. The Complainant said he picked up the suitcase to defend himself after officers entered his apartment. The Complainant said he struck the broken window after he was Tased.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)

It was alleged that the named employees inadequately de-escalated before using force.

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force. SPD Interim Policy 8.100-POL-1 (effective April 24, 2023). Officers are encouraged to use team approaches to consider whether any officer has successfully established a rapport with the subject. *Id.* De-escalation options should be guided by the totality of the circumstances. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

The named employees and other officers repeatedly attempted to communicate with the Complainant via phone, in person through the Complainant's door, and through a PA system. Officers also provided multiple less lethal deployment warnings. The named employees and other officers attempted to negotiate a resolution for several hours despite the Complainant refusing to respond or comply with commands. The named employees and other officers maintained their distance from the Complainant as they communicated with him, deployed less lethal munitions, and positioned themselves in the hallway. The named employees and other officers shielded themselves using existing structures in the apartment building and their SWAT vehicles outside the building. Overall, a preponderance of the evidence shows the named employees adequately de-escalated using communication, time, distance, and shielding to minimize the need for force.



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

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

Named Employee #1 – Allegation #2

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

The Complainant alleged that NE#1 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). Proportional force must reflect the totality of circumstances of the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and circumstances to decide an appropriate level of force. *Id.*

NE#1's NFDD deployment was objectively reasonable, necessary, and proportional under the circumstances. The Complainant was armed, noncompliant, unpredictable, and dangerous. The Complainant posed an enormous threat to officers and the public after assaulting a security guard and threatening to kill him. Officers secured a search warrant during their prolonged attempts to negotiate a resolution, but the Complainant was uncooperative, agitated, and armed with a knife. NE#1 noted that an NFDD deployment was "minimal force" intended to convince a suspect to surrender without injury to persons or property. Although it did not achieve this objective, a preponderance of the evidence shows NE#1's NFDD deployment was justified 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

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)

For the reasons at Named Employee #1 – 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 #2



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

The Complainant alleged that NE#2 used unauthorized force.

NE#2's OC aerosol grenade deployment was objectively reasonable, necessary, and proportional for the same reasons articulated in Named Employee #1 – Allegation #2. NE#2 noted that he deployed the OC aerosol grenade to prevent the Complainant from attacking officers as they retreated. Overall, a preponderance of the evidence shows NE#2's OC aerosol grenade deployment was justified under the circumstances, given the threat the Complainant posed to the officers.

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

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

Named Employee #3 – Allegation #1

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)

For the reasons at Named Employee #1 – 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 #2

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

The Complainant alleged that NE#3 used unauthorized force.

NE#3's Taser deployments were objectively reasonable, necessary, and proportional for the same reasons articulated in Named Employee #1 – Allegation #2. Prior less lethal deployments were ineffective since the Complainant continually resisted the officers. Without effectively incapacitating the Complainant, officers would be forced to physically engage him near broken glass, posing enormous safety risks to the officers. Moreover, the Complainant could use broken glass as a weapon—a situation conducive to lethal force being used against him. Ultimately, NE#3's Taser deployments effectively incapacitated the Complainant, allowing officers to safely enter the apartment to arrest him. Overall, a preponderance of the evidence shows NE#3's Taser deployments were justified 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 #4 – Allegation #1

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)



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

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

Named Employee #4 – Allegation #2

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

The Complainant alleged that NE#4 used unauthorized force.

NE#4's 40mm and pepper ball deployments were objectively reasonable, necessary, and proportional for the same reasons articulated in Named Employee #1 – Allegation #2. NE#4's 40mm deployments broke the Complainant's window, allowing her to deploy pepper balls into the apartment. A SWAT commander approved NE#4's deployments, given the Complainant's resistance to arrest. NE#4's devices were not intended to cause death or great bodily harm. Overall, a preponderance of the evidence shows NE#4's 40mm and pepper ball deployments were justified 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 #5 – Allegation #1

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)

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

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

Named Employee #5 – Allegation #2

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

The Complainant alleged that NE#5 used unauthorized force.

NE#5's use of force—consisting of applying his right knee against the Complainant's lower back and pressing the muzzle of his rifle against the Complainant's upper back—was objectively reasonable, necessary, and proportional for the same reasons articulated in Named Employee #1 – Allegation #2. NE#5 maintained control holds and provided lethal cover in case the Complainant used broken glass as a weapon against the officers. Also, NE#5's rifle positioning was intended to avoid potentially firing at officers in close quarters. Overall, a preponderance of the evidence shows NE#5's use of force was justified under the circumstances.

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

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