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From: Director Gino Betts, Jr. 
Office of Police Accountability

Case Number: 2024OPA-0157

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional
Finding: Sustained
 2. **Allegation #2:** 8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force (Effective April 24, 2023)
Finding: Sustained
 3. **Allegation #3:** 6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope
Finding: Not Sustained - Lawful and Proper
 4. **Allegation #4:** 6.010 – Arrests, 6.010-POL-1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest
Finding: Not Sustained - Lawful and Proper
 5. **Allegation #5:** 8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)
Finding: Not Sustained - Training Referral
- **Imposed Discipline:** Written Reprimand

Named Employee #2

1. **Allegation #1:** 6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional
Finding: Sustained
 2. **Allegation #2:** 8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force (Effective April 24, 2023)
Finding: Sustained
 3. **Allegation #3:** 8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)
Finding: Not Sustained - Lawful and Proper
 4. **Allegation #4:** 6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope
Finding: Not Sustained - Lawful and Proper
 5. **Allegation #5:** 6.010 – Arrests, 6.010-POL-1. Officers Must Have Probable Cause That a Suspect Committed a Crime to Effect an Arrest
Finding: Not Sustained - Lawful and Proper
- **Imposed Discipline:** Written Reprimand

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a disturbance incident at a Red Robin and engaged Community Member #1 (CM#1), standing outside with two security guards. After a brief discussion, the named employees used force, including a takedown and a Taser deployment, to handcuff CM#1. NE#1 also used a knife to cut the straps of CM#1's backpack during the struggle. The Complainant—an SPD administrative lieutenant—alleged that the named employees failed to advise CM#1 they were recording and failed to provide their names, rank, law enforcement affiliation, and the reason for the detainment. The Complainant alleged that the named employees failed to de-escalate and used unauthorized force during CM#1's arrest. The Complainant alleged that the named employees exceeded the scope of a Terry stop by handcuffing CM#1 and lacked probable cause to arrest CM#1.

Administrative Note:

During its intake investigation, OPA identified Witness Supervisor #1 (WS#1) as failing to note potential policy violations that occurred during this incident. OPA sent WS#1's possible violation

of SPD Interim Policy 8.400-TSK-10 (Sergeant's Responsibilities During a Type II Investigation) to his chain of command for Supervisor Action. Supervisor Actions generally involve a minor policy violation or performance issue the employee's supervisor addresses through training, communication, or coaching. See OPA Internal Operations and Training Manual section 5.4(B)(ii).

On August 20, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

A. OPA Complaint

On April 1, 2024, the Complainant submitted an OPA complaint, writing that the named employees responded to a disturbance at a Red Robin and, within roughly 70 seconds of contacting CM#1, used force against CM#1, including a takedown, a cross-face maneuver, and two Taser deployments. The Complainant wrote that NE#1 used a knife to CM#1's backpack straps during the struggle, and NE#2 nearly struck NE#1's hand with a Taser probe. The Complainant wrote that the named employees quickly used force rather than exploring de-escalatory options. The Complainant alleged that the named employees performed an inadequate investigation before using force, relying primarily on dispatch updates. The Complainant noted several investigatory deficiencies, like failing to interview the security guards, restaurant employees, and the assault victim before using force and failing to seek security camera footage. The Complainant also alleged that the named employees failed to advise CM#1 they were recording and failed to provide their names, rank, status as Seattle police officers, and reason for the detainment. The Complainant wrote that NE#2 unlawfully arrested CM#1 for obstruction because CM#1 was not required to identify himself or discuss the incident with the named employees.

OPA opened an investigation, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), in-car video, police report, and use-of-force statements. OPA also interviewed the named employees.

B. Computer-Aided Dispatch (CAD) Call Report

On March 10, 2024, at 3:48 PM, CAD call remarks noted, "DIST[URBANCE] HEARD AND SHOUTING HEARD, UNK[NOWN] WHAT IS GOING ON." At 3:49 PM, an update from a dispatcher indicated that two customers were fighting. At 3:51 PM, dispatch described the suspect's physical features. At 3:52 PM, dispatch noted that the reporting party and the suspect, possibly intoxicated, stood near the front door while the victim was inside awaiting police. Dispatch also noted that the assault began when the suspect was asked to leave, and a customer tried to assist in removing the suspect.

C. Body-Worn Video (BWV)

The named employees' BWV captured the following: The named employees approached a Red Robin where CM#1 and two security guards stood. CM#1 wore a backpack and a multi-tool on his waist:



NE#1 asked what occurred, and CM#1 replied, "Well, why don't we look at the cameras and see what happened? And then we could figure it out from there." NE#1 asked again, and CM#1 replied, "I don't know. Something happened, apparently." NE#2 said they would not look at the cameras, and CM#1 replied, "Well, that doesn't make any sense." NE#2 said he wanted to hear CM#1's account instead of wasting time. CM#1 said he would "take it to the box." NE#2 indicated that he did not know what that meant. CM#1 said, "So, I don't believe you? You just made weird eye contact with your partner." NE#2 asked the security guards whether they wanted CM#1 to be trespassing, and one replied yes. NE#2 asked CM#1 for his name, but CM#1 said he did not have one. NE#2 said he would run CM#1's fingerprints and asked whether CM#1 wanted to go to jail. CM#1 replied, "Honestly, I just got out of prison, and it's no fucking, you know what I'm saying?... It's no skin off my nose or whatever."

NE#1 said, "Then you can just go in handcuffs right now." NE#1's police report stated, "Due to his uncooperativeness and demeanor, I believe it was necessary to put [CM#1] in handcuffs while he was detained to further investigate the alleged assault on the other patron." The named employees stepped toward CM#1, who said "no," "hold on," and raised his hands. The named employees grabbed CM#1. NE#2 said, "We don't play that fucking game." CM#1 pulled his arms toward his stomach. NE#1 pressed down against CM#1's shoulder, causing CM#1 to slump over:



The named employees sat CM#1 on the ground and then onto his left side. NE#2's use-of-force statement stated that he used a cross-face tactic on CM#1, meaning he placed his forearm against CM#1's jawline to force CM#1 onto his stomach. NE#2 sat on CM#1's right side and pressed his hand against CM#1's head as CM#1 pulled his arms toward his upper chest. NE#1's police report described CM#1 as turtling his arms to resist handcuffing:



NE#2 said, "Alright. So, put your hands behind your back, or I'm going to pull my Taser out, and I'm going to Tase you." NE#2 tried pulling CM#1's right arm out, but CM#1 appeared to resist. NE#1 drew his knife and cut a strap from CM#1's backpack. NE#2 drew his Taser and said, "You're not listening. You're going to get Tased," and activated his Taser, causing it to flash:



The named employees ordered CM#1 to put his hands behind his back, but CM#1 kept his arms in front of him. NE#1 placed his right hand—which held a knife—against CM#1's right shoulder:



NE#2 deployed his Taser at CM#1's back, and NE#1 said, "Oh, you almost got my finger, bro." NE#2's Taser beeped. CM#1 grimaced and whimpered. NE#1 maneuvered CM#1 on his stomach and pressed his knee against CM#1's upper back. NE#2 sat on CM#1's legs, held CM#1's right wrist behind CM#1's back, and said, "Okay, you relax, or you're getting another ride. You understand me?" NE#1 cut another strap from CM#1's backpack, moved the backpack aside, and placed his knife on the ground. NE#2 shouted, "Put your hand behind your back now!" NE#1 tried pulling CM#1's left arm from under CM#1's stomach:



CM#1 said, "Listen, dog. Hey!" NE#2 deployed his Taser, which beeped again. NE#1 pulled CM#1's left arm out and positioned it behind CM#1's back. CM#1 said, "Alright, we're going. We're going, dog." NE#2 said, "Okay—last time. Keep your hand, or you're going to get another ride. I will give you three." NE#2 asked NE#1 whether he was alright, and NE#1 replied, "Yeah, I'm fine. You almost got my finger, though." NE#1 handcuffed CM#1.

NE#1 entered the Red Robin and interviewed Community Member #2 (CM#2), who said CM#1 entered the restaurant and caused a disturbance. CM#2 said he confronted CM#1 when CM#1 went too close to CM#2's fiancée. CM#2 said CM#1 pressed his forearm against CM#2's chest, prompting CM#2 to take down CM#1 in a headlock. CM#2 said he released CM#1, and security guards escorted CM#1 out of the restaurant.

D. Use of Force Reports

Named Employee #1

NE#1's type II use of force statement documented that he reasonably suspected CM#1 committed assault, justifying CM#1's detainment. 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, among other things, a Taser deployment or a takedown that causes, or is reasonably expected to cause, injury. SPD Interim Policy 8.400-POL-1 (effective April 24, 2023). NE#1 wrote that CM#1 was armed with a Leatherman attached to his belt. NE#1 believed handcuffing CM#1 was necessary because CM#1 posed a threat to officer and patron safety since CM#1 possessed a weapon, allegedly assaulted a patron, and was likely high on methamphetamine. NE#1 wrote that he could no longer verbally de-escalate when CM#1 resisted handcuffing. NE#1's description of his use of force was consistent with BWV observations.

Named Employee #2

NE#2's type II use of force statement documented that he reasonably suspected CM#1 committed assault, justifying CM#1's detainment, and had probable cause that CM#1 committed obstruction for refusing to identify himself. NE#2 wrote that he utilized verbal de-escalatory tactics, including talking loudly and clearly and asking simple questions. NE#2 concluded that verbal de-escalation was ineffective because CM#1 appeared to be high on methamphetamine and expressed no concern about going to jail. NE#2 wrote that they decided to handcuff CM#1 based on his increasing aggressive behavior, lack of cooperation, showing pre-attack indicators like puffing his chest and raising his hands, and aggressive statements.

NE#2's description of his use of force was consistent with BWV observations. NE#2 wrote that CM#1 turtled his hands toward his stomach, where a Leatherman was located, raising concern that CM#1 could have used it as a weapon. NE#2 wrote that he deployed two five-second cycles from his Taser when CM#1 disobeyed orders to remove his hands underneath him. NE#2 wrote that CM#1 complied after the second Taser deployment.

E. OPA Interviews

Named Employee #1

On July 11, 2024, OPA interviewed NE#1. NE#1 said he and his partner, NE#2, were responsible for the call. NE#1 said their tactical plan was to handcuff the suspect for officer safety and ensure scene security. NE#1 said he responded to the scene knowing that CM#1 was the primary aggressor who fought another person inside Red Robin but denied knowing how many people

were involved or whether there were any witnesses. NE#1 said he would have been uncomfortable if one officer stayed with CM#1 while another officer interviewed witnesses inside because CM#1 appeared to be high on methamphetamine and was an armed and violent suspect. NE#1 said backing officers were en route but did not want to give CM#1 time to formulate a plan to fight or flee.

NE#1 acknowledged he did not provide policy-required advisements (name, rank or title, Seattle police officer status, reason for the stop, and recording) to CM#1 but noted that he wore a police officer and arrived in a police vehicle. NE#1 described handcuffing CM#1 as a de-escalatory tactic because it prevented NE#1 from using a higher level of force against an armed and unpredictable suspect. NE#1 said they communicated with CM#1, gave CM#1 time to cooperate, kept their distance from CM#1, and did not use shielding.

NE#1 believed handcuffing CM#1 was necessary because he believed CM#1 was high on methamphetamine, noncooperative, a violent suspect for allegedly assaulting a patron, possessed a multi-tool that he could have used as a weapon, and displayed pre-fight or pre-flight indicators. NE#1 expressed discomfort being around CM#1, not handcuffed. NE#1 said he detained CM#1 because he reasonably suspected CM#1 committed assault. NE#1 believed the threat CM#1 posed, including CM#1 being high, armed, and assaultive with patrons, provided additional articulable justification to handcuff him during the *Terry* stop. NE#1 said he had probable cause for obstruction when CM#1 refused to identify himself and had probable cause for assault after interviewing CM#2 inside Red Robin.

NE#1 said he used a knife to cut the straps from CM#1's backpack because it obstructed handcuffing, and he did not know its contents. NE#1 said removing CM#1's backpack allowed NE#2 to Tase CM#1 effectively. NE#1 insisted he adequately controlled his knife since CM#1 was not actively fighting. NE#1 acknowledged he could have assisted NE#2 in handcuffing CM#1 instead of removing the backpack, but NE#1 said handcuffing CM#1 would have been "extremely difficult" if he did not remove it. NE#1 acknowledged he could have removed the backpack after CM#1 was handcuffed. NE#1 described his use of force as minimal but objectively reasonable, necessary, and proportional.

Named Employee #2

On July 11, 2024, OPA interviewed NE#2. NE#2 said he and his partner, NE#1, were responsible for the call. NE#2 said their tactical plan was to handcuff the suspect for officer safety. NE#2 said he knew "very minimal information" about the assault and denied knowing how many people were involved or whether there were any witnesses. NE#2 said he saw a Leatherman sheath on CM#1's hip before contacting CM#1. NE#2 said he would have been uncomfortable if one officer stayed with CM#1 while another officer interviewed witnesses inside because CM#1 was noncooperative, aggressive, appeared to be high on methamphetamine, and possessed a weapon on his hip. NE#2 acknowledged that he could have requested backing officers to secure CM#1 during the primary investigation but believed that option was infeasible once CM#1 displayed pre-attack indicators, like changing his posture and puffing his chest.

NE#2 acknowledged he did not provide policy-required advisements (name, rank or title, Seattle police officer status, reason for the stop, and recording) to CM#1 but noted that he wore a police uniform and arrived in a police vehicle. NE#2 said CM#1 was noncooperative despite the named employees' attempts to de-escalate by asking questions. NE#2 said they communicated to gain voluntary compliance, took their time to achieve compliance, kept their distance from CM#1, knowing he was potentially armed, and did not use shielding since they stood in front of a busy restaurant. NE#2 suggested that de-escalation was infeasible.

NE#2 said he detained CM#1 while they investigated the alleged assault. NE#2 believed the threat CM#1 posed, CM#1's unpredictability, and CM#1 presenting high levels of resistance because he was likely high on methamphetamine provided additional articulable justification to handcuff him during the *Terry* stop. NE#2 said he had probable cause for obstruction when CM#1 failed to identify himself, and they needed CM#1's name to trespass him. NE#2 said he Tased CM#1 twice because CM#1 refused to position his hands behind his back and turtled his hands near his stomach where a multi-tool was located. NE#2 argued his use of force was objectively reasonable based on the threat CM#1 posed since he was armed, necessary to effect CM#1's arrest with minimal bodily injury, and proportional to the threat the named employees faced. NE#2 said he was so focused on CM#1 that he did not see NE#1 cutting the backpack straps but believed any assistance from NE#1 during the struggle would have been ineffective since CM#1 presented high resistance levels. NE#2 said he had probable cause for assault when NE#1 interviewed CM#2 after handcuffing CM#1.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional

The Complainant alleged that the named employees failed to advise CM#1 they were recording and failed to provide their names, rank, status as Seattle police officers, and reason for the detainment.

During a *Terry* stop, officers will take reasonable steps to be courteous and professional. SPD Policy 6.220-POL-2(4). When reasonable, as early in the contact as safety permits, officers will inform the suspect of the officer's name, rank, or title, the fact that the officer is a Seattle police officer, the reason for the stop, and that the stop is being recorded, if applicable. *Id.*

The named employees acknowledged that they did not provide the policy-required advisements but believed their omission was excused because they were observably police officers. That misplaced understanding would render SPD Policy 6.220-POL-2(4) unnecessary if patrol officers could justify their omission by citing their uniform and marked vehicle. The policy required the named employees to provide five specific advisements to CM#1 "as early in the contact as safety permits." The named employees failed to provide these advisements during their contact with CM#1 despite the time and opportunity to do so.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 – Allegation #2

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

The Complainant alleged that the named employees failed to de-escalate 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.* The totality of the circumstances should guide de-escalation options. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

The named employees inadequately de-escalated before using force. First, the named employees did not use verbal techniques, such as Listening and Explaining with Equity and Dignity (LEED), to calm CM#1 and promote rational decision-making. Instead, their language was escalatory. NE#2 told CM#1 to stop wasting time and that officers would not review security footage as CM#1 suggested. NE#2 also asked CM#1 whether he wanted to go to jail. After CM#1 explained he was recently released from incarceration, NE#1 told CM#1 that he could “just go in handcuffs right now.”

While the named employees attempted to obtain CM#1’s account when they initially contacted him, they appeared dissatisfied with his responses, as NE#2 communicated upon grabbing CM#1 (“We don’t play that fucking game”). Second, the named employees did not slow down or stabilize the situation to give themselves more time for backing officers to arrive and assist. They abandoned time when they preplanned to handcuff CM#1, which was evident when their verbal interaction lasted roughly 72 seconds. The named employees argued that they needed to handcuff CM#1 when they detected pre-flight or pre-fight “indicators.” However, these purported indicators were not readily apparent to their chain of command or OPA. Moreover, the named employees did not utilize time by waiting for backing officers to arrive before attempting to handcuff CM#1. Overall, a preponderance of the evidence shows the named employees inadequately utilized communication and time to de-escalate the situation.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 – Allegation #3

6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope

The Complainant alleged that the named employees exceeded the scope of a *Terry* stop by handcuffing CM#1.

Officers must limit a seizure to a reasonable scope. SPD Policy 6.220-POL-2(2). Actions that indicate to a reasonable person that they are being arrested or indefinitely detained may convert a *Terry* stop into an arrest. *Id.* The policy lists possible actions—such as handcuffing or using force—that could indicate to a reasonable person that they are being arrested. Still, it specifies that the occurrence of any one of these actions would not necessarily convert a *Terry* stop into an arrest. *See id.* Officers must have additional articulable justification for further limiting a person’s freedom during a *Terry* stop unless the reasons for the initial stop justify it. *Id.*

The named employees had sufficient reasonable suspicion to detain CM#1 upon arrival. The reporting party—a security guard—called 911 to report a physical altercation and described the primary aggressor’s physical features, which dispatch relayed to the named employees. Dispatch also conveyed that the primary aggressor and the reporting party stood outside Red Robin. Upon arriving, the named employees found CM#1 matching the physical description and two security guards at the front of Red Robin, justifying CM#1’s detainment.

Moreover, the named employees had “additional articulable justification” to further limit CM#1’s freedom by handcuffing him for officer safety. CM#1 wore a multi-tool on his waist, which he could have used as a weapon. The named employees described CM#1 as a violent suspect who allegedly assaulted a patron, noncooperative with their investigation, intoxicated, and likely high on methamphetamine, raising concerns that he could exhibit high levels of resistance. The totality of these facts justified CM#1 being handcuffed.

OPA cautions that while the named employees had sufficient justification for handcuffing CM#1 for officer safety, their de-escalation responsibility was not excused. Telling CM#1, “Then you can just go in handcuffs right now,” was escalatory and contrary to the principles of LEED. It also abandoned distance, requiring the named employees to physically approach CM#1 when they could have attempted to direct CM#1 to lie or sit on the ground, lean up against a wall, or keep both of his hands visible.

Ultimately, because the named employees had sufficient justification for handcuffing CM#1 for officer safety, OPA recommends that this allegation be Not Sustained—Lawful and Proper.

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

Named Employee #1 – Allegation #4

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

The Complainant alleged that the named employees lacked probable cause to arrest CM#1.

Officers must have probable cause that a suspect committed a crime when effectuating an arrest. SPD Policy 6.010- POL-1. 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).

Upon contacting CM#1, the named employees had reasonable suspicion that CM#1 committed assault based on a 911 caller identifying CM#1 as the primary aggressor in a disturbance incident. Without interviewing the victim or witnesses, watching the video, or completing other basic investigatory steps, the named employees lacked probable cause to arrest CM#1. At most, they had reasonable suspicion to detain CM#1 and articulable justification to handcuff CM#1. Contrary to the named employees' assertions, they did not have probable cause to arrest CM#1 for obstruction when he refused to identify himself or cooperate with their investigation. See SPD Policy 6.220-POL-2(5) (stating that officers cannot require subjects to identify themselves or answer questions on a *Terry* stop).

However, the named employees developed probable cause for obstruction when CM#1 pulled away and resisted their lawful attempt to place him in handcuffs. Later, the named employees developed separate probable cause for fourth-degree assault after NE#1 interviewed CM#2, who described a physical altercation involving CM#1 as the primary aggressor. Therefore, CM#1's arrest was supported by probable cause.

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

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

Named Employee #1 – Allegation #5

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 during CM#1's arrest.

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.*

NE#1's use of force—consisting of control holds and handcuffing CM#1—was objectively reasonable. CM#1 disobeyed the named employees' orders to position his hands behind his back. Instead, CM#1 turtled his hands near an area where a multi-tool was located, heightening concerns that CM#1 could have reached for it and used it as a weapon. The named employees also articulated concerns about CM#1 being a violent suspect and exhibiting high levels of resistance because they believed he was high on methamphetamine. Force was necessary because CM#1 resisted handcuffing. NE#1's use of force was proportional, given CM#1's resistance and noncompliance. NE#1 used relatively low-level force to maneuver CM#1 to the ground and position his arms behind his back to handcuff him. NE#1 modulated his force after handcuffing CM#1. Overall, a preponderance of the evidence shows NE#1's use of force was objectively reasonable, necessary, and proportional under the circumstances.

However, NE#1 using a knife to cut CM#1's backpack while struggling with him was particularly concerning. BWV captured NE#1's knife in proximity to CM#1's face such that any sudden movement could have seriously injured CM#1. Moreover, after NE#1 cut CM#1's backpack straps, NE#1 set his knife on the ground within a reachable distance from CM#1. NE#1's decision to introduce a knife during the struggle—before CM#1 was adequately controlled—reflected poor judgment because it created an unnecessary safety risk. NE#1 claimed that the backpack obstructed handcuffing and insisted he adequately controlled his knife. But because NE#1 prioritized removing CM#1's backpack during the struggle, NE#2 was forced to singlehandedly un-turtle CM#1's arms and then resorted to a Taser deployment because he was unsuccessful in doing so. NE#1 instead should have prioritized assisting NE#2 in controlling CM#1's arms, which could have prevented the need to deploy the Taser. NE#1's unwise tactical choices necessitate a training referral.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with him, including SPD-trained tactics when physically engaging a subject, and provide retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #2 – Allegation #1

6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 – Allegation #2

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

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 – Allegation #3

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 during CM#1's arrest.

A preponderance of the evidence shows NE#2's use of force—consisting of control holds and Tasing CM#1 twice—was objectively reasonable, necessary, and proportional for many of the same reasons articulated in Named Employee #1 – Allegation #5. Namely, CM#1 was an assault suspect who resisted handcuffing, was noncompliant and turtled his arms near his multi-tool. NE#2 warned CM#1 before both Taser deployments, but CM#1 disobeyed orders to position his hands behind his back. NE#2's first Taser deployment was partially effective because it allowed the named employees to maneuver CM#1 in the prone position and un-turtle one arm. NE#2's second Taser deployment was effective because it allowed NE#2 to un-turtle CM#1's remaining arm for handcuffing.

Although NE#2 nearly shot a Taser probe into NE#1's hand, OPA notes that NE#1's hands were near CM#1's back because NE#1 prioritized removing CM#1's backpack instead of assisting NE#2 in controlling CM#1's arms. Because of NE#1's decision, NE#2 was forced to simultaneously control CM#1's arm and deploy the Taser. Notwithstanding NE#1's tactical decision, NE#2's two Taser deployments were objectively reasonable, necessary, and proportional under the totality of the circumstances to overcome CM#1's level of resistance.

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

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

Named Employee #2 – Allegation #4

6.220 – Voluntary Contacts, Terry Stops, and Detentions, 6.220-POL-2 Conducting a Terry Stop, 2. During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope

For the reasons at Named Employee #1—Allegation #3, OPA recommends that this allegation be Not Sustained— Lawful and Proper.

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

Named Employee #2 – Allegation #5

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

For the reasons at Named Employee #1—Allegation #4, OPA recommends that this allegation be Not Sustained— Lawful and Proper.

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