



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 29, 2024

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

CASE NUMBER: 2024OPA-0161

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 - Unfounded (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 - Unfounded (Expedited)

Named Employee #3

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 - 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:

Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) arrested the Complainant for driving under the influence (DUI). The Complainant alleged that the named employees used unauthorized force during his arrest.

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 8, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On April 4, 2024, the Complainant filed an OPA complaint, writing that during a traffic stop, three officers pinned him against his vehicle as they handcuffed him, injuring his shoulder.



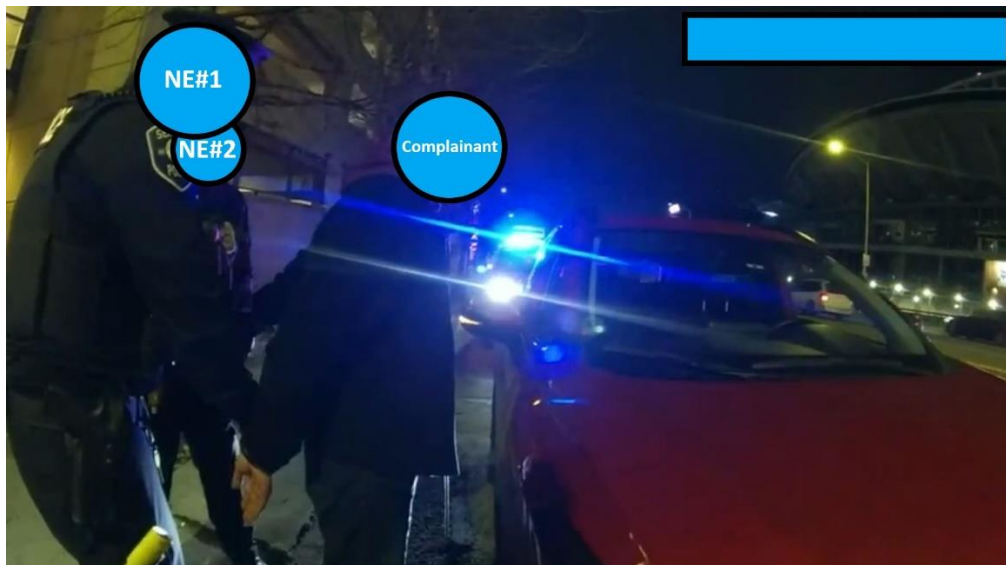
OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident report. The Complainant did not respond to OPA's requests for an interview.

On January 24, 2024, at 1:13 AM, CAD call remarks noted the Complainant's license plate number. Additionally, "TRAFFIC STOP – OFFICER INITIATED ONVIEW" was coded into CAD.

BWV captured the following:

NE#1 conducted a traffic stop on the Complainant. NE#1 approached the Complainant and told him he was pulled over for inactive headlights.¹ The Complainant acknowledged drinking earlier in the evening. NE#1 obtained the Complainant's driver's license, returned to his patrol vehicle, and ran the Complainant's information. NE#1 reapproached the Complainant and asked him to exit the vehicle. The Complainant complied. During NE#1's DUI investigation, the Complainant declined to take field sobriety tests. NE#1 radioed for backing officers and told the Complainant he would be arrested for DUI once backing officers arrived.

NE#2 and NE#3 arrived. NE#1 told the Complainant, "Turn around. Face your car." The Complainant complied. NE#1 said, "At this time, you are under arrest for DUI." NE#1 and NE#2 handcuffed the Complainant as NE#3 stood next to NE#1. The Complainant did not physically contact his vehicle during handcuffing:



NE#2 placed his hand on the Complainant's left shoulder after he was handcuffed. NE#1 Mirandized the Complainant, searched him, and transported him to the West Precinct.

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)

¹ NE#1's police report stated that he smelled alcohol from the Complainant, who had watery and bloodshot eyes.



The Complainant alleged that the named employees used unauthorized force by pinning him against his vehicle during handcuffing.

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.*

BWV disproved the Complainant's allegation. The Complainant did not physically touch his vehicle during handcuffing. In fact, the Complainant was never pinned against his vehicle throughout his contact with the named employees. During handcuffing, NE#1 and NE#2 applied *de minimis* force,² which was objectively reasonable, necessary, and proportional once NE#1 had probable cause to arrest the Complainant for DUI. Moreover, the Complainant did not express pain when NE#2 placed his hand on the Complainant's left shoulder during a search incident to arrest. Finally, BWV did not capture NE#3 applying any force against the Complainant after arriving on scene.

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

Recommended Finding: **Not Sustained - Unfounded (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 this allegation be Not Sustained – Unfounded (Expedited).

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

Named Employee #3 – 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 this allegation be Not Sustained – Unfounded (Expedited).

² *De minimis* force is a physical interaction meant to separate, guide, and/or control without using control techniques that are intended to, or are reasonably likely to, cause pain or injury. SPD Interim Policy 8.050 (effective May 19, 2023). *De minimis* force includes using control holds or joint manipulation techniques in a manner that does not cause pain; using hands or equipment to stop, push back, separate, or escort a person without causing pain or in a manner that would not reasonably cause pain; and deploying a stationary tire deflation device resulting in no vehicle contact. *Id.*



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