



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 1, 2024

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

CASE NUMBER: 2024OPA-0164

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 to Reduce the Need for Force (Effective April 24, 2023)	Not Sustained - Unfounded
# 2	8.300 – Use of Force Tools, 8.300-POL-3B Taser 10, 6. Tasers Should Not Be Used on A Person Who Is Fleeing the Scene, Absent Other Factors (Effective December 1, 2023)	Not Sustained - Unfounded

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) responded to a domestic violence (DV) disturbance call and deployed his Taser at Community Member #1 (CM#1), who was pulling away from NE#1 and Witness Officer #1 (WO#1). It was alleged that NE#1 failed to exhaust de-escalation options and improperly deployed his Taser at a fleeing person.

ADMINISTRATIVE NOTE:

On August 15, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On April 4, 2024, OPA responded to a Force Investigation Team (FIT) callout and learned that NE#1 and WO#1 responded to a DV disturbance call involving CM#1 and Community Member #2 (CM#2)—CM#1's partner—at an apartment. The officers tried interviewing the parties separately, but CM#1 attempted to leave the building while the officers held him. NE#1 deployed his Taser at CM#1, causing him to fall and strike his head against a door. Consequently, CM#1 sustained significant head injuries.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), apartment video, police report, Taser records, and FIT records. OPA also interviewed NE#1, WO#1, and CM#1.



B. Computer-Aided Dispatch (CAD) Call Report

On April 4, 2024, at 12:09 PM, CAD call remarks noted, "PER STAFF, PARTNERS KNOWN TO BE DATING IN UNIT IN DIST[URBANCE], 1 DIAGNOSED W[ITH] SCHIZOPHRENIA. NO [WEAPONS]."

C. Body-Worn Video (BWV) and Apartment Video

BWV and private surveillance cameras captured the following:

NE#1 and WO#1 entered an apartment building and briefly spoke with a building employee, who said CM#2 asked the staff to call 9-1-1 because CM#1 was experiencing a mental health episode. CM#1 and CM#2 entered the lobby, and the officers separated them. NE#1 spoke with CM#2, while WO#1 spoke with CM#1. WO#1 identified herself as a Seattle police officer and asked CM#1 what happened. CM#1 said he was anxious and wanted to move his vehicle.¹ CM#1 repeatedly approached CM#2, interrupted CM#2's interview, and tried pulling CM#2 away despite the officers' attempts to separate them. WO#1 told CM#1, "We're here to make sure you and [CM#2] are okay." NE#1 told CM#1, "You can stay inside [inaudible], but you can't stay right next to [CM#2] because we need to talk to both of you. Okay? No one's in any trouble. Everything's fine." NE#1 suggested everyone could go to the leasing office. CM#1 grabbed CM#2 and said the officers would kill them if they did not leave. The officers tried interviewing the parties separately, but CM#1 did not answer WO#1's questions, interrupted CM#2's interview, and pleaded with CM#2 to leave. NE#1 told CM#2 that CM#1 would have to be restrained if he continued being disruptive. WO#1 said, "[CM#1], if you don't calm down, we're going to have to put you in handcuffs. Okay?" NE#1 told CM#1 to take a deep breath. CM#1 suggested NE#1 and WO#1 (both in uniform) were not real police officers and pleaded with CM#2 to leave.

WO#1 suggested CM#1 sit. CM#1 walked toward the entrance, but the officers grabbed him, said he was not permitted to leave and released him in the lobby. CM#1 walked toward the elevators, and WO#1 said to NE#1, "Let's just put him in handcuffs."² The officers grabbed CM#1 and guided him to the ground, but he pulled away as they tried to handcuff him, shouted, and disobeyed orders to place his hands behind his back. CM#1 sat on the ground and appeared to calm down as the officers applied control holds. WO#1 said, "[CM#1], you need to listen to us right now." NE#1 said, "[Inaudible] listen to us. We're here – we're here for your safety. Okay? We just have to put you in restraints. That's all." CM#1 pleaded with the officers not to kill him. NE#1 said, "Take a deep breath. Okay? Everything's fine." The officers attempted radioing for additional officers. CM#1 said he would calm down. NE#1 replied, "Okay. Perfect! That's all I want. No, but you can't – hey. You can't pull away from me." CM#1 asked for CM#2. WO#1 replied, "He will come with you. Okay?" The officers ordered CM#1 to place his hands behind his back, but CM#1 refused and resisted handcuffing. CM#1 stood as the officers grabbed his arms and tried pulling him away from the door of a vestibule. CM#1 repeatedly asked to go outside, but NE#1 replied, "You're not going outside." CM#1 backed into the door as the officers held him:

¹ WO#1's police report described CM#1 as sweaty, highly escalated, and speaking rapidly.

² WO#1's police report noted that she decided to handcuff CM#1 because he was escalated, had mental illnesses that could lead to aggression, and was noncompliant. WO#1 also wrote that she had probable cause to arrest CM#1 for obstructing her DV investigation.



CM#1 brought WO#1 and himself into the vestibule. NE#1 released his grip on CM#1 as the door closed. While WO#1 held CM#1, NE#1 entered the vestibule with his Taser drawn and then grabbed CM#1's right arm:



NE#1 aimed his Taser at CM#1's legs. Without warning, NE#1 deployed his Taser three times at CM#1 as CM#1 opened the entrance door:³

³ During NE#1's FIT interview, NE#1 said a Taser deployment warning was unfeasible because CM#1 "was about to slip out the door," so it "just had to happen...right then and there."



CM#1 screamed, and then NE#1's Taser beeped. CM#1 fell forward, striking his head against the vestibule door held open by CM#2:



CM#1 landed on his back. The officers maintained control holds on CM#1. NE#1 ordered, "Stay on the ground, or you will be Tased again." CM#1 prayed for protection. NE#1 again ordered, "I'm going to Tase you again. Stop resisting now." Backing officers arrived, rolled CM#1 on his stomach, and handcuffed him. CM#1 bled from his forehead.

WO#1 spoke with CM#2, who said CM#1 was not assaultive but experienced paranoid delusions. American Medical Response transported CM#1 to a hospital where he was detained under the Involuntary Treatment Act (ITA).⁴

⁴ The ITA permits an officer to take into custody and deliver a person to a facility when the officer reasonably believes that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. See RCW 71.05.153(2). WO#1's police report noted that CM#1 satisfied the ITA criteria because of his violent paranoid delusions, escalated state of mind, and being a danger to others and himself.



D. OPA Interviews

Named Employee #1

On June 17, 2024, OPA interviewed NE#1. NE#1 said DV investigations could be volatile, requiring officers to separate and detain both parties while officers investigated. NE#1 said he and WO#1 could not formulate a plan before arriving because of the minimal information they gleaned from CAD notes. NE#1 said he and WO#1 could not investigate DV because of CM#1's interruptions. NE#1 said he de-escalated by communicating with CM#1, giving him opportunities to comply with commands, and warning him about being handcuffed. NE#1 said WO#1 decided to handcuff CM#1 during their investigation, which NE#1 described as a routine safety measure. NE#1 said handcuffing CM#1 was justified because CM#1 was obstructing their DV investigation.

NE#1 said CM#1 effectively resisted handcuffing and struggled with the officers because CM#1 was larger than them. NE#1 said CM#1 was not permitted to leave since he was the subject of a DV investigation and could pose a danger to himself if he left the scene. NE#1 said he and WO#1 tried calming CM#1 during their physical struggle, but this was ineffective. NE#1 said he and WO#1 held CM#1 in a disadvantageous position on the ground, but CM#1 forcibly stood and moved toward the vestibule door. NE#1 said he unsuccessfully radioed for additional officers. NE#1 said a struggle outside would likely result in injuries due to hazardous factors, including hard angular surfaces, concrete steps, and metal railings.⁵ NE#1 said he deployed his Taser to overcome CM#1's resistance since WO#1 could not effectively control CM#1.

Witness Officer #1

On June 17, 2024, OPA interviewed WO#1, whose statements were consistent with the abovementioned evidence. WO#1 said she attempted de-escalation by communicating calmly with CM#1, expressing concern about CM#1's and CM#2's safety, trying to calm CM#1 down, and warning CM#1 about handcuffing him if he disobeyed commands. WO#1 described her de-escalation attempts as ineffective. WO#1 said she unsuccessfully radioed for additional officers. WO#1 believed CM#1 posed a threat to others, given his mental state.

Community Member #1

On July 31, 2024, OPA attempted to interview CM#1, but CM#1 said he could not recall details of the incident.

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 to Reduce the Need for Force (Effective April 24, 2023)

It was alleged that NE#1 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.* The

⁵ During NE#1's FIT interview, NE#1 said the apartment building was located at the corner of an intersection near a bridge over Interstate 5. NE#1 said if CM#1 escaped, given his mental state, he was at risk of getting struck by a car or falling over the bridge.



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.*

NE#1, including WO#1, adequately de-escalated before using force. First, the officers used verbal techniques, such as Listening and Explaining with Equity and Dignity (LEED), to try to calm CM#1 and promote rational decision-making. WO#1 tried to obtain CM#1's account and told him she was there for his safety. Despite CM#1's repeated interruptions during CM#2's interview, NE#1 calmly asked CM#1 to speak with WO#1 and advised, "No one's in any trouble. Everything's fine." Moreover, to further de-escalate the situation, the officers suggested interviewing the parties in the leasing office where apartment staff were present. When CM#1 continually interrupted CM#2's interview and disobeyed commands to remain separated from CM#2, the officers repeatedly warned CM#1 that he would be handcuffed. Second, the officers attempted to slow down and stabilize the situation to give themselves more time. The officers' verbal interaction with CM#1 lasted about four minutes before WO#1 decided to handcuff CM#1. During that time, officers gave CM#1 multiple opportunities to comply with their commands voluntarily. Nevertheless, verbal de-escalation became unfeasible when CM#1, who was not free to leave, avoided the officers and headed toward the elevators.

Additionally, after the officers attempted to handcuff CM#1 in the lobby, they again tried to de-escalate the situation. While maintaining control holds on CM#1, NE#1 told CM#1, "We're here for your safety. Okay? We just have to put you in restraints. That's all." NE#1 also told CM#1 to take a deep breath and reassured him that everything was fine. After CM#1 said he would calm down, NE#1 replied, "Okay. Perfect! That's all I want." However, de-escalation became unfeasible once CM#1 stood, pulled away, and attempted to escape despite being told he was not free to leave. Overall, a preponderance of the evidence shows NE#1 adequately utilized communication and time to de-escalate the situation.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 – Allegation #2

8.300 – Use of Force Tools, 8.300-POL-3B Taser 10, 6. Tasers Should Not Be Used on A Person Who Is Fleeing the Scene, Absent Other Factors (Effective December 1, 2023)

It was alleged that NE#1 improperly deployed his Taser at a fleeing person.

Tasers should not be used on someone fleeing the scene, absent other factors. SPD Interim Policy 8.300-POL-3B(6) (effective December 1, 2023).

When NE#1 deployed his Taser at CM#1, CM#1 was not "fleeing." Although "fleeing" is not explicitly defined in SPD policy, it commonly means to run away, often from danger or evil (Merriam-Webster Dictionary); to escape by running away, mainly because of danger or fear (Cambridge Dictionary); or to run away from (Oxford English Dictionary). These definitions associated "fleeing" with "running." Here, NE#1 deployed his Taser at CM#1 when CM#1 was actively resisting the officers' efforts to restrain him in handcuffs, not running from them. CM#1 resisted the officers to free himself from their control holds. Had CM#1 been successful, he could then flee. As CM#1 was not "fleeing" when NE#1 deployed his Taser at CM#1, OPA finds this allegation is unfounded.



Even if CM#1's conduct could be construed as "fleeing," SPD policy permits a Taser deployment at a fleeing person if "other factors" are present. These "other factors" are not specified in policy but were arguably present in this situation. CM#1 was detained during the officers' DV investigation, and the officers subsequently developed probable cause to arrest him for obstruction. CM#1 was noncompliant, escalated, and avoided the officers as they attempted to de-escalate the situation. CM#1 resisted handcuffing and overcame the officers' control holds when he stood and forcibly maneuvered himself into the vestibule. Given CM#1's mental state, CM#1 would have posed a danger to himself if he exited the building. NE#1 cited several hazardous factors—including hard angular surfaces, concrete steps, metal railings, and the building being near an intersection and bridge—that could cause injuries if the struggle continued outside. CM#1 forcibly resisted as he pulled away from the officers and was nearly successful in escaping. Finally, WO#1 continuously held CM#1 when he was Tased; CM#1 was not running or in an inherently dangerous position. Here, NE#1's Taser deployment was justified to terminate the struggle and prevent CM#1's escape.

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

Recommended Finding: **Not Sustained - Unfounded**