




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 19, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY 

CASE NUMBER: 2024OPA-0173

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.500 – Reviewing Use of Force, 8.500-POL-1 General Principles, 7. Reviewers Will Refer Serious Policy Violations, as well as Potential Criminal Conduct to the OPA (Effective April 24, 2023)	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.500 – Reviewing Use of Force, 8.500-POL-1 General Principles, 7. Reviewers Will Refer Serious Policy Violations, as well as Potential Criminal Conduct to the OPA (Effective April 24, 2023)	Not Sustained - Unfounded

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 - Lawful and Proper
# 2	15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded

Named Employee #4

Allegation(s):		Director's Findings
# 1	8.500 – Reviewing Use of Force, 8.500-POL-1 General Principles, 7. Reviewers Will Refer Serious Policy Violations, as well as Potential Criminal Conduct to the OPA (Effective April 24, 2023)	Not Sustained - Unfounded

Named Employee #5

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
# 2	15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral



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:

Witness Employee #1 (WO#1), Named Employee #3 (NE#3), and Named Employee #5 (NE#5) responded to a bank and forcibly removed Community Member #1 (CM#1). The Complainant, SPD's Force Review Board (FRB), alleged that NE#3 and NE#5 potentially used unauthorized force and wrote unthorough or inconsistent use-of-force reports. The Complainant also alleged that Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #4 (NE#4)—command employees who reviewed the force—failed to identify and address these issues.

ADMINISTRATIVE NOTE:

During its intake investigation, OPA identified Witness Supervisor #1 (WS#1) as failing to conduct a thorough use-of-force investigation. OPA sent WS#1's possible violation¹ to his chain of command for Supervisor Action.²

On April 10, 2024, the Complainant submitted the OPA complaint via Blue Team. OPA used that date as the reported date for calculating the 180-day deadline. See Ordinance 125315, section 3.29.130(B) (the 180-day clock "begins on the date OPA initiates or receives a complaint"). Accordingly, OPA had until October 8, 2024, to complete its investigation and issue findings. However, OPA's review of the Blue Team routings showed that the initial supervisor submitted the incident for review to the chain of command on October 31, 2023, making the contractual 180-day date May 12, 2024. See Seattle Police Officers' Guild Collective Bargaining Agreement (SPOG CBA), article 3.6(B)(iii) (the 180-day clock starts "fourteen (14) days after the date on which the initial supervisor submits the incident for review to the Chain of Command"). Consequently, OPA's contractual 180-day period was reduced to an inadequate 32-day window. Under the SPOG CBA, no discipline could possibly result for NE#3—a SPOG member—since OPA's recommendation was not issued by May 12, 2024. See SPOG CBA, article 3.6(B).

NE#5 separated from SPD prior to the conclusion of this investigation. Accordingly, he is no longer covered by the SPOG CBA, and no contractual 180-day period applies to him.

On September 13, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective. Although OPA's fact investigation was completed at this time, this DCM was not certified by the OPA Director before the 180-day window expired. Accordingly, this DCM is not untimely.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On April 10, 2024, the Complainant submitted an OPA complaint, alleging the following:

- NE#3 potentially used unauthorized force when he kned CM#1;

¹ See SPD Interim Policy 8.400-POL-4(1) (effective April 24, 2023) (In Conducting a Type II Investigation, a Sergeant Will Respond to the Scene and Thoroughly Investigate the Event, Unless Officer or Public Safety Will be Compromised as a Result).

² 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).



- NE#5 potentially used unauthorized force when he stood on, stomped, kneed, and punched CM#1;
- NE#5 potentially kneeled on CM#1's neck;
- NE#3's use-of-force report was unthorough;
- NE#5's use-of-force report was unthorough and inconsistent; and
- The reviewing chain of command—NE#1, NE#2, and NE#4—failed to identify and address potentially unauthorized force.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident report, use-of-force reports, and training records. OPA also interviewed the named employees.

B. Computer-Aided Dispatch (CAD) Call Report

On October 21, 2023, at 3:48 PM, CAD call remarks noted, "[FLOOR 1] WELLS FARGO: LOOK FOR MALE INSIDE REFUSING TO LEAVE, IS RECORDING VIDEO WITH CAMERA, HAS BEEN INSIDE FOR ABOUT AN HOUR, NO WEAPONS, APPEARS HIGH/INTOX[ICATED]."

C. Body-Worn Video (BWV)

BWV captured the following:

NE#3 entered a Wells Fargo and approached CM#1, CM#1's roommate, and Witness Officer #1 (WO#1). CM#1 wore a hoodie and kept his hands in his pants pockets. WO#1 told NE#3 that he tried to get CM#1 to leave, but CM#1 remained silent and became tense when WO#1 tried escorting him out. WO#1 said CM#1 was there for an hour and a half. CM#1's roommate said she did not know what was going on with CM#1. WO#1 told NE#3 that CM#1 possibly had mental conditions.³ WO#1 suggested they escort CM#1 out.

NE#3 stepped toward CM#1, said, "Come on. Time to go," and reached for CM#1's arm. CM#1 brushed NE#3's arm away and said, "Please." NE#3 and WO#1 grabbed CM#1's arms, but CM#1 tried pulling away. NE#3 radioed for additional officers. WO#1's BWV fell. WO#1, NE#3, and CM#1 fell, with CM#1 falling on NE#3. NE#3's BWV was pressed against CM#1, obscuring the struggle. While standing, WO#1 deployed his Taser at CM#1, causing CM#1 to scream and lay on his back. NE#3 freed himself from WO#1 and maintained control holds. The officers ordered CM#1 to get on his stomach and then rolled him onto his side. WO#1 pressed his Taser against CM#1's back and deployed it. CM#1 screamed and repeatedly shouted, "Please!" CM#1 rolled on his back and formed an "X" using his arms:

³ WO#1's incident report stated that CM#1 had depression and schizophrenia. It also stated that, according to CM#1's roommate, CM#1 was detained last year under the Involuntary Treatment Act.



The officers rolled CM#1 onto his stomach. WO#1 pressed the Taser against CM#1's back and deployed it. CM#1 rolled to his side. NE#3 drew his oleoresin capsicum (OC) spray, aimed it at CM#1's face, and shouted, "Pepper! Pepper!" NE#3 sprayed CM#1's face:



CM#1 swiped at the OC canister and NE#3's BWV, causing the BWV to fall.

After NE#3's BWV fell, there was an approximately 25 second gap of BWV before NE#5 approached with his BWV activated.



While WO#1 and NE#3 held CM#1 on his side, NE#3 kned CM#1's back:⁴



NE#3 shouted, "Turn over!" CM#1 screamed and shouted, "Please!" CM#1 moved toward the cubicle wall and red chair as WO#1 spoke to CM#1 in Spanish. Using WO#1 and NE#3 for support, NE#5 stood on CM#1's legs and then repeatedly stomped on CM#1's legs or feet:⁵



⁴ NE#3's use-of-force statement stated that he kned CM#1 "several" times. BWV was inconclusive on the number of knee strikes.

⁵ NE#5's use-of-force statement stated that he attempted to place a foot trap on CM#1's feet because CM#1 was kicking. NE#5 indicated that when the foot trap failed, he stomped on CM#1's feet roughly five times to control CM#1's legs.



CM#1 maneuvered to a seated position with his hands pressed against the ground. NE#5 grabbed CM#1's hood, which was covering CM#1's head, and pulled it downward. NE#3 maneuvered CM#1 to the ground on CM#1's side and maintained control holds on top of CM#1. NE#5 knelt on CM#1.⁶



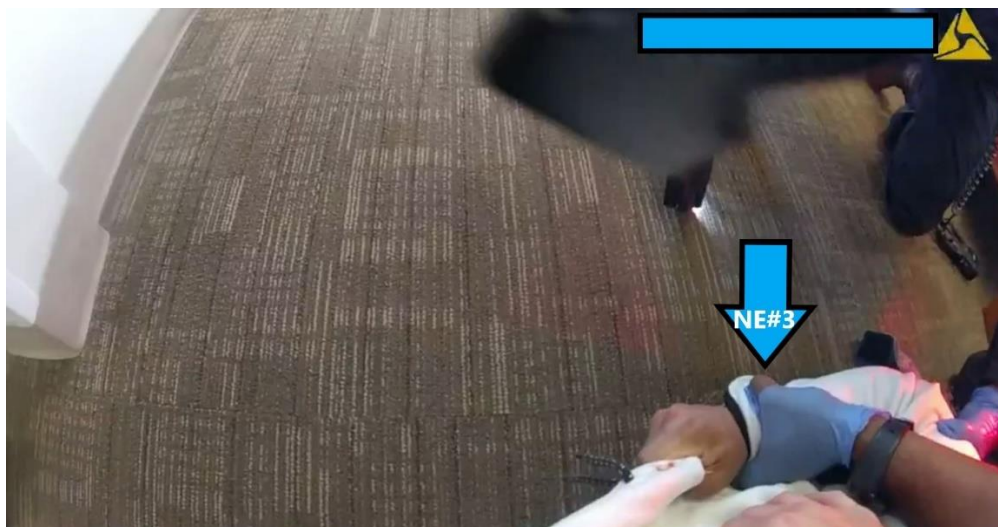
⁶ NE#5 appeared to have knelt on CM#1's right shoulder area, though CM#1's hoodie obscured the exact location.



NE#5 punched CM#1 in an indiscernible area:



CM#1 kept his arms near his chest. NE#3 tried pulling CM#1's arm away as CM#1 clutched his hoodie:



NE#5 punched CM#1's back. Officers maneuvered CM#1 onto his stomach. NE#5 maintained his knee against the general area of CM#1's shoulder, upper back, neck, or head—CM#1's hoodie obscured the precise area of CM#1's body from being depicted on BWV. CM#1 repeatedly screamed and shouted, "Please!" WO#1 and NE#3 positioned CM#1's hands behind his back. During handcuffing, NE#3 called out to NE#5 and said, "Get your knee off." NE#5 replied, "Oh okay," and then repositioned his knee against CM#1's back:



WO#1 and NE#3 handcuffed CM#1. CM#1 was placed in the recovery position and then evaluated by the Seattle Fire Department.

D. Use-of-Force Reports

Named Employee #3

NE#3's type II⁷ use-of-force statement stated that CM#1 was not patted down, possibly armed, and reached inside his pants pockets before officers physically contacted him. NE#3 wrote that everyone fell due to CM#1's resistance. NE#3 wrote that CM#1 landed on him and reached for the officers' equipment. NE#3 wrote that despite WO#1's Taser deployments, CM#1 disobeyed commands, continued fighting, and reached for the Taser. NE#3 wrote that he sprayed CM#1 with OC to gain compliance, but CM#1 "refused to stop fighting." NE#3 wrote that he kneed CM#1's back several times because CM#1 refused to position his hands behind his back. NE#3 wrote that CM#1 actively fought as backing officers arrived.

Named Employee #5

NE#5's type II use-of-force statement stated that upon his arrival, CM#1 was noncompliant, resisted arrest, and tried to escape from the officers. NE#5 believed CM#1 posed "a serious threat" to officer safety since CM#1 was already Tased. NE#5 said CM#1, while on the ground, was in the fetal position and posed a "danger to everyone" because he kicked around WO#1 and NE#3. NE#5 wrote that his foot trap on CM#1's feet was ineffective, so he stomped on CM#1's feet roughly five times, which NE#5 believed were ineffective because CM#1 remained noncompliant and tried to "get up" to fight the officers. NE#5 wrote that he grabbed CM#1's hood and pulled it down to force CM#1 onto his stomach. NE#5 wrote that he knelt on CM#1's upper back. NE#5 wrote:

⁷ 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 May 19, 2023). Type II force includes, among other things, an OC deployment, a takedown causing injury or is reasonably expected to cause injury, and a punch or kick with less than type III injury. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).



I was nowhere near his neck. However, I might have hit his head one or two times with one of my knees during this incident, and this was to stun him into complying with [officers'] commands. I was not attempting to hit the male suspect's head with my knee. So, my strike to his head with my knee was [] accidentally done."

NE#5 believed kneeing CM#1 was ineffective because CM#1 continued fighting the officers. NE#5 wrote that he punched CM#1's upper back roughly three or four times.

Named Employee #4 (Administrative Lieutenant)

NE#4's use-of-force report failed to address NE#3's knee strikes against CM#1's back.

NE#4's report noted NE#5's belief that NE#5 unintentionally kneed CM#1's head.

Named Employee #2 (Watch Lieutenant)

NE#2's use-of-force report found NE#3's OC deployment objectively reasonable, necessary, and proportional. However, NE#2's report failed to address whether NE#3's knee strikes were justified.

NE#2's report failed to address NE#5's purported knee strike against CM#1's head but found NE#5's "use of strikes" objectively reasonable, necessary, and proportional.

Named Employee #1 (Captain)

NE#1's use-of-force report found NE#3's and NE#5's use of force objectively reasonable, necessary, and proportional. However, NE#1's report failed to address NE#5's purported knee strike against CM#1's head.

E. Training Records

On December 7, 2023, OPA emailed SPD's Training Unit, requesting training material on subjects who turtle or actively resist on the ground. On December 12, 2023, a Training Unit officer provided a 2018 Instructional System Design Manual for prisoner control and turtling suspects. The manual described a turtle position as a subject lying face down with his arms underneath him, using static resistance to overcome an officer's efforts to handcuff him. It described how officers should respond when a subject is forcibly taken to the ground and resists by trying to face an officer or stand. The manual described the subject as "being aggressive" and "escalated beyond resisting arrest," permitting the subject to attack the officer. It warned, "The failure to defend yourself in this situation can lead to serious injury or death for you or your partner." Under these circumstances, it recommended using "intermediate force" and striking tactics, including hands, elbows, feet, or knees, to defend against aggressive behavior.

F. OPA Interviews

Named Employee #3

On July 10, 2024, OPA interviewed NE#3. NE#3 said he tried escorting CM#1 out but was unsure whether he was armed since he was not patted down. NE#3 said he grabbed CM#1's arm to prevent him from reaching a weapon. NE#3 said CM#1 resisted by planting his feet and using his upper body to pull away from the officers. NE#3 said after CM#1 fell on him, he felt CM#1 tugging on his police vest. NE#3 said he sprayed CM#1 with OC because WO#1's Taser deployments were ineffective, CM#1 continued fighting, and CM#1 reached for WO#1's Taser. NE#3 said he kneed CM#1's back several times to gain compliance because he was turtled and refused to bring his hands behind his back.



NE#3 expressed concern that CM#1 could reach for a weapon while turtled. NE#3 said CM#1 pushed against the ground and prevented officers from handcuffing him, even after backing officers arrived. NE#3 believed CM#1 would have posed a threat had he stood.

Named Employee #5

On July 24, 2024, OPA interviewed NE#5. NE#5 said WO#1 and NE#3 struggled with CM#1 despite WO#1's Taser deployments. NE#5 said CM#1 was noncompliant and resisted arrest. NE#5 said he placed a foot trap on CM#1's feet so the officers could maneuver CM#1 into the prone position but thought this tactic was ineffective due to CM#1's kicking. NE#5 said he stood on CM#1's legs for pain compliance since NE#3 inadequately controlled CM#1. NE#5 said he was not trained to stomp on a subject's feet but thought it could be used for pain compliance. NE#5 said he was unsure whether CM#1 was armed while he resisted arrest. NE#5 said he pulled CM#1's hood downward to position CM#1 on his stomach and then kneeled on CM#1's upper back to force CM#1 into the prone position. NE#5 said he repositioned his knee against CM#1's lower back because his knee was initially close to CM#1's neck. NE#5 acknowledged he may have kneed CM#1's head while repositioning his knee but insisted it was unintentional. NE#5 said he punched CM#1's back for pain compliance. NE#5 said CM#1 resisted by stiffening his body.

Named Employee #4 (Administrative Lieutenant)

On August 1, 2024, OPA interviewed NE#4. NE#4 said his use-of-force report failed to address NE#3's knee strikes because he did not see them on video and may have forgotten to address them when he read NE#3's statement. NE#4 suggested NE#3's knee strikes were justified. NE#4 believed NE#5's stomps were justified, reasoning that an untrained tactic against an assaultive subject did not constitute unauthorized force. NE#4 denied seeing NE#5 knee CM#1's head on video but believed it was unintentional. NE#4 said he was unsure whether NE#5 kneeled on CM#1's neck or back. NE#4 believed his review of the incident did not necessitate an OPA referral.

Named Employee #2 (Watch Lieutenant)

On July 29, 2024, OPA interviewed NE#2. NE#2 said he could not recall why his use-of-force report did not opine on whether NE#3's knee strikes were justified. NE#2 believed NE#3's knee strikes were justified because OC spray was ineffective, CM#1 was combative, and officers were unable to handcuff CM#1. NE#2 believed NE#5's stomps were justified because CM#1 kicked at officers and other tactics were ineffective. NE#2 denied seeing NE#5 knee CM#1's head on video and was unsure about NE#5's written description of that force. NE#2 denied seeking clarification from NE#5 about it. NE#2 denied seeing NE#5 kneel on CM#1's head or neck and denied seeking clarification from NE#5 about that force. NE#2 believed his review of the incident sufficiently addressed concerns the Complainant raised.

Named Employee #1 (Captain)

On August 1, 2024, OPA interviewed NE#1. NE#1 believed NE#3's knee strikes were justified because CM#1 was combative and removed items from the officers' vests, which was particularly concerning since CM#1 could have attempted to remove a weapon. NE#1 believed NE#5's stomps were justified, given the threat CM#1 posed to the officers. NE#1 did not seem to recall whether he saw NE#5 knee CM#1's head, so OPA played the video for NE#1, and NE#1 said he saw NE#5's knee physically contact CM#1's head. NE#1 denied seeking clarification from NE#5 about that force. NE#1 accepted NE#5's explanation that it was unintentional and found his statement understandable. NE#1 said he saw NE#5 kneel on CM#1's head and in the vicinity of CM#1's neck but denied seeking clarification from NE#5 about it. NE#1 believed his review of the incident was thorough and did not necessitate an OPA referral.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.500 – Reviewing Use of Force, 8.500-POL-1 General Principles, 7. Reviewers Will Refer Serious Policy Violations, as well as Potential Criminal Conduct to the OPA (Effective April 24, 2023)

The Complainant alleged that NE#1 failed to identify and address potentially unauthorized force.

If a serious policy violation appears to have been involved in a use-of-force incident, the supervisor will ensure that OPA is contacted and consult the Force Investigation Team commander regarding the reclassification of the incident as a type II or type III investigation, if appropriate. SPD Interim Policy 8.500-POL-1(7) (effective April 24, 2023). The supervisor will note the OPA referral in Blue Team, as applicable, but will not take disciplinary action. *Id.*

NE#1's use-of-force review analyzed NE#3's OC deployment and knee strikes. It also analyzed NE#5's stomps, punches, and knee placement. While NE#1's report did not address NE#5's purported knee strike against CM#1's head, NE#1 appeared unable to recall during his OPA interview whether it occurred. After OPA played the video, NE#1 said he saw NE#5's knee physically contact CM#1's head. Although this information should have been documented in NE#1's report, NE#5's purported knee strike was not clearly visible on BWV. Further confounding the review was CM#1's outstretched hoodie obscuring CM#1's upper body, including his head. This could explain why NE#1 said he saw NE#5 kneel on CM#1's head and in the vicinity of CM#1's neck, while NE#1's report stated that NE#5 knelt on CM#1's back. Notwithstanding BWV's lack of clarity, NE#1 reviewed most uses of force that occurred in this incident and found them objectively reasonable, necessary, and proportional. NE#1's review does not appear unthorough on its face, nor do NE#1's conclusions appear unreasonable. Since NE#1's review of the use-of-force incident did not uncover a serious policy violation, NE#1 was not required to contact OPA.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 – Allegation #1

8.500 – Reviewing Use of Force, 8.500-POL-1 General Principles, 7. Reviewers Will Refer Serious Policy Violations, as well as Potential Criminal Conduct to the OPA (Effective April 24, 2023)

The Complainant alleged that NE#2 failed to identify and address potentially unauthorized force.

NE#2's use-of-force report analyzed NE#3's OC deployment and knee strikes. It also analyzed NE#5's stomps, punches, and knee placement. NE#2's report did not address NE#5's purported knee strike and NE#5 potentially kneeling on CM#1's head or neck, but, as noted above, such uses of force were not clearly visible on BWV. This could explain why NE#2 said he did not see NE#5 knee CM#1's head or see NE#5 kneel on CM#1's head or neck. In fact, NE#2 noted in his report that NE#5 knelt on CM#1's back—a reasonable interpretation based on the video's lack of clarity. Finally, while NE#2 failed to opine on whether NE#3's knee strikes were justified, NE#2 ultimately documented NE#3's knee strikes in his report and told OPA his conclusion that those strikes were justified. Notwithstanding BWV's lack of clarity, NE#2 reviewed most uses of force that occurred in this incident and found them objectively reasonable, necessary, and proportional. NE#2's review does not appear unthorough on its face, nor do NE#2's conclusions appear



unreasonable. Since NE#2's review of the use-of-force incident did not uncover a serious policy violation, NE#2 was not required to contact OPA.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 – Allegation #1

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

The Complainant alleged that NE#3 potentially 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#3's uses of force—consisting of control holds, OC deployment, and knee strikes—were objectively reasonable because CM#1 was noncompliant, forcibly resisted arrest, and reached for the officers' equipment. In fact, CM#1 resisted so forcefully that he fell on NE#3, remained combative despite being Tased multiple times, and swiped WO#1's and NE#3's BWV off their police vests during the struggle. NE#3's OC deployment was necessary and proportional to overcome CM#1's high levels of resistance. NE#3's knee strikes against CM#1's back were also objectively reasonable, necessary, and proportional. CM#1 was so determined to resist handcuffing that two officers were unable to maneuver him on his stomach and position his hands behind his back. As the struggle progressed, CM#1 turtled on his side—a posture posing a serious threat to the officers had CM#1 faced them or stood. Moreover, the officers did not know whether CM#1 was armed since he was not patted down, heightening concerns that he could, if armed, reach for a weapon while turtling. NE#3's knee strikes were necessary to protect against that threat. The strikes were proportional to overcome CM#1's resistance. Overall, a preponderance of the evidence shows NE#3's uses of force were objectively reasonable, necessary, and proportional under the circumstances.

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

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



Named Employee #3 – Allegation #2

15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#3's use-of-force report was unthorough.

Officers must document all primary investigations in a report. SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. *Id.*

NE#3's use-of-force report was consistent with BWV observations. It described NE#3's control holds and fall, the struggle on the ground, WO#1's partially effective Taser deployments, NE#3's OC deployment, and NE#3's knee strikes. The Complainant alleged that NE#3's report was unthorough because he failed to explain why he kned CM#1's back. However, NE#3 wrote, "I deployed several knee strikes to the subject's back because he rolled over and would not bring his arms behind him to be handcuffed." Considered in context with the totality of the circumstances documented by NE#3, his report was complete, thorough, and accurate.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #4 – Allegation #1

8.500 – Reviewing Use of Force, 8.500-POL-1 General Principles, 7. Reviewers Will Refer Serious Policy Violations, as well as Potential Criminal Conduct to the OPA (Effective April 24, 2023)

The Complainant alleged that NE#4 failed to identify and address potentially unauthorized force.

NE#4's use-of-force report analyzed NE#3's OC deployment. It also analyzed NE#5's stomps, punches, and knee placement. While NE#4 omitted NE#3's knee strikes from his written review, he did bookmark them on BWV recording. NE#4 initially stated he did not see them on video but, upon reviewing NE#3's statement, attributed his omission to an oversight. NE#4 told OPA that he believed NE#3's knee strikes were justified. Moreover, NE#4 documented NE#5's purportedly unintentional knee strike and NE#5's knee placement. NE#4 documented his interpretations of the uses of force based on a video lacking in clarity, as noted above. Overall, NE#4 reviewed and documented most uses of force that occurred in this incident. NE#4's review does not appear unthorough on its face and, by policy, NE#4 was not supposed to reach conclusions on the use of force as an administrative lieutenant. Since NE#4's review did not uncover a serious policy violation, NE#4 was not required to contact OPA.

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

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #5 – Allegation #1

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

The Complainant alleged that NE#5 potentially used unauthorized force.

NE#5's stomps were objectively reasonable. CM#1 was noncompliant and forcibly resisted two officers as they escalated their use of force against him. Specifically, CM#1 overcame several Taser deployments from WO#1 and resisted NE#3's control holds while on the ground. Upon NE#5's arrival, CM#1 was reportedly kicking. Thus, NE#5's stomps were necessary to gain compliance after CM#1 pulled away from NE#5's attempted foot trap, a lower level of force. NE#5's stomps were also proportional to overcome CM#1's combativeness during the struggle. The Complainant noted that officers are not trained to stomp or stand on a subject's legs. However, an untrained tactic alone does not constitute unauthorized force. SPD's force policy does not require officers to use only trained tactics. Instead, it contemplates officers making "split-second decisions" in "tense, uncertain, dynamic, and rapidly evolving" circumstances. See SPD Interim Policy 8.200-POL-1 (effective April 24, 2023). See also SPD Policy 5.001-POL-3 ("Not following training, in itself, is not a policy violation.").

NE#5's kneeling and punches were objectively reasonable, necessary, and proportional for the same reasons noted above. Namely, CM#1 forcibly resisted handcuffing, was noncompliant, and combative. At one point, CM#1 was in a seated position with his hands pressed against the ground, suggesting his intent to stand. When officers maneuvered CM#1 to the ground, CM#1 remained turtled on his side and clutched his hoodie, refusing to be handcuffed. NE#5's kneeling was necessary and proportional to maintain CM#1 in the prone position and prevent CM#1 from rolling around or standing. Moreover, NE#5's punches were necessary and proportional to gain pain compliance, given CM#1's high levels of resistance and combativeness.

The Complainant alleged that NE#5 may have knelt on CM#1's neck and kneed CM#1's head. NE#5 insisted he was "nowhere near [CM#1's] neck" but may have "hit his head one or two times." As noted above, BWV was inconclusive on these claims because it lacked clarity, especially since CM#1's hoodie obscured his head and neck area. Chain of command review was also inconclusive. Specifically, NE#2 and NE#4 did not see NE#5 kneel on CM#1's neck and knee CM#1's head, yet NE#1 said he saw NE#5's knee physically contact CM#1's head. While physical contact with CM#1's head was likely unavoidable given NE#5's proximity to CM#1's head during the struggle, incidental contact would not constitute unauthorized force. Moreover, a preponderance of the evidence, based on BWV review and use-of-force reports, did not show NE#5 kneeling on CM#1's neck, which would have constituted prohibited force. See SPD Interim Policy 8.200-POL-2 (effective April 24, 2023) (prohibiting officers from using neck restraints in all circumstances, including any action involving kneeling on a subject's neck). To the extent NE#5 possibly contacted CM#1's head or neck, it would have been brief and incidental. Compare with SPD Policy 8.400-POL-1(3) (effective April 24, 2023) (known inadvertent contact with a subject's neck without risk or intention of restricting the flow or blood or oxygen is not a neck or carotid restraint).

Overall, a preponderance of the evidence shows NE#5's uses of force were objectively reasonable, necessary, and proportional under the circumstances.

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

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



Named Employee #5 – Allegation #2

15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#5's use-of-force report was unthorough and inconsistent.

NE#5's use-of-force report was consistent with BWV observations. It described NE#5's foot trap, stomps, kneeling, and punches. It also described the reasons he used force, citing CM#1's kicking, resistance, noncompliance, and combativeness. NE#5's report was complete and thorough.

The Complainant alleged that NE#5's report was contradictory. Here, NE#5 wrote that his unintentional kneeling of CM#1's head "was to stun him into complying with [officers'] commands." OPA agrees with the Complainant that this statement was contradictory because it assigned motive to an act that NE#5 documented as unintentional in the sentences that immediately followed. Considering these sentences together, it appears most likely that NE#5's drafting was simply sloppy, and that he intended to convey that his knee strikes were intended to "stun" CM#1 into compliance, any contact with CM#1's head was unintentional. Therefore, OPA would have recommended a training referral if NE#5 were still employed with the department.

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

- **Required Training:** If NE#5 ever returns to SPD employment, NE#5's chain of command should discuss OPA's findings with him, review SPD Manual 15.180-POL-5 with him, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should emphasize the importance of complete, thorough, and accurate reports. Any retraining and counseling conducted should be documented on Blue Team.

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