



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 7, 2024

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

CASE NUMBER: 2024OPA-0180

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	Not Sustained - Lawful and Proper

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:

The Complainant alleged Named Employee #1 (NE#1) used unauthorized force during Community Member #1's (CM#1) arrest.

ADMINISTRATIVE NOTE:

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

SUMMARY OF INVESTIGATION:

The Complainant made an OPA complaint indicating that an SPD officer repeatedly punched a woman's face while she was held down.

OPA opened an investigation, reviewing the complaint, pre-intake screening, computer-aided dispatch (CAD) call report, incident report and supplements, use-of-force documentation, body-worn video (BWV), in-car video (ICV), third-party video, and photographs. OPA also interviewed NE#1, Witness Officer #1 (WO#1), and the Complainant. OPA spoke with CM#1, who declined to participate in an OPA interview before consulting with an attorney. CM#1 agreed to contact OPA once she had an attorney but did not. Therefore, CM#1 was not interviewed.

Named Employee #1's Written Statement

NE#1 wrote a statement describing his response, observations, interaction with CM#1, and use of force.

NE#1 wrote that he went to the incident location for a reported fight. He saw a female holding CM#1 against the ground. The 9-1-1 caller indicated that CM#1 assaulted the 9-1-1 caller's boyfriend. NE#1 approached the fight and identified himself as an SPD officer.

The female subject released CM#1, and CM#1 kicked her leg. NE#1 grabbed CM#1's right arm and positioned her for prone handcuffing. As NE#1 gave CM#1 verbal commands, CM#1 bit his left leg. As she bit him, NE#1 punched CM#1 with a "hammer fist" twice. NE#1 stated that CM#1 bit down harder after the first strike, and her biting weakened after the second, allowing NE#1 to free his leg. CM#1 was rolled into the prone position and handcuffed.



NE#1 documented Seattle Fire Department (SFD) members arriving to evaluate his injury. SFD advised CM#1 to get further treatment at the hospital. NE#1 stated that SFD attempted to evaluate CM#1, but she was uncooperative and assaultive. NE#1 was further treated at the hospital.

SPD Documentation, Body-Worn Video, and Photographs

The SPD incident report, witness officer supplements, use-of-force documentation, BWV, ICV, and photographs were consistent with NE#1's written statement.

A 9-1-1 caller reportedly saw a "male and female physically fighting." CAD call remarks noted a "female appeared to be the primary aggressor." Another 9-1-1 caller reported a female "beating up" the caller's boyfriend.

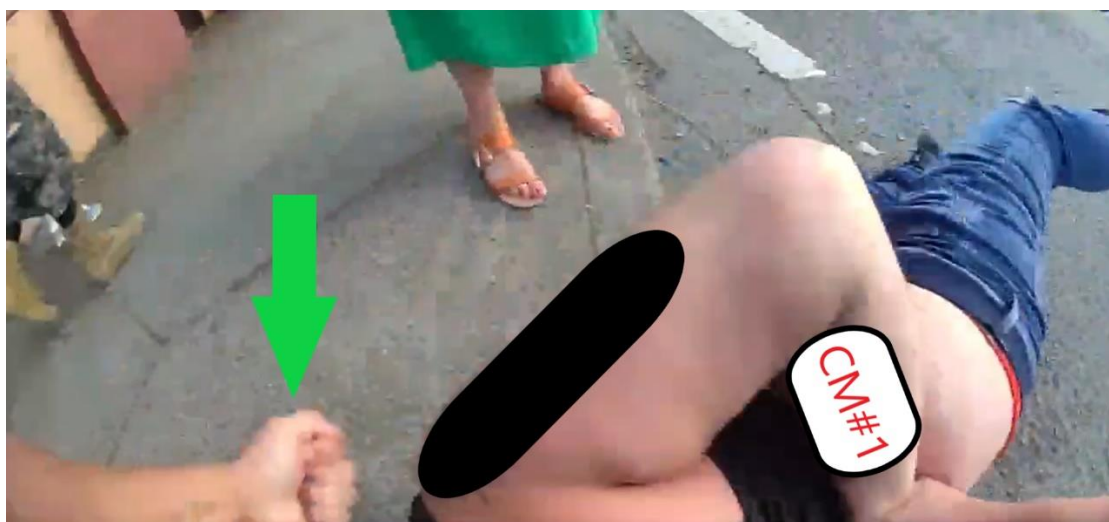
NE#1's BWV showed the second 9-1-1 caller gesturing toward CM#1 and the female subject holding her against the ground.



NE#1 approached CM#1 and tried rolling her onto her stomach for handcuffing. NE#1 crouched to apply control holds at CM#1's upper torso as two backing officers approached (indicated by the blue arrow).



NE#1 turned abruptly and punched CM#1's face twice with his left hand.



NE#1's left fist (green arrow) after the first punch.



NE#1's left fist (green arrow) during the second punch.

NE#1 and Witness Officer #1 (WO#1) secured CM#1's hands and applied handcuffs. A bystander yelled at NE#1 about his punching CM#1's face. NE#1 responded, "She just bit me!"

NE#1 raised his pant leg, revealing broken skin on his left calf (green circle).



CM#1 was taken into custody, and SFD treated NE#1.

NE#1's injury was photographed on the incident date and 18 days later.



Incident Date



18 Days Later



OPA Interviews

OPA interviewed the Complainant, who said they stood eighty to one hundred feet away when NE#1 grabbed, wrestled, and suddenly punched CM#1 twice. The Complainant could not hear what was said and was unaware that CM#1 bit NE#1.

OPA interviewed WO#1. WO#1's observations were consistent with the evidence summarized above. She opined that NE#1's punches were effective and reasonable under the circumstances.

OPA interviewed NE#1, whose account was consistent with his written statement. NE#1 described the pain from being bitten as an "8.5 out of 10." NE#1 said he punched CM#1's temples twice, feeling the pressure on his calf release after the second strike. NE#1 said he had no other reasonably effective options to defend himself, noting he does not carry a Taser. NE#1 said the punches were a reaction to him being assaulted.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 - Using force, 8.200-POL 1. Use of force: When Authorized

The Complainant alleged that NE#1 used unauthorized force when he punched CM#1 twice.

The force used by an officer must be "objectively reasonable, necessary, and proportional 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-POL-1 (effective 4/24/2023). Reasonableness depends "on the totality of the circumstances," balancing "the rights of the subject" and "the circumstances surrounding the event." SPD Interim Policy 8.050 (effective 4/24/2023). Reasonableness is evaluated from the perspective of a reasonable officer facing the same circumstances. *Id.* Rather than with 20/20 hindsight, the assessment must consider that officers are often forced to make "split-second decisions" under tense and dynamic circumstances. SPD Interim Policy 8.200-POL-1 (effective 4/24/2023). There are several factors to weigh when evaluating reasonableness. *See id.* Force is necessary when "no reasonably effective alternative to the use of force appeared to exist" and "the type and amount" of force used was reasonable and proportional to effect the lawful purpose intended or to protect against the threat. *Id.* Last, the force must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

NE#1 initially applied *de minimis* force to apprehend CM#1, suspected of assaulting multiple people. CM#1 suddenly bit hard enough to cause an approximately two-inch gash into NE#1's calf *through* his pants. NE#1 was required to make a "split-second decision" to defend himself. The force was also necessary, as NE#1 had limited time to free himself from intense pain. The two quick punches to CM#1's temple area were reasonable and proportional to overcome CM#1's assault and effectuate a lawful government interest: arresting her. NE#1 immediately modulated his force after CM#1 released her bite.

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

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