



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 5, 2024

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

CASE NUMBER: 2024OPA-0216

### 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 - Unfounded
# 2	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	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) was assigned to direct pedestrian traffic at an intersection outside a Mariner's game. The Complainant alleged NE#1 shoved him without reason as he was crossing the street. The Complainant also alleged NE#1 was unprofessional, unnecessarily escalating the incident by shoving him, berating him, and refusing to immediately provide his badge number.

#### ADMINISTRATIVE NOTE:

On September 26, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

#### SUMMARY OF INVESTIGATION:

Supervisor #1 submitted an internal Blue Team complaint to OPA documenting his initial investigation of this complaint. Supervisor #1's initial investigation was recorded on BWV, which was consistent with the complaint.

#### *Supervisor #1's Body-Worn Video*

Supervisor #1 responded to an intersection adjacent to T-Mobile Park during a Mariner's Game. The sidewalks and streets were busy, heavily trafficked by both pedestrians and vehicles.

Supervisor #1 spoke with the Complainant, who identified himself as a stadium employee. The Complainant alleged he was crossing at a crosswalk when NE#1 started blowing his whistle to stop. The Complainant stated he kept crossing because he was already "halfway" across the street. The Complainant alleged NE#1 singled him out, approached, shoved him, then kept walking. The Complainant alleged this was "assault" and demonstrated NE#1 shoving him with an open palm (indicated by green arrow).



The Complainant said he asked for NE#1's badge number, and NE#1 replied, "When I blow my whistle, you obey me."

Supervisor #1 went to speak with NE#1 at his assigned intersection. The intersection was very busy with both pedestrian and vehicle traffic. Supervisor #1 told NE#1 his BWV was recording because he, "had to go listen to somebody." NE#1 interjected, "Was it an employee? That was told to get back? And he blew it off?" NE#1 shrugged his shoulders, stating, "He's like that. And I'm blowing my whistle getting people back. And he bumped right into me, and I bumped right into him. That guy?" NE#1 stated the Complainant's description of being halfway across the intersection was "not accurate." NE#1 said the Complainant was about "a lane and a half in" when Witness Officer #1 (WO#1) blew her whistle and indicated for those in the street to "get back." NE#1 said the Complainant ignored the instruction and continued walking towards him. NE#1 described, "I'm like, 'get back!' And he's coming right at me, and I'm bumping into people to get them out of the way. That was it." NE#1 stated the Complainant requested his badge number and he provided it. NE#1 recalled telling the Complainant "When someone's blowing a whistle and giving you verbal commands to get out of the road, your need to listen so you don't get hit by a car." NE#1 stated the Complainant then walked away. NE#1 and Supervisor #1 also discussed how busy the intersection was and that the crowds were not listening to officer instructions.

Supervisor #1 spoke with WO#1, who denied seeing the interaction between NE#1 and the Complainant. WO#1 stated she was too busy at the time focusing on the crowds.

#### *Complainant*

OPA interviewed the Complainant, whose description of the incident was broadly consistent with his statement on Supervisor #1's BWV. The Complainant described NE#1 coming directly towards him, and then NE#1 "like shoved me, impacted my body pretty hard." The Complainant stated NE#1 kept walking away. The Complainant stated he asked for NE#1's badge number, to which NE#1 responded, "when I give a command or blow my whistle, you obey me." The Complainant stated he repeated his request, and NE#1 provided his badge number.

The Complainant stated his ribs hurt after NE#1 shoved him but denied having a visible injury or seeking medical treatment. The Complainant stated there were multiple witnesses but declined to provide any names or contact information other than his "best friend," Community Member #1 (CM#1).



When asked if he tried to avoid NE#1 walking into him, the Complainant responded, “No, I didn’t feel like I should need to do that. I’m crossing the intersection with a huge group of people. I’m shoulder to shoulder with the people beside me. I can like stop in my tracks and try to like back up to get out of the officer’s way, or I can continue with the crowd.” The Complainant stated he did not see whether NE#1 bumped into anyone else, elaborating, “No. I’m shoulder to shoulder with my friend right here on my left. So, I can like shove into my friend to try to get out of this officer’s way, or I can walk across the crosswalk like a normal person.”

#### *Community Member #1*

OPA interviewed CM#1, who recalled the incident. CM#1 stated he was crossing the street with the Complainant and a large group of people, numbering about thirty to forty. CM#1 stated they were “midpack” in the group. CM#1 stated he and the Complainant were a quarter to a third of the way across the intersection when NE#1 started to blow his whistle and walk towards them. CM#1 interpreted this as a signal for those still on the sidewalk not to enter the street. CM#1 stated NE#1 walked towards them and bumped into the Complainant. CM#1 did not see NE#1 bump anyone else. CM#1 stated the Complainant asked NE#1, “What was that all about?” To which NE#1 responded, “You need to listen to me when I tell you to stop.”

#### *Named Employee #1<sup>1</sup>*

OPA interviewed NE#1, whose recollection of the incident was consistent with his statement on Supervisor #1’s BWV. NE#1 described blowing his whistle and telling the crowd to get back on the sidewalk, elaborating, “As I was looking back and forth at how many people I was trying to corral and bring back onto the sidewalk, I happened to bump into him simultaneously as he continued forward into me against the crosswalk signal.” NE#1 stated he believed his arm or shoulder bumped into the Complainant. NE#1 stated several other people also brushed against him, noting, “So I was bumped into countless times while we’re trying to corral people from coming into the intersection.” NE#1 denied shoving or putting his hands on the Complainant. NE#1 also denied deliberately walking into the Complainant.

### **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 “shoved” him without reason.

SPD Interim Policy 8.200-POL-1 requires that force used by officers 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.” Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, considering the circumstances surrounding the event.” SPD Interim Policy 8.050. Reasonableness must be judged from perspective of a reasonable officer at the scene, *id.*, and allow for the fact that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. SPD Interim Policy 8.200-POL-1. The policy also lists several factors that should be weighed when evaluating reasonableness. *See id.* Force is necessary where “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.* Lastly, the force used must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

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<sup>1</sup> NE#1 did not have his BWV activated while directing traffic. NE#1 was not required by policy to have his BWV activated.



OPA finds, more likely than not, NE#1 did not intentionally “shove” or bump into the Complainant. Both NE#1 and CM#1—who the Complainant stated is his best friend—stated NE#1 bumped into the Complainant. The Complainant may have perceived this interaction as a shove, but the weight of the evidence suggests NE#1 did not shove the Complainant.

Similarly, the Complainant may have perceived NE#1 as acting with intent, but the weight of the evidence suggests the interaction was unintentional. The Complainant, CM#1, NE#1, and WO#1 all described the crosswalk as crowded with people. The Complainant described being shoulder to shoulder with people. CM#1 stated they were in a crowd of thirty to forty people. The crowded nature of the crosswalk was corroborated by Supervisor #1’s BWV—recorded shortly after the incident—which depicted a very busy intersection. The Complainant stated he made no effort to avoid walking into NE#1, and NE#1 described being distracted and accidentally bumping into the Complainant. Also, the Complainant suggested no reason that NE#1 would intentionally single him out—from a large crowd all engaging in the same behavior—to intentionally push him.

Finally, although the Complainant interpreted NE#1’s statement (“When I blow my whistle, you obey me.”) as an admission, this response is just as likely to be an expression of irritation that the Complainant failed to return to the sidewalk, thus occasioning the two bumping into one another.

Because the evidence suggests the Complainant and NE#1 unintentionally bumped into one another on a busy intersection, NE#1 did not use force under SPD policy. OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

#### **Named Employee #1 - Allegation #2**

##### ***5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional***

The Complainant alleged that NE#1 was unprofessional, unnecessarily escalating the event by shoving him, berating him, and not immediately providing his badge number when asked.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10. Additionally, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.*

As discussed above, OPA found NE#1 did not “shove” the Complainant. Similarly, the recollections of the Complainant, NE#1, and CM#1, all noted that NE#1 told the Complainant, in short, to obey police instructions when crossing the road. This is an accurate statement of the law. See SMC 11.59.010; RCW 46.61.015. Finally, even the Complainant stated that NE#1 provided him with his badge number on request. Even assuming, for the sake of argument, that NE#1 identified himself after the Complainant repeated his request, policy does not require that an employee identify themselves the very same instant they are asked, and they are specifically excused from “immediately” identifying themselves in certain circumstances such as when there is a safety consideration. See SPD Policy 5.001-POL-11. Either way, there is no dispute that NE#1 identified himself within the same short exchange with the Complainant after he was requested.



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

Recommended Finding: **Not Sustained - Unfounded**