




CLOSED CASE SUMMARY

ISSUED DATE: APRIL 8, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY 

CASE NUMBER: 2024OPA-0238

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics...	Not Sustained - Training Referral
# 2	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Lawful and Proper

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics...	Sustained
# 2	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Sustained

Proposed Discipline

90 to 135 Hours (10 to 15 Days) Suspension, and possible Demotion

Imposed Discipline

9 Hours (1 Day) Suspension, Disciplinary Transfer, and Re-Training

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.

ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:

When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

EXECUTIVE SUMMARY:

On May 31, 2024, a victim reported that Community Member #1 (CM#1) had recently been evicted but returned to the property and assaulted him with a walking stick. The victim also reported observing CM#1 attempting to set the house on fire with candles.



Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to the assault and arson call. While attempting to handcuff CM#1 at a bus shelter, a struggle ensued. Both named employees used force on CM#1, including a head hold, punches, a knee strike, baton jabs and baton strikes. A passerby in a bus recorded a portion of the incident, posting the video on social media.

ADMINISTRATIVE NOTE:

On December 3, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

A discipline meeting was held on January 9, 2025, at which representatives of OPA and the named employees' chain of command were present. A robust discussion was held concerning the recommended findings in this case. Among other things, NE#1 arrived at the scene where NE#2 had taken the lead in initiating the contact and controlled CM#1's arm that held the weapon and disposed of it. For the reasons set forth below, OPA amended its recommended finding for Named Employee #1, Allegation #1 from Sustained to Not Sustained – Training Referral.

SUMMARY OF INVESTIGATION:

OPA received multiple complaints concerning this incident. OPA investigated the incident, reviewing the OPA complaints and social media video, computer-aided dispatch (CAD) call report, incident report and supplements, use of force review documents, body-worn video (BWV) and in-car video (ICV), Seattle Fire Department (SFD) run report, named employees' training records, and photographs. OPA also interviewed both named employees. OPA was not able to contact CM#1 after several attempts.

1. Computer-Aided Dispatch Call Report, Video, and SFD Summary

Around 12:42 p.m. on May 31, 2024, the victim called 911, reporting that CM#1¹ was previously evicted from a home but had returned and hit the victim with a walking stick. The victim reported that CM#1 had sharp knives and objects, was high on methamphetamine, and had been chasing the victim around the property. During a callback at 1:21 p.m., the victim reported CM#1 was "now attempting to set the house on fire with a stick." The victim reported seeing a fire, SFD responded and requested SPD join.

NE#2 arrived on scene first and contacted the victim (blue arrow) and SFD member (green arrow), who were on the sidewalk next to a bus shelter and downhill from the house. The house property (indicated by red arrow) was enclosed by a chain link fence.

¹ The victim identified CM#1 in the 9-1-1 call by name and provided a detailed physical description.



The SFD member indicated they had “not made contact yet” because the victim stated CM#1 was causing issues. NE#2 approached and asked CM#1 (purple arrow) to “come down and talk to me.” No fire was immediately visible.



The radio dispatcher then updated that King County Sheriff’s Office Deputies had responded to the location “earlier” for an eviction, during which the suspect made a comment that if anyone threw his belongings out, he would “hurt an officer.”² NE#2 removed his baton from its holder.

² This was recorded in both the CAD call report and overheard on NE#2’s BWV.



CM#1 walked towards the gate with his property in his arms. NE#2 also approached, but the two found the nearest fence gate secured with rope.

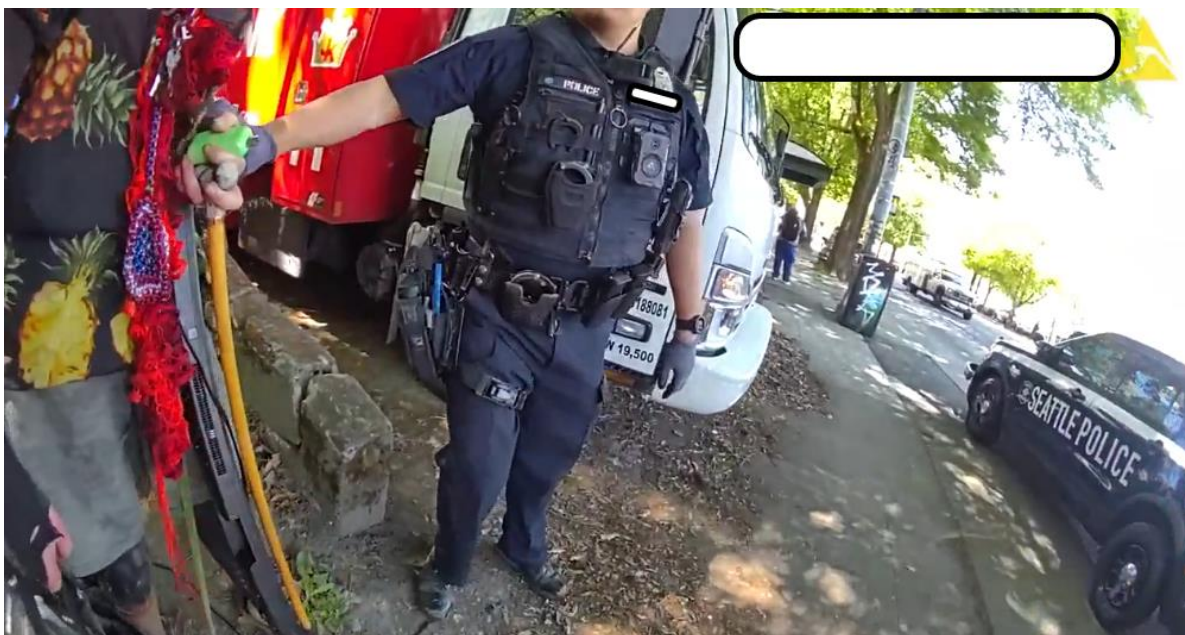


NE#2 walked back to the sidewalk and waited for CM#1 to come down to the sidewalk through another fence gate. As he approached, CM#1 stated, "They assaulted me with a shovel. ... There is no fire by the way." NE#2 waited nearly thirty seconds for CM#1 to make his way through this second gate. As CM#1 exited, a female community member approached CM#1 rapidly, exclaiming, "hey, what the fuck! You had an episode again?" While CM#1 and the female community member started to talk, NE#2 repeated, "Come down here, sir. Come over here and take a seat in the bus, in the bus shed. We'll sort it out." As he approached, a wooden cane was visible in CM#1's left hand.



CM#1 at right. Female community member at left.

NE#1 then approached and grabbed CM#1's left arm. CM#1 stated, "my name is [], please don't touch me."



Both NE#1 and NE#2 informed CM#1, "that's not how this works." Both named employees then used *de minimis* escort holds³ to walk CM#1 over to the bus shelter. While walking to the bus shelter, CM#1 stated, "I'm a disabled veteran, and they assaulted me."⁴ CM#1 repeatedly stated, "I can walk on my own." Both named employees continued to

³ *De minimis* force is an action meant to separate, guide, and/or control without using control techniques that are intended to, or are reasonably likely to, cause pain or injury. Examples include using hands or equipment to stop, push back, separate, or escort, and using compliance holds without using sufficient force to cause pain. SPD Policy 8.050.

⁴ This assault allegation appeared to refer to the 911 callers and not either of the named employees.



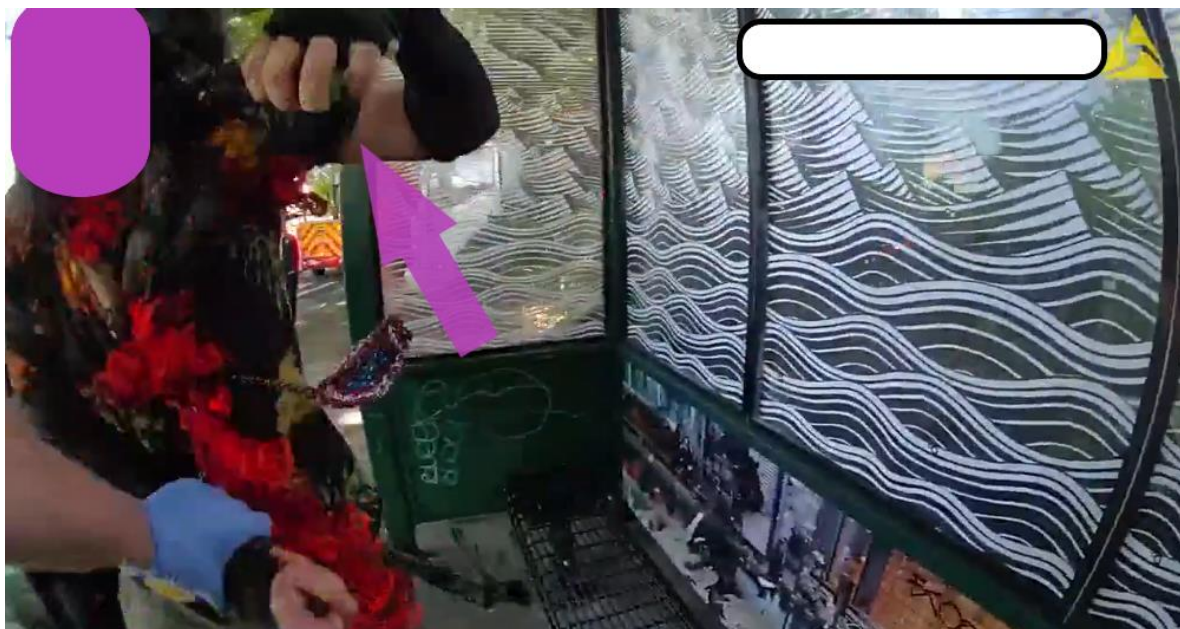
escort CM#1 by holding his arms. When they reached the bus shelter, CM#1 appeared to pull his arms slightly from the named employees. NE#2 stated, "Sit your ass down." NE#1 stated, "Let go of everything, you're going in handcuffs."



CM#1 asked the officers to "stop being forceful" with him and stated he would cooperate. Both named employees continued to hold CM#1's hands. NE#1 removed the wooden cane from CM#1's left hand and threw it over to the corner of the bus shelter.

CM#1 then pulled his arms away from both named employees' grasps, struggled with the officers, turned towards NE#2, and swung his left hand towards NE#2's upper body.⁵

⁵ Although the entirety of this was not fully visualized on any video OPA reviewed, NE#1 and NE#2 described this action in their use of force statements and OPA interviews. NE#1 described CM#1 as swinging his arm in an "aggressive manner." NE#2 described CM#1 as punching at NE#2's face.



CM#1 swinging left hand towards NE#2's upper body.

NE#1 put CM#1 in a head hold, bringing CM#1 to the bus shelter bench.⁶

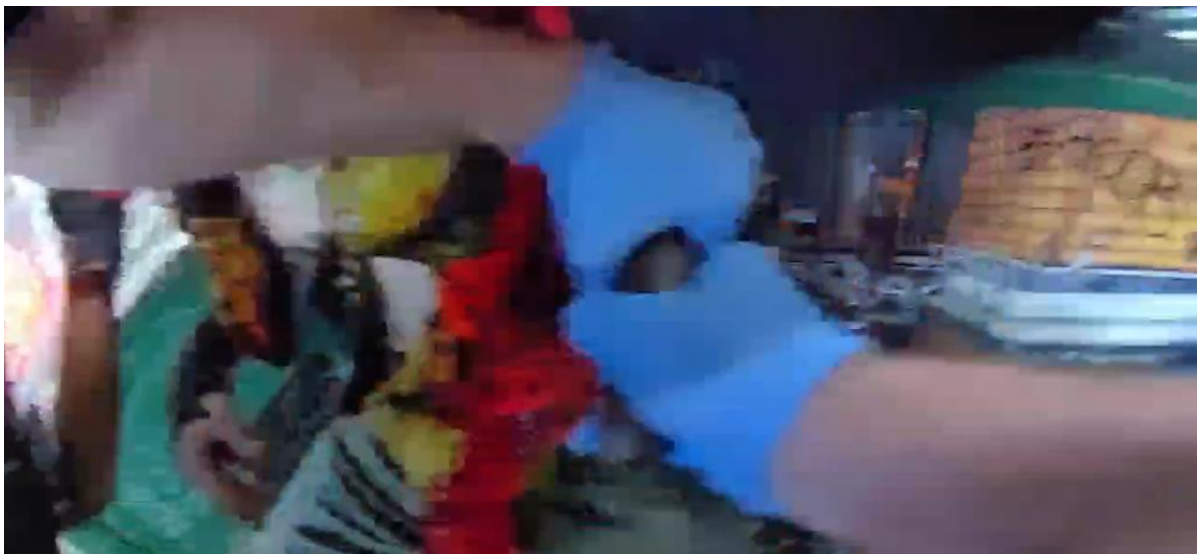


NE#1 using a head-hold technique to bring CM#1 to the bus shelter bench.

Officers instructed CM#1 to get on the ground. CM#1 appeared to rise and move towards NE#2. NE#2 stepped towards CM#1, jabbing him in the left midsection with his baton.⁷ CM#1 moved back down fully onto the bus shelter bench.

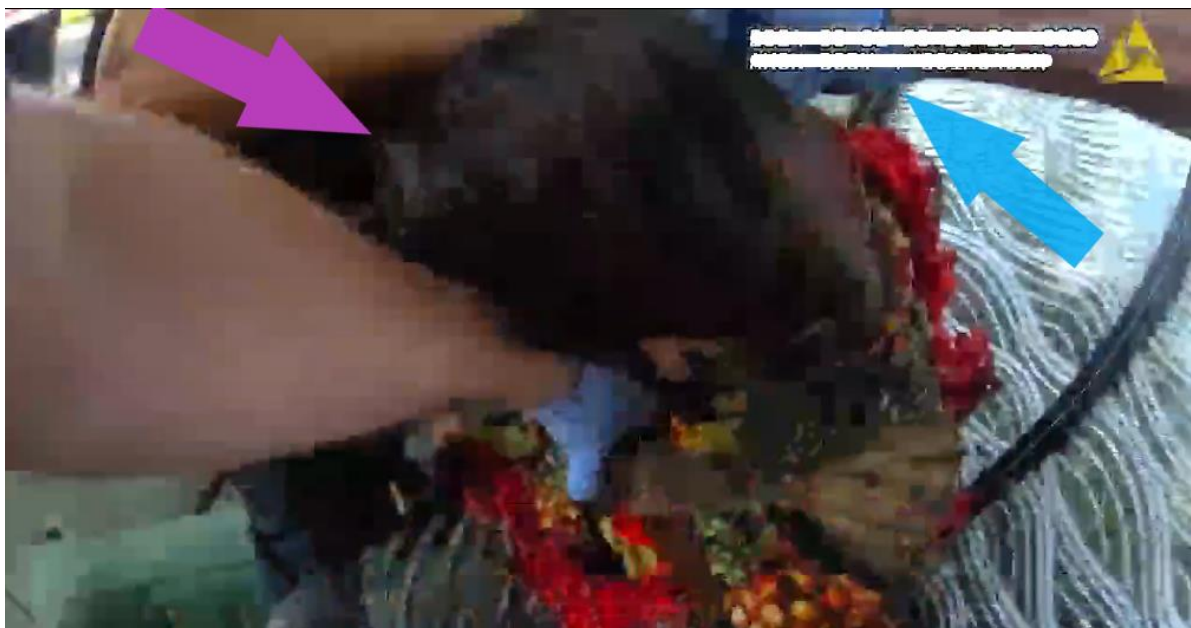
⁶ NE#2 also appeared to have jabbed his baton towards CM#1's midsection one or two times.

⁷ At this time, CM#1 also appeared to possibly raise or swing his left hand up towards NE#2.



NE#2 jabbing his baton into CM#1's midsection.

As NE#1 continued attempting to restrain CM#1 with a head hold, CM#1 struggled and appeared to rise again. NE#2 transitioned his baton into his left hand and used his right hand (blue arrow) to punch at CM#1's head (purple arrow).

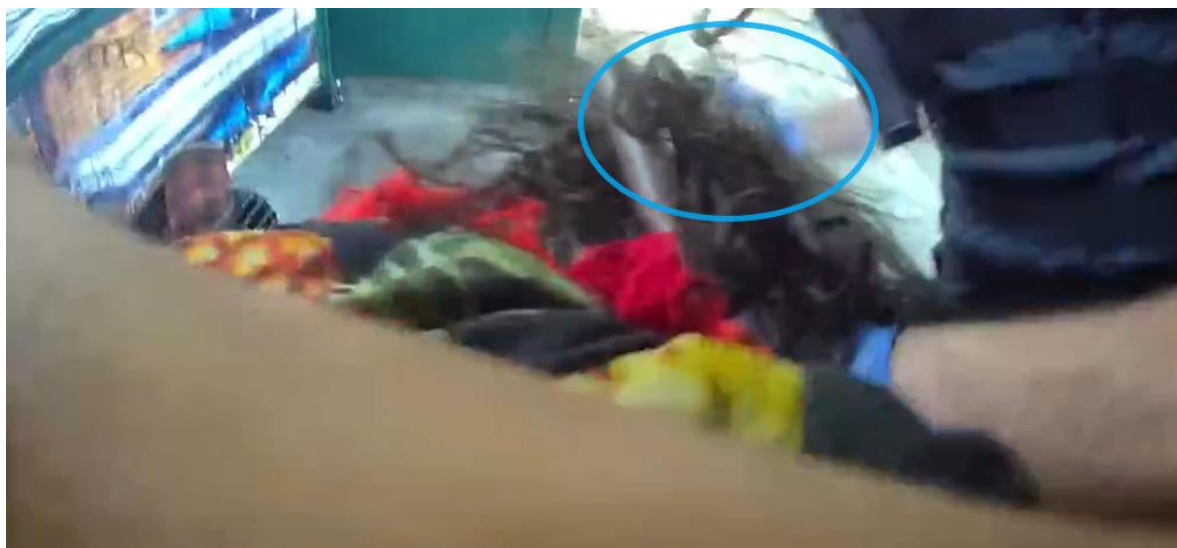


The named employees continued to struggle with CM#1 on the bus shelter bench. As CM#1 continued to struggle with officers, CM#1 moved towards NE#2's lower left side,⁸ NE#1 held CM#1 from behind. NE#2 then transitioned to a hair-hold technique, pulling CM#1 forward away from the bench. NE#2 appeared to use his right hand to punch about

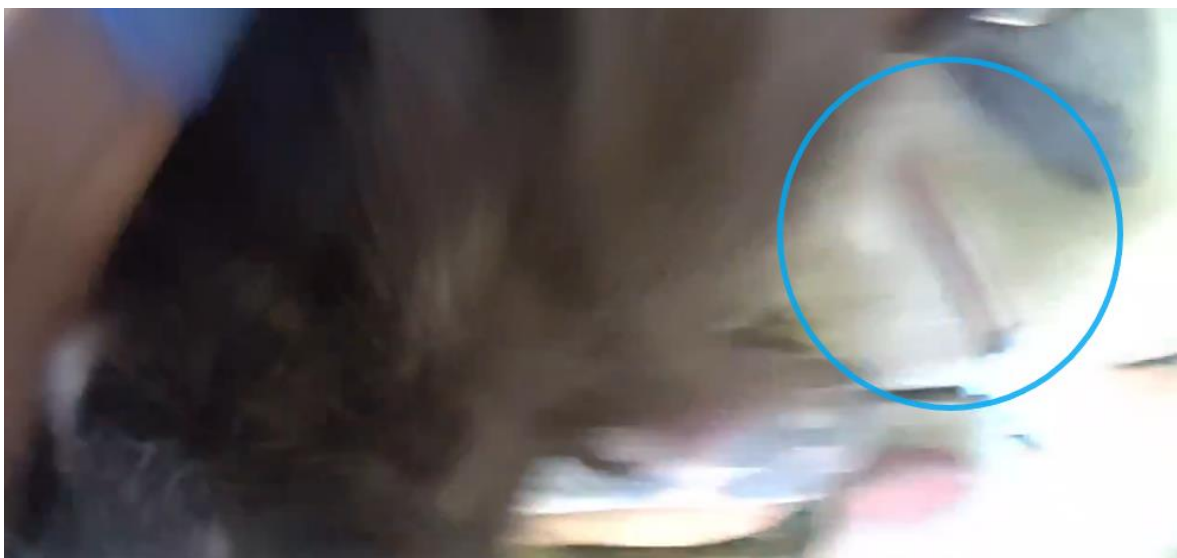
⁸ Although not fully visualized on any video OPA reviewed, both NE#1 and NE#2 articulated in their use of force statements and OPA interviews that CM#1 appeared to be using a "single leg take-down" on NE#2's left leg. NE#1 and NE#2, both United States Army veterans, described being familiar with this take-down technique from their military training.



three or four times at CM#1's face, using an uppercut motion (circled in blue) with his baton hooked behind CM#1's head.



NE#2 then swung his baton at CM#1 four times. All four strikes appeared to hit the concrete near CM#1, making a distinct sound of wood striking concrete contemporaneously with each strike.



Still shot of one instance of NE#2's baton striking the concrete, circled in blue.

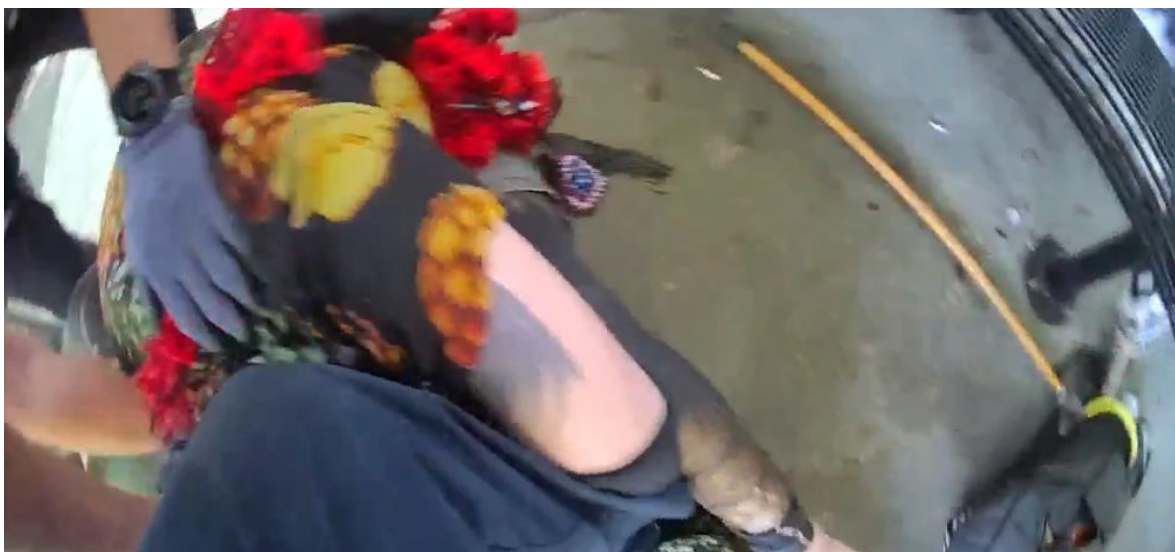
NE#1 screamed, "on the ground now!" CM#1 responded, "I am on the ground." NE#1 replied, "on your stomach." Contemporaneously,⁹ NE#2 used about three more baton strikes, which appeared to land near CM#1 accompanied by the sound of wood striking concrete. NE#1 ordered, "let go of him!" CM#1 yelled, "police brutality!" NE#2 swung his baton at CM#1 about three more times, appearing to strike CM#1 in either the hand or the leg.

⁹ This appeared to be the approximate time the passerby on the bus began recording the video that was posted to social media.

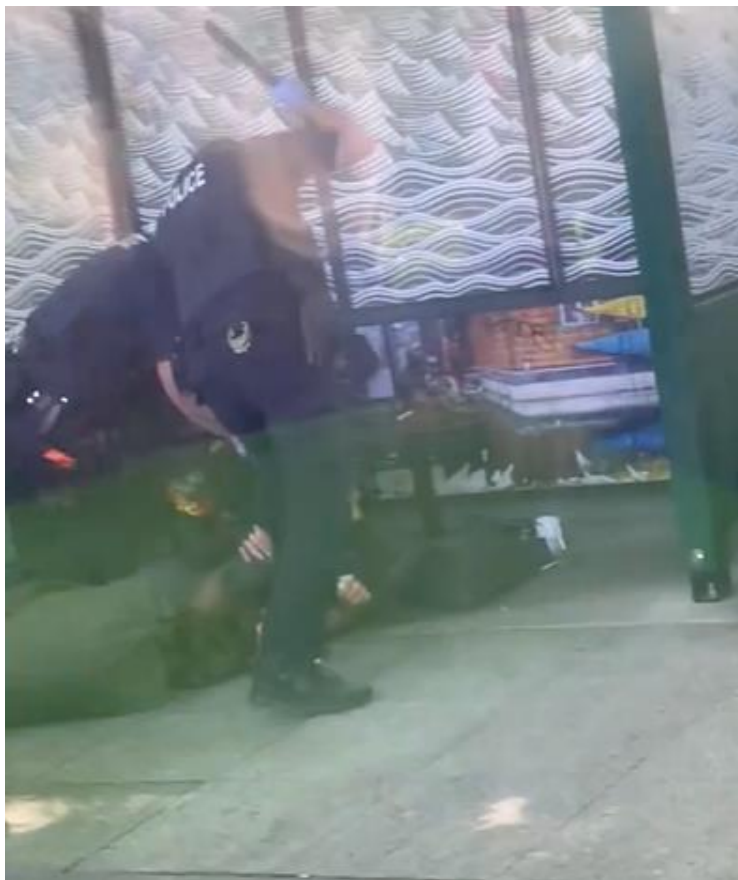


NE#2 striking CM#1 in either the hand or leg with baton.

At this point, CM#1 appeared to be sitting on the ground, with his hands and legs wrapped around NE#2's left leg, and his head and shoulders up.



NE#1 used an uppercut motion to punch CM#1 about two times in the torso, and then NE#1 used one knee strike to CM#1's torso, which knocked CM#1 towards his left side.



NE#1, at left, using knee strike on CM#1.



Still shot immediately after NE#1's knee strike. CM#1 fell onto his left side. CM#1's right leg is raised, and his left leg appears hooked around NE#2's left leg.

Shortly thereafter, NE#2 appeared to use his baton to strike CM#1's left arm area. Then CM#1 appeared to return to a sitting position, and NE#2 appeared to strike or jab CM#1's left midsection again with a baton. NE#1 ordered CM#1 onto his stomach. CM#1 went to a prone position. NE#1 placed his knee on CM#1's mid- to lower-back. NE#2 put his knee on CM#1's left shoulder area as the officers moved CM#1's hands behind his back for handcuffing. CM#1 was handcuffed. And evaluated by SFD personnel, who stated CM#1 was fine, remembered the event, and was cleared to be transported to King County Jail.

After the use of force, CM#1 made a several statements, saying he had severe PTSD, that he was trying to comply with officers but is a little slow and was not given the opportunity to sit on his own. CM#1 stated he grabbed NE#2's leg because he "wanted comfort" and had abandonment issues from the government as a disabled veteran and stated he "wanted to hug someone." CM#1 also stated the officers punched him in the head and eye. CM#1 also told NE#2, "thank you for not just, like, trying to Tase me off your leg, I appreciate that because I know you had the right to."

NE#1 told NE#2 that one of his strikes hit NE#1 in the forearm. NE#2 stated that something was going on with his right pinky.¹⁰

¹⁰ It was later determined that NE#2 broke his right pinky and detached a ligament in his finger during the incident.



SFD determined CM#1 suffered a facial laceration to the right side of the bridge of his nose. The laceration was approximately a quarter inch. CM#1 was alert and oriented and had no other complaints of injury. Photographs taken of CM#1 during the use of force investigation corroborated this injury and showed redness and swelling on CM#1's face, redness in CM#1's right eye, and redness and swelling along CM#1's left side (left oblique area). CM#1's left ankle appeared to have multiple small abrasions and swelling. SFD responders did not see any force application on scene.

From the time NE#1 said "you're going in handcuffs" until CM#1 was secured in handcuffs was about eighty seconds.

2. Use of Force Documentation

Both named employees completed use of force statements concerning this incident, which were consistent with the evidence described above. In their statements, the named employees articulated their observations and reasoning.

a. Named Employee #1

NE#1 described having reasonable suspicion to detain CM#1 for assault and arson, and probable cause to arrest CM#1 for trespassing. NE#1 noted that, when he arrived, NE#2 had already contacted CM#1. NE#1 described de-escalating the situation by escorting CM#1, giving CM#1 clear notification that he would be placed in handcuffs, so "as not to surprise him," at which point CM#1 began to pull away. NE#1 also noted giving multiple "clear lawful orders," the fact that he and NE#2 were in full uniform, and that both officers arrived in marked police vehicles. NE#1 noted CM#1's prior threat to "hurt an officer" as well as CM#1 holding a cane, consistent with the assault call.

NE#1 described CM#1 repeatedly pulling away and disobeying orders. NE#1 also said CM#1, "grabbed [NE#2's] leg with both arms and appeared to be attempting to bring him to the ground." NE#1 said NE#2's body strikes on CM#1 appeared ineffective, and that NE#2 struck his baton on the ground numerous times, "which appeared to be a warning." NE#1 described ordering CM#1 to let go of NE#2. NE#1 said he attempted *de minimis* control holds that CM#1 "repeatedly overpowered."

NE#1 described punching CM#1 twice in CM#1's right torso, while ordering CM#1 to release NE#2's leg. NE#1 stated this had no effect at gaining compliance. NE#1 described using one "knee strike with my right knee to the suspect's left side of his torso." NE#1 wrote this was effective, causing CM#1 to fall to his right side and allowing NE#2 to break free of CM#1's grasp. NE#1 described CM#1 "turtle up," by lying face down, bringing his knees under his body. NE#1 stated he pulled CM#1's legs out from underneath him, and NE#1 and NE#2 successfully handcuffed CM#1 in the prone position.

b. Named Employee #2

NE#2 describe CM#1 as initially compliant, and their initial interaction courteous. NE#2 noted CM#1 appeared younger than himself, the same size or larger than himself, disheveled, high and/or suffering from mental illness, and possessed a "heavy wooden walking stick." NE#2 also noted the 911 caller stated CM#1 had been smoking methamphetamine for an hour prior to his arrival, which could increase his physical strength and lower pain tolerance.

NE#2 described his de-escalation attempts, noting his police uniform, marked police vehicle with activated lights, speaking with courtesy and giving specific instructions to come talk on the sidewalk. NE#2 described CM#1's initial



compliance. NE#2 wrote that he maintained time, distance, and shielding by keeping a chain link fence between himself and CM#1 until NE#1 arrived on scene. NE#2 stated he and NE#1 were escorting CM#1 to the bus shelter, where he intended to conduct a frisk for weapons. NE#2 wrote his intent was to use the bus shelter as the safest space to do this, as it was enclosed on three sides. NE#2 wrote CM#1 then became assaultive, making de-escalation unfeasible. NE#2 wrote he had probable cause for assault, arson, and felony assault on multiple police officers.

NE#2 articulated multiple threat indicators from CM#1, including his prior threats to hurt an officer and apparent fighting skills based on his military service, use of straight punches, and attempt of a "single leg take-down." NE#2 also noted CM#1's reported use of methamphetamine, violent nature of his alleged crimes, and the fact CM#1 had not been frisked.

NE#2 described his use of force on CM#1. NE#2 wrote that after CM#1 threw punches at him with a "closed fist," NE#2 responded with baton strikes to CM#1's midsection and a punch to CM#1's left eye. NE#2 wrote CM#1 then attempted the "single leg take-down" on him, to which he responded with "baton strikes to tertiary targets i.e. midsection, left hip, left thigh, left calf, and left foot." NE#2 described the level of force used by CM#1 and himself as "Type 2."¹¹ NE#2 also noted that SPD, the Washington State Police Academy, and Federal Law Enforcement Academy¹² trained him to throw punches and use baton strikes "when facing combative resistance or to prevent injury to the officer or others." NE#2 described the efficacy of his strikes as "minimized by the broken bone and detached ligament in his right-hand finger." NE#2 described the progression of his reasoning during the use of force in depth as follows:

When the subject attempted a single leg take-down on me, I knew that I had to prevent the subject from pushing off the ground with his left leg. I knew that I had to disrupt both his physical posture and his thought process on how to complete the technique. To that end, I attempted to control the subject's head with a hair hold, and I struck at his midsection with my baton. These strikes were ineffective. I then changed targets to the subjects left hip and applied baton strikes there. These strikes were also ineffective. I was able to determine that the strikes were ineffective by stopping the strikes and attempting to pull my left leg out of the subject's grasp. Between each application of strikes to a different target, I paused and attempted to remove my leg (see BWV and ICV). I then changed targets again to the subject's left thigh, left calf, and left foot. When I applied strikes to the top of the suspect's left foot the suspect pulled his foot under him, and thus I was able to break his posture. This did not force the subject to release my leg, but without his left foot flat on the ground, I knew the subject would no longer be able to complete his take-down technique. While wrestling the subject into prone handcuff position, I applied several strikes to the subject's left arm and left midsection to prevent him from pushing himself off the ground and continuing to fight. This application was effective, and the subject was placed into handcuffs using an SPD trained prone handcuffing technique. The prone handcuffing technique used and trained by SPD was approved by the DOJ monitoring team over a decade ago.

After the application of the handcuffs, I stopped using force immediately

¹¹ At this time of this incident, Type II force was defined as 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 included, among other things, punches, using an impact weapon without causing "Type III injury," and any takedown the would be reasonably expected to cause injury. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).

¹² NE#2 previously worked as a federal law enforcement officer.



NE#2 noted CM#1 suffered a cut above his right eye, and multiple bumps and bruises to his midsection, left leg, and left foot. NE#2 described his own injuries as a broken finger and detached ligament, for which he was treated by SFD on scene, later at a hospital, and that his treatment was ongoing.

c. Use of Force Investigation and Review

Consistent with SPD policy, the use of force investigation was investigated by a sergeant. This investigation was reviewed by an administrative lieutenant, the named employees' watch commander, and precinct captain.

The investigating sergeant located and summarized evidence consistent with the above. They interviewed a witness to the incident, who reported CM#1 was in the yard when the police arrived. The witness explained CM#1 tried to explain to the police he was lighting incense and not setting a fire. W#1 recalled the police asking CM#1 to come down. The witness stated that CM#1 complied when asked to leave by the police, and that CM#1 told the police he was a veteran with PTSD. The witness stated police "grabbed" CM#1 and "dragged him" to the bus shelter and were then "really rough" with CM#1, which they believed triggered CM#1's PTSD. The witness opined, based on their prior knowledge of CM#1, this triggered CM#1's military training causing him to dive for the leg of NE#2, after which the officers started hitting CM#1. The witness described having a relationship with CM#1, noting this was their "first date" after the two met online. The witness characterized the incident as the officers "beating" CM#1 until he was bloody. Additionally, the witness explained one officer pulled out a billy club and beat CM#1 in the face. CM#1 was forced onto his stomach by the officers and thought they kept hitting CM#1 after he stopped fighting and let go. The witness said, "it was rather violent".

The investigating sergeant also interviewed CM#1. CM#1 stated that he was trying to move to the bus shelter, but that he requires more time to move as he is a disabled veteran. CM#1 stated that, once that was known, the officers forced compliance by forcing him to the ground. CM#1 described the force used as one officer hitting him in the face with a closed fist, following hits to the gut and side of the ribs. CM#1 stated he was hit on both sides by two officers. CM#1 described being hit in the right eye with a closed fist. CM#1 stated he took baton strikes to the left side and back. CM#1 stated that, after he was on the ground, the officers pushed all the air out of his lungs, not allowing him to breath.

A. OPA Interviews

OPA interviewed NE#1 and NE#2. Both described the incident consistent with the evidence summarized above and their use of force statements.

OPA tried to contact CM#1 several times by email address twice and a phone number located. No recent physical address for CM#1 was found other than the address he was trespassed from. CM#1 was interviewed by the SPD sergeant who investigated the use of force.

a. Named Employee #1

NE#1 described evaluating CM#1's compliance and behavior while walking to the bus shelter. NE#1 noted that CM#1 asked multiple times not to be touched, but NE#1 determined that continuing to escort CM#1 was necessary due to the nature of the criminal allegations and presence of the walking stick as a potential weapon. NE#1 described CM#1



as giving “an amount of compliance” up to that point, so to continue their rapport, he told CM#1 he would be placed in handcuffs so as not to surprise him. NE#1 also said he was able to remove the cane from CM#1 by “simply [taking] it out of his hand. There was no fight over it, and I just placed it down by the side.” NE#1 said this is when CM#1 turned, pulled away, and swung his left arm aggressively at NE#2. NE#1 determined there was an “immediate threat” and, at the very least, probable cause for assaulting an officer. NE#1 also noted CM#1 had not yet been frisked and was wearing baggy clothing and could have access to additional weapons.

NE#1 did not recall using a head hold but stated NE#2 responded by punching CM#1 in the face. NE#1 said CM#1 then bent his body forward and “lunge[d] towards [NE#2] and appeared to be grabbing his leg.” NE#1 described this as a single leg take down, which is a “combat maneuver” to cause the other person to fall to place you in a dominant position. NE#1 described giving verbal orders to let go of NE#2’s leg, which were ignored. NE#1 also said he saw NE#2 delivering ineffective strikes with his baton. NE#1 said, after giving verbal orders, he delivered two closed fist strikes to CM#1’s torso, which were not effective, so he used a single knee strike to the torso. NE#1 said this broke CM#1’s posture, allowing NE#2 to free himself. NE#1 said he modulated his force, gave verbal orders, and pulled CM#1’s legs out to put CM#1 into a prone handcuffing position.

NE#1 stated he had about two prior interactions on other dates with CM#1, during which he was calm and compliant.

When asked why CM#1’s cane was not removed earlier, NE#1 responded that he felt it was more important to first physically remove him from the immediate location, away from potential victims. NE#1 also describe CM#1’s demeanor at that time as still compliant and he felt that if he removed the cane, it might have escalated CM#1.

NE#1 described using de-escalation techniques by giving clear instructions to CM#1 and walking him to the bus shelter, which NE#1 stated was “buying time” to evaluate CM#1. NE#1 also described this as creating distance from potential victims and putting CM#1 in an environment where he would be more easily controlled. Although there was not a plan discussed between NE#1 and NE#2 on scene for engaging with CM#1; however, NE#1 explained NE#2 was already on scene and engaging with CM#1 when he arrived. NE#1 explained this seemed a reasonable action because of the reported assault and arson.

NE#1 described carrying a Taser as his less-lethal tool. NE#1 stated he did not use the Taser because the situation developed rapidly. NE#1 said he carries his Taser on his left side, so it takes time to draw making it less effective when “addressing an immediate active threat that is happening directly in front of me. . . within my arm’s reach.” Due to this, NE#1 chose to use his own body instead of the Taser.

b. Named Employee #2

NE#2’s description of the incident during his OPA interview was consistent with what he documented in his use of force statement.

NE#2 described having probable cause at the time he contacted CM#1 to arrest him for assault and arson. NE#2 noted he had the victim present, the computer-aided dispatch notes, CM#1 matched the description of the perpetrator and was physically present at the scene of the alleged crime.

NE#2 described escorting CM#1 to the bus shelter, noting CM#1 started to stiffen up and “drag” as they walked, making it more difficult to keep moving. NE#2 said that CM#1 became combative after NE#1 told him he was going in



handcuffs, which caused CM#1 to turn and start fighting the officers. OPA asked NE#2 about his word choice ordering CM#1 to “sit your ass down.” NE#2 stated he was using his “military mode” given that both he and CM#1 were military veterans. NE#2 stated this technique has worked in the past but was unsuccessful this time. NE#2 was also asked about CM#1’s statement to “stop being forceful” with him and he would cooperate. NE#2 stated he did not recall CM#1 saying that but, in any event, that would not be CM#1’s decision to make as, “he’s not running the show.” NE#2 stated that they needed to frisk CM#1, and any further attempt by CM#1 to slow that down could be a ruse or an attempt to derail the process.

NE#2 also described his perception that CM#1 had combat training based on the fact he threw a “straight punch,” which NE#2 stated is “faster and mechanically more powerful and accurate.” NE#2 also stated that CM#1’s attempt to execute a single leg take down indicated he was “resorting to his training.” NE#2 described his perceptions at that time:

When he went for the single leg takedown, then I knew, and I knew I absolutely cannot allow him to complete that technique, if he had completed that technique, we've gone from, for his own safety. You know, I've used deadly force before, and I'm willing to do whatever it takes to never have to do that again. I don't you know, I've had enough, not that I won't if I have to, but if some you know, if multiple baton strikes, and I know it looks terrible and all those things, but if all those things can prevent me from being slammed on the concrete with him on top of me with an injured hand on my right side, on my gun side. We're, we're at lethal force then, and so I will do whatever it takes to prevent from, from being put into that situation.

NE#2 stated he could not recall whether CM#1’s punch contacted him.

NE#2 described aiming his baton at “tertiary targets,” because these result in a lower level of injury and would not cause death. NE#2 described aiming for CM#1’s midsection to “take away from his cardiovascular tank,” because CM#1 was significantly younger than him and on narcotics. NE#2 also described matching the level of force CM#1 was using on him, noting when CM#1 punched at him, he punched CM#1 back. NE#2 described his training allowing him to “use force one level above,” but believing in this instance it was appropriate to match CM#1’s level of force. NE#2 described most of his baton strikes as ineffective, except noting that when he targeted CM#1’s foot, CM#1 moved his foot back and went to his knees, breaking his posture. NE#2 described that, due to his hand injury, he was not able to get a “good grip” on his baton, which limited the efficacy of his baton strikes.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics...

It was alleged that the named employees failed to use de-escalation tactics when safe, feasible, and without compromising law enforcement priorities.

SPD Policy instructs that: “When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics in order to reduce the need for force.” SPD Interim Policy 8.100-POL-1 (effective April 24, 2023). Officers are also encouraged to use team approaches and consider whether any officer has successfully established



rapport with the subject. *See id.* The selection of de-escalation options is to be guided by the “totality of the circumstances.” *Id.* The goal is voluntary compliance. *See id.* The policy gives several examples of de-escalation emphasizing the use of communication, time, distance, and shielding to minimize the need for force. *Id.* Using verbal techniques such as Listen and Explain with Equity and Dignity (LEED) to calm an agitated subject and promote rational decision-making is emphasized as well as avoiding language that would elevate the incident (taunts and insults are prohibited). *Id.* Furthermore, the policy discusses consideration of whether any lack of compliance is a deliberate attempt to resist rather than a perceived physical or psychological inability to comply based on factors including, but not limited to medical conditions, mental impairment, developmental disability, physical limitation, language barrier, drug interaction, behavioral crisis, or fear or anxiety. *Id.*

For the reasons articulated below, OPA recommends this allegation be Not Sustained – Training Referral for NE#1 and Sustained for NE#2. OPA recognizes that both named employees engaged in some de-escalation techniques but, overall, their engagement with the Complainant fell short in several respects.

NE#2 arrived at the scene prior to NE#1’s arrival and had received detailed CAD information. This included that CM#1 was high and had been smoking narcotics for the last hour. NE#2 started communication with CM#1 that appeared to be going well but provided CM#1 with very limited information about the next steps in the process. CM#1 was compliant when NE#2 appropriately called out to CM#1 and asked him to come down to the sidewalk, away from the house that CM#1 had reportedly assaulted a person with a walking stick and attempted to set the house on fire where other victims could be located. During this time, NE#2 engaged politely with CM#1 from a distance, allowing CM#1 time to gather his belongings while awaiting backup. NE#2 permitted CM#1 to speak briefly with the female community member before politely redirecting him (“Come down here, sir. Come over here and take a seat in the bus, in the bus shed. We’ll sort it out.”).

As CM#1 approached the sidewalk, NE#1 arrived and joined NE#2 in time to escort CM#1 to the empty bus shelter.¹³ CM#1 was compliant and presented as cooperative. However, although officers are encouraged to use a team approach, neither NE#1 nor NE#2 used this moment of relative calm to discuss their contact plan with each other or communicate their next steps with CM#1. Instead, both NE#1 and NE#2 used *de minimis* escort holds to guide CM#1 over to the bus shelter. Even if the use of the escort hold was consistent with law enforcement priorities, neither officer made an adequate effort to communicate with CM#1. NE#1 only stated to CM#1 (“that’s not how this works”), which falls short of the requirement for officers to use LEED techniques to listen to subjects’ concerns and explain their actions with equity and dignity.

Also notable was that, as the named employees were escorting CM#1 to the bus shelter, CM#1 informed them he was a “disabled veteran” and repeatedly expressed a discomfort with being touched, saying he could walk on his own and would cooperate if the officers were not “forceful” with him. Not only did neither officer choose to engage with CM#1 through LEED communication, but NE#2 chose to use crass, forceful language with CM#1 (“sit your ass down”). Although the order to sit down was warranted, the delivery and tone were clearly escalatory in nature. *See* SPD Interim Policy 8.100-POL-1 (effective April 24, 2023) (advising officers to avoid “language that could escalate the incident” and, instead, use verbal techniques to calm subjects and promote rational decision-making). NE#2 explained he was trying to use a “military mode” to direct CM#1 as a fellow veteran. On the one hand, trying different types of engagement can be appropriate de-escalation, *see id.* (allowing the use of “pattern interrupts, when appropriate”),

¹³ No team tactics were discussed, as things were in motion to guide CM#1 away from the house and other people to the empty bus shelter.



OPA believes giving the direction in a clear, neutral tone or use verbal techniques such as LEED to engage with CM#1 were called for here.

After this, NE#1's decision to abruptly tell CM#1 that he was going in handcuffs was another missed opportunity to engage with CM#1 and, instead, escalated the interaction between CM#1 and the named employees significantly. Recognizing that it was reasonable to place CM#1 in handcuffs at this juncture, the named employees were also aware CM#1 was a disabled veteran, had taken drugs, and was prone to agitation based on an early call. At this point, the officers should have known that handcuffing CM#1 would be very likely to further escalate CM#1. Clearer, more fulsome communication concerning this decision was needed. This is especially true after CM#1 offered to "cooperate" if the officers stopped "being forceful with him." Neither officer used this moment to explain why their use of escort holds were appropriate.

Ultimately, the officers could have requested an expedited response for backup to their location, developed a team tactic for the arrest, and better communicated with a subject—who appeared in crisis—using LEED principles instead of short verbal orders.

Participants in the discipline meeting also discussed that, overall, NE#2's demeanor and body language was escalatory such as by having his baton drawn for his entire engagement with CM#1. It was also noted that NE#2 arrived first, took control of the scene, and—as the patrol sergeant—was NE#1's supervisor. NE#2 also developed the plan to speak with CM#1 in the bus shelter. Given these factors, it was reasonable for NE#1 to follow NE#2's lead while engaging with CM#1. Given these different levels of responsibility, OPA amended its recommended finding for NE#1 from Sustained to Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 8.100 with him, and provide any further retraining and counseling that it deems appropriate. The chain of command should consider whether it is appropriate for NE#1 to complete any additional Crisis Intervention Training. The retraining and counseling conducted should be documented in Blue Team.

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

Named Employee #1 – Allegation #2

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

It was also alleged that the named employees used excessive force on CM#1.

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.*

During this incident, NE#1 used *de minimis* force, a head-hold tactic, two punches and a knee strike on CM#1. NE#1's use of force was lawful and proper.

Here, the suspect's offenses were very serious.¹⁴ OPA also finds that CM#1 offered significant resistance, pulling away from two officers, striking at NE#2,¹⁵ and attempting to use a one-leg take down on NE#2.¹⁶ Given that there were only two officers with CM#1 at that time, there was a high risk, and a possibility that CM#1 could have broken free and fled. Both NE#1 and NE#2 reasonably perceived CM#1's conduct as assaultive as offering a high level of resistance by an individual with military training. Neither NE#1 nor NE#2 had much time to respond: CM#1 escalated by continuing to resist the officers arrest of him. There were only two officers with CM#1 and NE#2 already had his less-lethal tool (baton) in his hand. Both officers were necessarily within arms' reach of CM#1, having escorted him to the bus shelter and needing to handcuff him. The only other less-lethal tool available—NE#1's Taser—was not already deployed and, in any event, would likely have been less effective due to CM#1's baggy clothing and proximity to the officers. Both named employees had military and law enforcement training but were facing a subject who they reasonably perceived as also possessing military training. CM#1 had not been frisked for any additional weapons and possible could have had access to other weapons. Moreover, as NE#2 articulated, if CM#1 had successfully completed the one-leg takedown, he would have been in a position of advantage over NE#2 and potentially able to access other weapons (such as NE#2's baton or firearm). Finally, its unknown how CM#1's articulated disability—PTSD—affected his actions or ability to resist the named employees.

Given these factors, NE#1's use of type two force—two punches and a knee strike—were objectively reasonable to overcome the level of resistance offered by CM#1. Moreover, because CM#1 was physically resisting being placed in handcuffs, the use of physical force was necessary to overcome the high level of resistance (perceived strike¹⁷ and attempted one-leg take down). Here, OPA finds the amount of force NE#1 used was reasonable and proportional to achieve his lawful purpose of assisting NE#2, overcome CM#1's resistance, and placing CM#1 into a position where he could be safely handcuffed.

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

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

¹⁴ An assault, arson, and trespass.

¹⁵ NE#2's BWV corroborated that CM#1 swung his left hand at NE#2. Moreover, both NE#1 and NE#2 articulated their reasonable perceptions of this: NE#1 stated CM#1 swung "aggressively" at NE#2, NE#2 stated CM#1 threw straight punches. Ultimately, OPA cannot conclude which of these occurred, but finds both officers' perceptions were objectively reasonable, which is the relevant inquiry in evaluating their use of force. NE#2 could not recall if was struck by CM#1.

¹⁶ NE#1 and NE#2 described CM#1's hold on NE#2's leg as a one leg takedown. There is no dispute that CM#1 "dove for" NE#2's leg, as every witness—including CM#1 and his date—said he did so. BWV and bystander video partially corroborated this, and NE#1 contemporaneously ordered CM#1 to let go of NE#2's leg. CM#1 admitted he grabbed NE#2's leg because he "wanted comfort" and had abandonment issues from the government as a disabled veteran and stated he "wanted to hug someone."

¹⁷ NE#2 did not recall if a strike by CM#1 landed.



Named Employee #2 – Allegation #1

8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics...

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Sustained.

Recommended Finding: Sustained

Named Employee #2 – Allegation #2

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

During this incident, NE#2 used *de minimis* force, hair hold tactics, punches, baton strikes and baton jabs on CM#1.

OPA recommends this allegation be Sustained.

The totality of circumstances facing NE#2 significantly overlapped with those experienced by NE#1. Importantly, NE#2 also recognized that his right hand was seriously injured at the very beginning of the fight with CM#1. After CM#1 pulled away from the officers, turned and swung at NE#2, and resisted arrest, NE#2 it was objectively reasonable, necessary and proportional for NE#2 to use punches and baton strikes to tertiary targets such as the midsection to overcome CM#1's resistance. After CM#1 attempted to conduct a single-leg takedown on NE#2, it was objectively reasonable, necessary, and proportional for NE#2 to continue with punches and baton strikes to tertiary targets to defend himself, overcome CM#1's resistance, and remove CM#1 from his leg.¹⁸

But the situation changed after NE#1 knocked CM#1 over with a knee strike. Here, NE#2 had the obligation to "assess and modulate" his use of force as the situation progresses. See SPD Interim Policy 8.200-POL-4 (effective date 04/24/2023) ("Officers will assess and modulate the use of force as resistance changes."). After NE#1 knocked CM#1 onto his side with a knee strike, CM#1 no longer posed the same threat or offered the same level of resistance. Nor did NE#2 afford CM#1 enough time to comply with the officer instructions to get on his stomach before continuing to strike him with his baton.

In his use of force documentation, NE#2 noted that he succeeded in breaking down CM#1's posture but justified these additional strikes this way: "*While wrestling the subject into prone handcuff position, I applied several strikes to the subject's left arm and left midsection to prevent him from pushing himself off the ground and continuing to fight.*" This explanation is both speculative and illogical. After NE#1 knocked CM#1 over, CM#1 needed to move to some degree in order to get onto his stomach. While *de minimis* force to guide CM#1 to the prone position—as NE#1 did at this point—was objectively reasonable, necessary, and proportional, striking CM#1 twice with a baton was not. Absent any specific, articulable threat from CM#1, these additional strikes were unnecessary. The type and amount of force

¹⁸ Notably, NE#2 wrote in his use of force statement—and repeated in his OPA interview—that he feared for his life and the life of his backing officer. Also, he stated, "I feared that if the subject's take-down was successful, I would not be able to protect my firearm."



(baton strikes) was not reasonable and proportional to effect the lawful purpose of pulling CM#1 into a prone position or protecting against the threat posed by CM#1 at that time.
Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**