



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 25, 2024

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

CASE NUMBER: 2024OPA-0257

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 (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)

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:

Community Member #1 (CM#1) fled on a stolen bicycle from Named Employee #1 (NE#1). NE#1 caught up, pushed CM#1 off the bicycle, and handcuffed him. The Complainant alleged that NE#1 used unauthorized type III force.

ADMINISTRATIVE NOTE:

During its intake investigation, OPA identified NE#1 failing to document his use of force in this incident. OPA sent NE#1's potential violation of SPD Interim Policy 8.400-POL-1(1) (effective May 19, 2023) (Officers Will Document in a Use-of-Force Report All Uses of Force Except De Minimis Force) to his chain of command for Supervisor Action.¹

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue a recommended finding based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On July 19, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On June 7, 2024, the Complainant submitted an OPA complaint. It included a video of NE#1 pushing CM#1 off a bicycle and handcuffing him. The Complainant alleged NE#1's use of force was type III and possibly unauthorized.

OPA investigated the complaint by reviewing the incident report and body-worn video (BWV).

¹ 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).



Witness Officer #1's (WO#1) incident report stated that officers saw CM#1 drive a stolen vehicle, distributed and reviewed photographs of him, and saw him ride a bicycle, which officers determined was stolen. WO#1 wrote that CM#1 fled from the police on his bicycle and disobeyed officers' commands to stop.

NE#1's BWV captured NE#1 driving to CM#1's location. NE#1 exited his patrol vehicle and chased CM#1, who fled on a bicycle while wearing a backpack. NE#1 shouted, "Hey! Seattle police! Stop!" CM#1 continued pedaling away from NE#1. NE#1 caught up and pushed CM#1, causing CM#1 to fall on his side. NE#1 fell forward, using his hands to brace his fall. NE#1 handcuffed CM#1 on his stomach. CM#1 did not express pain. NE#1's right hand bled.

WO#1's incident report stated that officers searched CM#1's backpack and found a firearm inside. WO#1 wrote that CM#1 was a convicted felon, prohibiting him from possessing a firearm.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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

The Complainant alleged that NE#1 used unauthorized type III force by pushing CM#1 off a bicycle.

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.*

Type III is force that causes, or is reasonably expected to cause, great bodily harm,² substantial bodily harm,³ loss of consciousness, or death. SPD Interim Policy 8.050 (effective May 19, 2023). Type III force includes, among other things, discharging a firearm at a person, striking a person's head against a hard, fixed object, or force causing a broken bone or serious joint dislocation. SPD Interim Policy 8.400 (effective May 19, 2023). NE#1's use of force in this incident was inconsistent with type III force. CM#1 did not express pain during and after handcuffing. The Seattle Fire Department evaluated CM#1 and did not find injuries consistent with great bodily harm or substantial

² Great bodily harm is bodily injury which creates a probability of death, causes significant serious permanent disfigurement, or causes a significant permanent loss or impairment of the function of any bodily part or organ. SPD Interim Policy 8.050 (effective May 19, 2023).

³ Substantial bodily harm is bodily injury which involves temporary but substantial disfigurement, temporary but substantial loss or impairment of the function of any bodily part or organ, or fractures of any bodily part. SPD Interim Policy 8.050 (effective May 19, 2023).



bodily harm. Moreover, NE#1's push was unlikely to cause loss of consciousness or death. Rather, NE#1's push was more consistent with type I force. See SPD Interim Policy 8.050 (effective May 19, 2023) (defining type I as force that causes transitory pain or the complaint of transitory pain).

NE#1's use of force was also objectively reasonable, necessary, and proportional under the circumstances. CM#1 was a stolen vehicle suspect who fled from the police on a bicycle. CM#1 matched the description of the subject who was seen in the driver's seat of the stolen vehicle footage. Since CM#1 disobeyed their commands to stop, NE#1's push was necessary to terminate the chase and execute an arrest. NE#1 used relatively lower-level force—most likely type I—that was proportional to the fast-paced nature of the situation.

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

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**