



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 28, 2025

FROM: INTERIM DEPUTY DIRECTOR NELSON R. LEESE (ON BEHALF OF INTERIM DIRECTOR BONNIE GLENN)
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0389

Allegations of Misconduct & Director's Findings

Named Employee #1

| Allegation(s): | | Director's Findings |
|----------------|--|---------------------------|
| # 1 | 8.200 – Using Force, 8.200-POL-2. Use of Force: When Prohibited | Not Sustained - Unfounded |
| # 2 | 8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Sworn Employees Will Use De-Escalation Tactics to Reduce the Need for Force | Sustained |

Imposed Discipline

Written Reprimand

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:

Named Employee #1 (NE#1)—an SPD police captain—investigated a disturbance involving Community Member #2 (CM#2) and Community Member #3 (CM#3) outside a restaurant. During the investigation, Community Member #1 (CM#1) interjected himself in the incident and repeatedly claimed that he was uninvolved and swore at NE#1. The Complainant, a bystander, alleged that NE#1 failed to de-escalate by confronting and pushing CM#1. It was also alleged that NE#1 used prohibited force.

ADMINISTRATIVE NOTE:

On February 14, 2025, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint



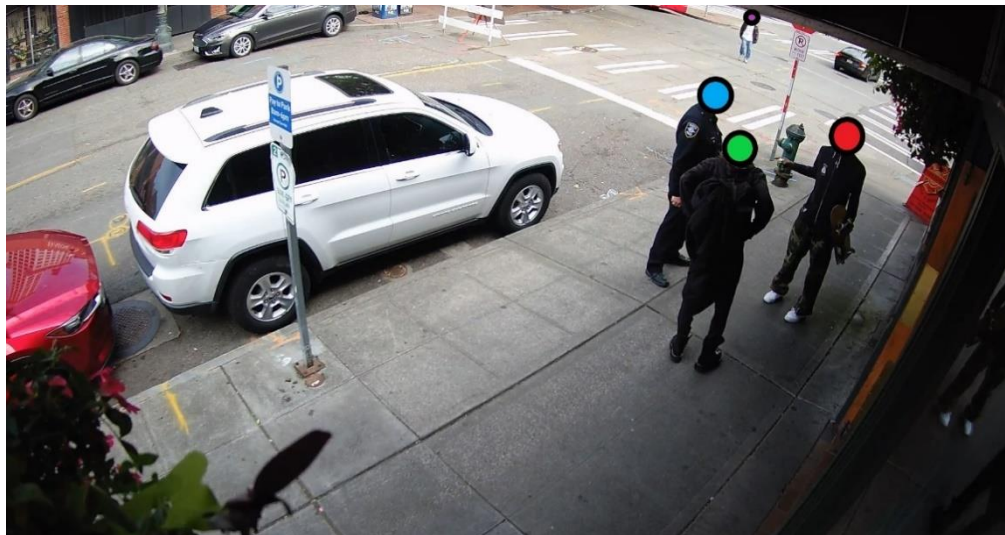
On October 1, 2024, the Complainant filed an OPA complaint detailing an incident involving NE#1 and CM#1. According to the Complainant, NE#1 directed an intoxicated CM#1 to retrieve a dropped beer can that CM#1 discarded, but when CM#1 refused, NE#1 approached and pushed CM#1's left shoulder while repeating his instruction. In response to the push, CM#1 pushed NE#1 in the chest and dropped a beer can, which began to spray NE#1 and the Complainant. As CM#1 attempted to leave, NE#1 requested backup and subsequently had CM#1 arrested for assault. The Complainant alleged that NE#1 failed to de-escalate the situation.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, restaurant security video, body-worn video, and incident and supplement reports. OPA also interviewed the Complainant and NE#1.

B. Restaurant Security Video¹ and Supplement Report

A security video outside a restaurant captured the following:

CM#1 and CM#2 stood on a sidewalk adjacent to the restaurant. CM#1 told CM#2, "Fuck him up.² Get in there. Tie your shoes up." CM#2 entered the restaurant and, after several seconds passed, exited with NE#1. CM#2 said, "He's right there.³ I was trying to get into my home." While holding a skateboard and a beer can, CM#1 approached and said, "It's not me. Go on and tell him it's not me! The fuck you're talking about. Tell him it's not me!" CM#2 repeated, "I was trying to get into my home," as CM#3 approached from the intersection.



NE#1 asked CM#1 about his intended direction. While pointing at CM#3, CM#1 said, "Talk to him. What the fuck are you talking about? What are you worried about me for? Talk to him." CM#1 pointed at CM#3 again. CM#3 approached and shouted at CM#2, who retreated and fled to the left. CM#3 chased after CM#2, after which they were no longer visible on video. NE#1 entered the restaurant as CM#1 swore at NE#1, calling him a "dumbass cop."

¹ In the photographs that follow, NE#1 is shown in blue, CM#1 in red, CM#2 in green, CM#3 in purple, and the Complainant in orange.

² CM#1 was likely referring to CM#3.

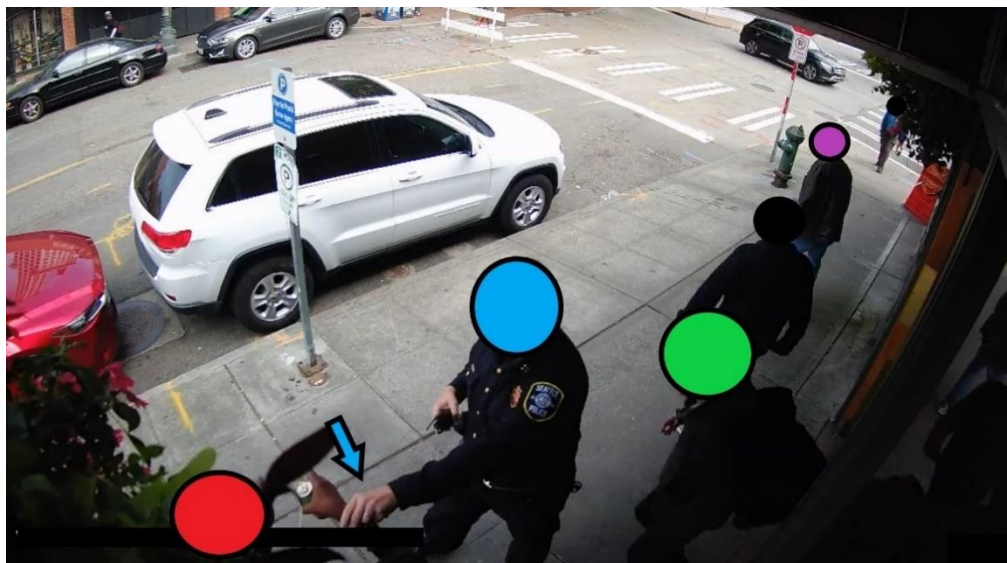
³ CM#2 did not clarify the identity of the individual he was speaking about.



CM#2 reentered the restaurant but soon exited with NE#1, who had brought a radio. NE#1 spoke with CM#3, but their conversation was indiscernible.⁴ CM#1 pointed at NE#1 and shouted, “Hey, cracker ass cop! Fuck you! They’re the ones that’s doing it, and you’re talking to me.”



NE#1 approached CM#1, pointed his finger at CM#1 while holding a radio, and told CM#1 that he held an “open container of alcohol.” CM#1 replied, “Everyone has it.” NE#1 pushed CM#1’s right wrist which caused CM#1 to move backward.



NE#1 instructed CM#1 to “back off.” In response, CM#1 suggested that NE#1 discuss the situation with CM#2 and CM#3. NE#1 said, “Quiet down. Are you involved in this?” CM#1 denied involvement. NE#1 directed CM#1 to leave.

⁴ According to NE#1, CM#3 claimed that CM#2 initiated the assault.



CM#1 pointed at NE#1 and replied, "Get the fuck out of my face. Don't touch me, you fucking [racial slur]." CM#2 and CM#3 left the scene during this exchange.

NE#1 approached the stop sign on the right and communicated through his radio, while CM#1, though not visible on video, could be heard swearing about NE#1.



NE#1 stood near the stop sign for about a minute. A sound consistent with a can being dropped was audible, though not seen on video. NE#1 then walked left, approached CM#1, and stated, "No, no, no, no, no. You go back and pick that up." CM#1 reentered the video frame as the Complainant passed by, observing NE#1 and CM#1. NE#1 pressed his left pointing finger against CM#1's chest and pushed CM#1, causing CM#1 to move backward.



As CM#1 was pushed back, CM#1 brushed his right hand against NE#1's arm and then tried to push NE#1's hand away. NE#1 again instructed CM#1 to retrieve the can. CM#1 shouted, "Quit fucking touching me. Why the fuck you keep touching me?" CM#1 pushed NE#1's chest, causing NE#1 to move backward, and asked, "Do I fucking touch you?"



NE#1 stated, "That's an assault on a police officer." CM#1 repeatedly exclaimed, "Don't fucking touch me." Subsequently, CM#1, NE#1, and the Complainant moved to the left, leaving the video frame. The recording concluded shortly after this movement.

According to NE#1's supplement report, CM#1 retrieved a beer can out of his pocket but dropped it, causing it to spray once it struck the ground. NE#1 wrote that CM#1 picked it up and waved it, leading to the Complainant being sprayed. NE#1 wrote that after he instructed CM#1 to place the can on the ground, CM#1 aimed the can directly at NE#1, spraying his legs and torso. NE#1 wrote that he followed CM#1 while radioing for backing officers, at which point CM#1 turned and positioned his skateboard as if he intended to strike NE#1. NE#1 wrote that after backing officers arrived, he directed them to arrest CM#1 for assault based on the shoving, spraying with beer, and threatening him with the skateboard.

C. Body-Worn Video (BWV)

Backing officers arrived and arrested CM#1 at NE#1's direction. The Complainant and NE#1 conversed. The Complainant said CM#1 reacted to NE#1's push and claimed that NE#1 unnecessarily escalated a littering situation. NE#1 maintained that CM#1 "put his hands on" NE#1, justifying CM#1's arrest for assault. NE#1 then alleged that CM#1 sprayed him with a beer can. The Complainant acknowledged that he, too, had been sprayed but believed it was accidental. A backing officer interviewed the Complainant while NE#1 stepped away. The Complainant's account was generally consistent with OPA's video observations. The Complainant declined to be a victim, as he felt the beer spraying was unintentional.

Backing officers later interviewed NE#1. NE#1 said he was inside the restaurant when CM#2 entered and claimed that he was being chased and assaulted. NE#1 said he exited with CM#2 to ensure that no one followed him. NE#1 said he reentered the restaurant, but CM#2 followed and claimed that his assailant was present. NE#1 said he exited and tried to "sort this out," during which CM#3 claimed that CM#2 initiated the assault. NE#1 said he instructed CM#1 to leave because CM#1 seemed to be uninvolved with the disturbance. NE#1 said he tried to understand the disturbance, but CM#1 reacted by getting in his face. NE#1 said CM#1 threw an open beer can onto the sidewalk. NE#1 said CM#1



pushed him, grabbed the skateboard as if CM#1 intended to strike him, and dropped his beer can, causing it to spray the Complainant and NE#1.

D. OPA Interviews

Complainant

On October 17, 2024, OPA interviewed the Complainant. He acknowledged that he did not witness the events leading up to the confrontation between NE#1 and CM#1. He said he first observed the incident when NE#1 directed CM#1 to pick up a can of beer that CM#1 threw on the ground. The Complainant indicated that CM#1 did not pick up the can of beer and NE#1 pushed CM#1 on his right shoulder with his left hand. CM#1 then put his hands forward which touched NE#1's chest with open hands.⁵ The Complainant then observed a can of beer drop from CM#1 onto the ground. The can of beer was punctured after it fell to the ground and started to spray on the Complainant and NE#1's legs. The Complainant believed that CM#1 unintentionally sprayed NE#1 with the punctured can of beer. NE#1 told CM#1 to "stop spraying that" and "get that under control" and CM#1 ultimately redirected the can of beer away from the Complainant and NE#1. The Complainant recalled CM#1 saying to NE#1, "why are you always harassing me" and "can't you leave me alone." Also, the Complainant did not see CM#1 gesture at or threaten anyone with his skateboard. The Complainant recalled a backing officer arriving at the scene and NE#1 requesting CM#1 to be arrested for assaulting an officer and was taken into custody. The Complainant told NE#1 that he believed his actions escalated the situation from when NE#1 told CM#1 to pick up the can of beer for littering and not responding to his commands. The Complainant acknowledged to NE#1 that he did not see what occurred prior to his commands for CM#1 to pick up the can of beer.

Named Employee #1

On January 21, 2025, OPA interviewed NE#1. NE#1 contested the Complainant's claim that he escalated the situation, noting that the Complainant did not observe the entire incident. NE#1 said he used de-escalation tactics by instructing CM#1 to leave, communicating advisements and warnings in a calm manner, avoiding escalatory language, providing guidance to ensure CM#1 understood where to leave, using pattern interruptions to manage an impaired and agitated person, and requesting backing officers, though NE#1 clarified that his backup request was aimed at addressing the conflict between CM#2 and CM#3. NE#1 did not believe that time, distance, and shielding were feasible de-escalation tactics because he perceived CM#1 posing a threat to bystanders.

NE#1 said he did not wait for backing officers before approaching CM#1 because CM#1 threw an object and caused property destruction, where bystanders were present. NE#1 acknowledged that CM#1's outbursts were directed at NE#1, not others, but noted that CM#1 bumped into others and threw beer cans. NE#1 estimated traveling about 10 to 15 feet to reach CM#1.⁶ NE#1 said he intended to interrupt CM#1's agitated behavior. NE#1 did not consider his approach to be escalatory since CM#1 was already agitated, and he needed CM#1 to leave to investigate the disturbance. NE#1 said he warned CM#1 about an arrest if he did not leave.⁷

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

⁵ The Complainant believed CM#1 lost his balance from the push from NE#1 and appeared to place his hands on NE#1's chest to obtain his balance. The Complainant believed CM#1 was intoxicated.

⁶ OPA approximated the distance to be about 35 to 40 feet, as determined from a map.

⁷ The restaurant security video did not capture NE#1 warning CM#1 about an arrest.



8.200 – Using Force, 8.200-POL-2. Use of Force: When Prohibited

It was alleged that NE#1 used prohibited force.

Sworn employees will not use force against individuals who only verbally confront them unless the vocalization impedes a legitimate law enforcement function. SPD Policy 8.200-POL-2.

A preponderance of the evidence established NE#1 did not violate this policy. Video showed NE#1 physically contacting CM#1 twice.

In the first instance, NE#1 used *de minimis* force⁸ by pushing CM#1's right wrist, causing CM#1 to move backward. Here, NE#1 was managing a fluid, disorderly disturbance, but was repeatedly disrupted by CM#1, who used loud and abusive language while remaining nearby and repeatedly inserting himself into NE#1's investigation. NE#1 verbally told CM#1 to back off, ascertained he was uninvolved in the situation, and instructed him to leave. Using *de minimis* force to encourage CM#1 to leave was objectively reasonable, necessary, and proportional to allow NE#1 to investigate the disturbance without CM#1 impeding his legitimate law enforcement function.

In the second instance, after NE#1 observed CM#1 littering. NE#1 approached CM#1 while issuing lawful orders for CM#1 to pick up his litter.⁹ CM#1, who was initially out of view of the security video, reentered the video frame approaching NE#1. As NE#1 and CM#1 came within arms' length of each other, NE#1 pressed his left pointing finger against CM#1's chest and pushed CM#1, causing CM#1 to move backward. NE#1 described his reasoning for doing: "I wanted to get up there and show him what direction to walk, and that if he didn't leave the area he I can't remember if I told him that he could be subject to arrest, or I think I used the word arrest at some point." NE#1's use of *de minimis* force was objectively reasonable, necessary, and proportional to redirect CM#1 to comply with NE#1's instructions to go back and pick up his litter.

Because OPA finds that CM#1 was doing more than "only verbally confronting" NE#1 and also that CM#1's vocalizations and behavior were impeding NE#1's legitimate law enforcement function, OPA finds this allegation did not occur as alleged. Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #1 – Allegation #2

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Sworn Employees Will Use De-Escalation Tactics to Reduce the Need for Force

NE#1 failed to de-escalate by confronting and pushing CM#1.

When safe, feasible, and without compromising law enforcement priorities, sworn employees will use de-escalation tactics to reduce the need for force. SPD Policy 8.100-POL-1. Team approaches to de-escalation are encouraged and will consider sworn employee training and skill level, the number of sworn employees, and whether any sworn

⁸ *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, but are not limited to, 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.

⁹ See Seattle Municipal Code 21.36.410(B) ("No person shall throw, discard, or deposit litter on any street, sidewalk, or other public property within the City.").



employee has successfully established rapport with the subject. *Id.* The totality of the circumstances should guide de-escalation options, with the goal of attaining voluntary compliance through communication, time, distance, and shielding. *Id.*

A preponderance of the evidence established NE#1 violated SPD's de-escalation policy. NE#1 inadequately utilized communication, time, and distance.

First, NE#1's communication was insufficient. OPA recognizes NE#1 was spontaneously confronted with a confusing, volatile disturbance, but NE#1's communication with CM#1 focused on CM#1's minor infractions—open container¹⁰ and littering. Rather than addressing the two men in an apparently violent dispute, NE#1's focusing on CM#1's comparatively minor behavior overly emphasized command and control over Listen and Explain with Equity and Dignity (LEED) principles. See SPD Policy 5.001-POL. There was also no evidence of employing LEED verbal techniques to calm an agitated subject and promote rational decision-making, such as warning CM#1 about a potential arrest for obstruction before using force. Moreover, security video, NE#1's behavior and possession of an open container, and the Complainant's observations all suggested CM#1 was intoxicated, a factor that NE#1 should have considered before physically confronting CM#1 about minor public disorder infractions.

Second, NE#1 did not effectively utilize time. After exiting the restaurant with his radio, NE#1 took about 10 seconds before approaching CM#1, pushing him, and instructing him to leave. Upon observing CM#1 littering, NE#1 approached within five seconds and again pushed him. A combined 15-second delay was not de-escalatory under the totality of the circumstances here. Nor did NE#1 take steps to "avoid[] or minimiz[e] physical confrontation, unless necessary." This was especially the case during the second interaction, when NE#1 walked about 35 to 40 feet towards CM#1 to address a littering concern. At this juncture, the scene appeared relatively stable and NE#1 had requested additional resources. Choosing to reengage CM#1 alone about littering—instead of waiting for additional resources to help address the disturbance—greatly increased the odds of a physical confrontation for limited public benefit. As NE#1 acknowledged, his request for backup was intended for CM#2 and CM#3, not CM#1, which diminishes NE#1's claim that CM#1 posed a threat to the public, such that it required immediate intervention.

Third, NE#1 inadequately managed distance. Rather than avoiding confrontation, NE#1 initiated it by approaching CM#1 twice, despite CM#1 being physically distant from NE#1. There was insufficient justification for closing that distance, instead of keeping his focus on CM#2 and CM#3.

Overall, a preponderance of the evidence showed that NE#1's actions did not reflect de-escalation. Instead, NE#1 focused on CM#1's alcohol and littering infractions, heightening CM#1's agitation that NE#1 was not focusing on CM#2 and CM#3—the two individuals actually involved in the initial disturbance.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

¹⁰ See SMC 12A.24.025 and 12A.245.150, making unlawfully consuming or possessing an open container of liquor in public a civil infraction.