



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 25, 2025

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

CASE NUMBER: 2024OPA-0419

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)
# 2	8.300 – Use of Force Tools, 8.300-POL-11 40mm Less Lethal (LL) Launcher, 10. Sworn Employees Will Only Use a 40mm LL Launcher When Objectively Reasonable, Necessary, and Proportional	Not Sustained - Lawful and Proper (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized	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:

The Complainant alleged that Named Employee #2 (NE#2) used unauthorized force by deploying a 40mm less lethal (LL) round at Community Member #1 (CM#1). The Complainant also alleged that the named employees (NE#1, NE#2, and NE#3) used unauthorized force by jumping on CM#1.

ADMINISTRATIVE NOTE:

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

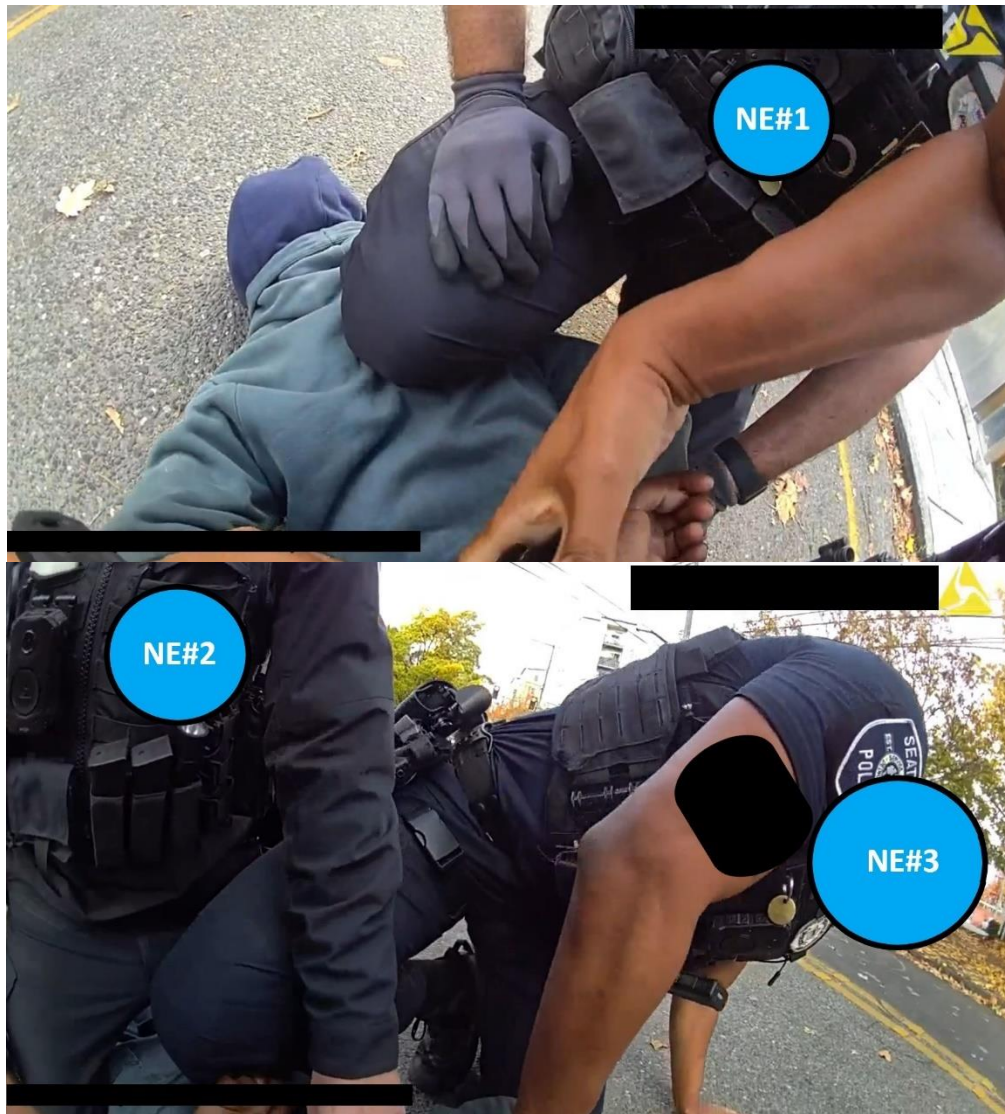
On November 26, 2024, OIG certified OPA's investigation as thorough, timely, and objective.



SUMMARY OF INVESTIGATION:

OPA investigated the OPA complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident and supplement reports, and use-of-force reports.

On October 28, 2024, CAD call remarks noted a male brandishing a knife at people. BWV captured the named employees responding to the incident location. The named employees located CM#1 on a sidewalk and positioned themselves on a street. NE#1 and NE#3 instructed CM#1 to lie down, but he refused. CM#1 began to approach NE#3, prompting NE#3 to aim his gun at CM#1 and instruct, "Do not come near me." CM#1 returned to the sidewalk, expressing his trust in them and pleading for them not to kill him. Disregarding officers' orders, CM#1 moved away from the named employees. NE#2 issued multiple warnings before discharging a 40mm round at CM#1, striking his leg. CM#1 initially attempted to flee but soon fell to the ground on his stomach. During the handcuffing process, NE#1 knelt on CM#1's upper back, NE#3 knelt on CM#1's lower back, and NE#2 positioned himself on CM#1's hamstrings.





After NE#3 applied handcuffs, the named employees moved CM#1 to the recovery position. NE#1 retrieved a folding knife from CM#1's pants pocket. CM#1 declined a fire department evaluation and was subsequently transported to the King County Jail.

According to NE#2's incident report, two witnesses reported that CM#1 threatened students at a nearby school and caused a commotion. Another witness reported that CM#1 lunged at a customer in a nearby grocery store.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized

The Complainant alleged that the named employees used unauthorized force by jumping on CM#1.

Sworn employees 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 people. SPD Policy 8.200(1). Reasonableness must consider that sworn employees are often forced to make split-second decisions about the amount of force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the sworn employee's 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 sworn employee or others. SPD Policy 8.050. Proportional force must reflect the totality of circumstances of the situation, including the nature and immediacy of any threats posed to sworn employees and others. *Id.* Sworn employees must rely on training, experience, and their assessment of the situation to decide an appropriate level of force. *Id.*

The named employees did not "jump" on CM#1 as the Complainant alleged. NE#1 and NE#3 knelt on CM#1's upper and lower back, while NE#2 sat on CM#1's hamstrings. These tactics were consistent with SPD-trained techniques designed to control a subject in the prone position to facilitate handcuffing. Their use of force was objectively reasonable, necessary, and proportional, considering that CM#1 was noncompliant and attempted to flee before being subdued. CM#1 was reportedly armed with a knife, necessitating officers to control CM#1 to prevent him from accessing the weapon and potentially using it against the named employees. After NE#3 handcuffed CM#1, the named employees modulated their force by getting off CM#1 and moving him to the recovery position. The named employees' *de minimis* control holds were lawful and proper under the circumstances.

Moreover, during their initial interaction, NE#3 aimed his gun at CM#1, which constituted type I use of force. *See* SPD Policy 8.400-POL-1. Such use of force was objectively reasonable, necessary, and proportional for the same reasons noted above. NE#3 responded to a 911 call indicating that CM#1 had brandished a knife at others. Upon NE#3's arrival, CM#1 was noncompliant and approached NE#3 while armed with a deadly weapon. Therefore, NE#3's decision to aim his gun at CM#1 was lawful and proper under the circumstances.



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

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

Named Employee #2 – Allegation #1

8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized

For the reasons articulated in Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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

Named Employee #2 – Allegation #2

8.300 – Use of Force Tools, 8.300-POL-11 40mm Less Lethal (LL) Launcher, 10. Sworn Employees Will Only Use a 40mm LL Launcher When Objectively Reasonable, Necessary, and Proportional

The Complainant alleged that NE#2 used unauthorized force by deploying a 40mm round at CM#1.

Sworn employees will only use a 40mm LL launcher when objectively reasonable, necessary, and proportional. SPD Policy 8.300-POL-11(10). Sworn employees may use a 40mm LL launcher when (1) a subject poses an immediate threat of harm to any person, or (2) public safety interests dictate that a subject needs to be taken into custody and (a) the level of resistance presented by the subject is likely to cause injury to the sworn employee, or (b) if hands-on control tactics or other force options would be likely to cause greater injury to the subject than the use of the 40mm LL launcher. *Id.*

NE#2's 40mm LL deployment was objectively reasonable, necessary, and proportional for the same reasons noted above. CM#1 was armed, noncompliant, and attempting to escape to an area where he posed an immediate threat to others. In fact, several witnesses reported that CM#1 had threatened students at a nearby school and a customer at a nearby grocery store. Multiple warnings preceded NE#2's deployment, yet CM#1 remained noncompliant and attempted to flee. CM#1 ultimately surrendered shortly after NE#2's 40mm LL launcher deployment, which was lawful and proper under the circumstances.

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

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

Named Employee #3 – Allegation #1

8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized

For the reasons articulated in Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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