



CLOSED CASE SUMMARY

ISSUED DATE: MAY 1, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2025OPA-0125

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Management Action
# 2	8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force	Not Sustained - Lawful and Proper
# 3	16.090 – In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Sworn Employees Record Activity	Not Sustained - Training Referral

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) responded to a dispatched 911 call for a possible shoplifter at a hardware store. NE#1 contacted the suspect, Community Member #1 (CM#1), inside the store. During the investigation, NE#1 determined CM#1 provided false information. As NE#1 approached CM#1 to arrest him, CM#1 sprinted away from NE#1. NE#1 used a two-hand push to stop CM#1, causing CM#1 to fall and hit his head against a shopping cart. CM#1 was treated at the hospital and received nine stitches to his head.

SPD's Force Review Unit alleged NE#1's use of force was not proportional to the crime or threat posed by CM#1. It was also alleged, NE#1 failed to de-escalate the situation and did not activate his BWV or ICV for the first twenty minutes he was on scene.

ADMINISTRATIVE NOTE:

On April 30, 2025, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

On April 9, 2025, an SPD Lieutenant submitted an internal Blue Team complaint to OPA on behalf of the Force Review Unit (FRU). The complaint alleged the following. On October 12, 2024, NE#1 and other officers responded to a 911 call for a "possible shoplifter" at a hardware store. The officers contacted the suspect, CM#1, inside the store but determined he provided them with false information. NE#1 approached CM#1 to arrest him for False Reporting. CM#1 sprinted away towards the front exit. NE#1 chased CM#1, catching up with him by the store entry area. NE#1 used a



“two-hand push to the back of the subject’s backpack, causing the subject to lose balance and tumble towards the front of the store.” Officers handcuffed CM#1, who complained he hit his head. CM#1 was bleeding from his head and was transported to a hospital where he received nine stitches.

The complaint noted the use of force was approved by NE#1’s chain of command. But FRU determined NE#1’s use of force may not have been proportional to the crime or threat posed by CM#1. FRU noted the force was “reasonably likely to cause significant injury” given the surrounding hard objects and the fact NE#1 pushed CM#1 while the two were “running at a full sprint.” FRU alleged the nature of the offense and risk to the public if CM#1 had escaped did not justify this level of force. FRU also alleged other tactics could have been used that would have been less likely to cause injury, especially as two other officers were present.

OPA investigated this complaint, reviewing the computer-aided dispatch (CAD) call report, incident report and supplements, Type II use of force investigation materials, body-worn video (BWV), in-car video (ICV), store security video, and photographs. OPA also interviewed NE#1 and a use of force expert (UOF Expert).

1. Computer-Aided Dispatch Call Report, Incident Report, and Supplements

OPA reviewed SPD paperwork concerning the underlying investigation and arrest.

a. Computer-Aided Dispatch Call Report

On October 12, 2024, at 3:37 pm, a 911 caller reported that a “known shoplifter” was filling up a shopping cart with tools and electronics inside a hardware store. No weapons were noted by the caller. Call remarks described the suspect as a white male in his early thirties, about five feet nine inches tall, medium build, and wearing a gray Seahawks hat, gray coat, black jeans, black and white shoes, and a black backpack.

NE#1 and other officers were dispatched to the call around 3:39 pm. Two minutes later, NE#1 updated that the suspect usually runs out the back of the store through the fire escape, and that officers should “set up South containment.” About forty minutes later, at 4:23 pm, another dispatched officer—Witness Employee #1 (WE#1)—updated that there was a “foot pursuit.” Then, at 4:24 pm, WE#1 requested medical attention for a male “bleeding from head.” At 4:29 pm, a mobile fingerprint reader was requested to the scene, and it was later determined that CM#1 had an unverified misdemeanor warrant and a threat to law enforcement caution.

b. Incident Report

WE#1 wrote the incident report for this case. After summarizing the 911 call information, WE#1 noted the store manager verified that the suspect—later identified as CM#1—had shoplifted several months earlier and asked that the suspect be trespasses. WE#1 wrote the officers set up containment and waited for CM#1 to exit the store. When CM#1 did not exit, the officers decided to trespass CM#1.

WE#1 wrote that the officers contacted CM#1 and informed him he was detained for suspicion of theft and that the store wanted him trespasses. WE#1 wrote he asked CM#1 to identify himself, to which CM#1 “stuttered” before providing a name, date of birth, and last four digits of his social security number—claiming he did not know the entire number. WE#1 described other suspicious responses provided by CM#1 and noted that the name CM#1 provided came back “clear,” but the social security number did not match. WE#1 wrote that NE#1 used a law enforcement



database to find a picture for the name CM#1 provided, but the picture did not match CM#1. NE#1 informed CM#1 he was under arrest for false reporting, and CM#1 fled. WE#1 wrote CM#1 was “apprehended at the front entrance of the store,” and then treated at the scene for a cut he sustained from “falling after he ran.”

WE#1 documented finding stolen credit cards, identification cards, and checks on CM#1 after his arrest. WE#1 wrote he spoke to two store employees who stated they saw the suspect, “run from officers and saw him trip, fall and slide.”

c. Named Employee #1’s Supplement

NE#1 wrote a supplemental narrative. NE#1 documented responding to the call, noting he contacted the 911 caller while enroute to the location. NE#1 wrote that the 911 caller told him CM#1 had shoplifted from the store previously and fled through the fire escape, which NE#1 noted would be a felony.¹ The 911 caller told NE#1 that CM#1 was loading a shopping cart with merchandise, and NE#1 asked for a picture of CM#1. NE#1 described arriving on scene and coordinating with WE#1 and Witness Employee #2 (WE#2) to cover the exits. NE#1 received a picture of CM#1 from the 911 caller, which NE#1 texted to WE#1 and WE#2. NE#1 described waiting outside for about twenty minutes before deciding with the 911 caller that the officers should enter the store and issue CM#1 a trespass. The 911 caller also texted NE#1 that CM#1 was “starting to put things back” and “he knows somethings up.”

NE#1 described entering the store and contacting CM#1. NE#1 described CM#1 as “fidgeting” and “sweaty.” NE#1 advised the CM#1 he was being contacted for suspicion of shoplifting, which CM#1 denied. NE#1 told CM#1 that the store had video from the earlier incident and CM#1 was suspected of preparing to shoplift again. NE#1 told the CM#1 he was only being trespassed that day and was required to leave the store and not return. NE#1 wrote that CM#1’s body language appeared deceptive, as he was breaking eye contact, and his voice was shaking. NE#1 wrote that he frisked CM#1 for weapons after observing CM#1 putting his hands in his pockets. At NE#1’s request, CM#1 provided a name and date of birth—which NE#1 noted, originally was in “December” and then switched to “November.” NE#1 told CM#1 he would be arrested if he provided a false name.

NE#1 documented checking the information CM#1 provided and learning it was false, as the name returned a subject that was a much different height than CM#1 and a photograph that also did not match. When NE#1 went to arrest CM#1, CM#1 fled. NE#1 wrote that he caught CM#1 and arrested him, but CM#1 sustained a head injury during the arrest.

NE#1 also documented his investigation after arresting CM#1. NE#1 noted that multiple credit cards, checks, and IDs were found on CM#1 when he was searched. NE#1 also wrote that, when CM#1’s true identity was discovered, he had two outstanding warrants and a threat to law enforcement caution. NE#1 wrote that CM#1 was taken to the hospital for treatment before being booked into jail.

2. Type II Use of Force Investigation Materials

NE#1 detailed his use of force and reasoning in his Type II² use of force statement.

¹ RCW 9A.56.360 Retail Theft with Special Circumstances.

² Type II is force that causes, or is reasonably expected to cause, physical injury requiring medical treatment greater than basic first aid. SPD Policy 8.050. Type II force includes, among other things, a “takedown that causes injury requiring more than basic first aid,” and any “laceration or evulsion requiring stitches.” SPD Policy 8.400-POL-1.



NE#1 described his experience, noting he completed the Washington Criminal Justice Training Commission Basic Law Enforcement Academy in 2019, as well as additional training through the Seattle Police Department. NE#1 wrote that, previously, he completed 523 hours of police training in another state. NE#1 wrote he trained in defensive tactics, including “team take-downs.” NE#1 noted he trained for seven years in Shudokan Karate and about three years in Jiu Jitsu.

NE#1 also documented his pre-arrival investigation and initial contact with CM#1, that was substantially the same as his incident report supplemental narrative. NE#1 wrote that, when he advised CM#1 he was being detained for False Reporting, CM#1 fled on foot. NE#1 wrote this gave him probable cause for Obstructing a Police Officer.

NE#1 detailed his attempts at de-escalation, writing that he spoke with CM#1 in a “direct but casual tone,” “provided clear instructions” about his purpose and consequences for lying, and contacted CM#1 with multiple other officers. NE#1 noted officers engaged with CM#1 for about eleven minutes prior to attempting to arrest him. NE#1 wrote that distance and shielding were not feasible because the incident occurred inside a store, and that “distance was not necessary based on the information provided and [CM#1’s] level of cooperation. NE#1 wrote that officers kept a “casual posture” with CM#1 while maintaining “tactical positioning and appropriate distance.” NE#1 reasoned that, once CM#1 fled “at a full sprint,” further de-escalation was no longer feasible.

In his threat assessment, NE#1 wrote CM#1’s identification listed him as six feet two inches tall and weighing one hundred ninety pounds. NE#1 assessed CM#1 as weighing between two hundred thirty and two hundred forty pounds. NE#1 wrote CM#1 was an “unknown threat.”

After CM#1 ran away “at a high rate of speed,” NE#1 wrote that he pursued and caught up to CM#1. NE#1 wrote he “took ahold” of CM#1’s backpack with “both hands,” before extending his arms in an effort to push CM#1’s “upper body forward and over his center of gravity to cause him to fall to the ground.” NE#1 wrote that he did this to stop CM#1 and place him under arrest. NE#1 wrote: “The concept of manipulating a resisting or fleeing suspect’s body over their center of gravity to get them to come to the ground is a trained SPD technique.”

NE#1 explained he chose to push CM#1 instead of “tackle him or use the backpack to throw him to the side or backwards” because he saw “the aisle in front of me was clear of any obstructions.” Comparatively, NE#1 noted there were “heavy items” to his left and right that “would likely result in injury” if hit at high speed. NE#1 noted he had been injured when tackling suspects in the past and assessed there was a “high likelihood” either he or CM#1 would be injured if he tackled CM#1 in the store. Similarly, NE#1 assessed there was a “high probability” of injury to CM#1 if he pulled him backwards. By pushing CM#1 forward, NE#1 assessed he would cause CM#1 to “fall forward into a relatively clear area and on smooth ground.” NE#1 believed this reduced the risk of injury to both himself and CM#1, especially as CM#1 could “use his hands and arms to brace his fall” without risk of abrasion.

NE#1 assessed the risk of not acting “in that moment.” NE#1 wrote this would allow CM#1 to “flee out of the store,” which he wrote would create a “significantly higher probability of injury” to CM#1, officers, and citizens. NE#1 wrote the following about these risks:

If allowed to leave the store at the speed he was running at [CM#1] would have to push the door outwards, which would open very rapidly. At the time of this incident, there was consistent foot traffic entering and leaving the store. There is a high degree of possibility that when exiting, the door would swing, hit and seriously injure someone. If [CM#1] escaped into



the parking lot, a much rougher surface than the smooth floor inside; a tackle or takedown would likely result in injury to [CM#1] and officers. Further, the [Hardware Store] is positioned at the corner of two main arterial roads that were moderately trafficked at the time. If allowed to leave the parking lot, and he chose to run into the street, there's a significant possibility of [CM#1] and officers being struck by a vehicle and injured.

NE#1 assessed the "possibilities and variables outside of the store" as "significantly more likely to result in injury during an apprehension, than inside the store with my course of action." NE#1 wrote he did not see a reasonably effective alternative to apprehend CM#1. NE#1 described taking hold of CM#1's backpack as they reached the end of the aisle, then pushing and letting go of CM#1 as he exited the aisle.

NE#1 noted his technique did not work the way he expected it to, writing:

However, instead of collapsing to the ground as I intended, [CM#1] attempted to maintain his balance by taking three additional steps while still running. By doing so, at the speed that [CM#1] was running and the strides that he was taking, he travelled an additional approximately 20 feet before finally falling to the ground. When he did so, it was not controlled, and he flailed his arms while going headfirst into a stack of orange five-gallon buckets.³ When his head contacted the buckets, a portion was on the lip and caused a laceration to the top left side of his head that began to bleed.

Pursuant to SPD policy, NE#1's use of force was investigated by a sergeant and reviewed as a Type II use of force.

NE#1's watch commander approved the use of force. He wrote the force was proportional because CM#1 was fleeing from the police and was not cooperative. He wrote the force was necessary to effect the arrest. He wrote the force was "objectively reasonable because the Suspect needed to be taken into custody." Under the section "Force Approval & Why," NE#1's watch commander wrote, in its entirety:

I approve of the force used by the involved officers to gain physical control of an uncooperative Subject who was fleeing. The force used was objectively reasonable, necessary, and proportional. [NE#1] took hold of the Suspect's backpack and used physical force to push him forward. The Suspect fumbled forward, fell over a sign and his head struck a bucket. [NE#1] then readjusted his position to handcuff the Suspect.

Additionally, the force was consistent with law, policy and training

NE#1's precinct captain also approved the use of force, writing it was "consistent with Department Policy." Under the section "Force Approval & Why," NE#1's precinct captain wrote, in its entirety: "For all of the reasons listed above, I approve of this force because it was necessary, reasonable, proportional and within Policy."

³ In his use of force statement, NE#1 attributed CM#1's injury to falling into a stack of buckets, which were visible in the BWV. This assessment was shared by NE#1's chain of command during the Type II use of force investigation and review. The FRU assessment differed, noting NE#1's BWV viewed at quarter speed showed CM#1's head hitting "the metal leg of a shopping cart that was next to the stacked buckets." As discussed below, OPA's review of BWV showed CM#1's head striking a shopping cart.



3. Body-Worn Video and In-Car Video

OPA reviewed BWV and ICV from the officers' response to the incident. BWV showed NE#1's engagement with CM#1.

NE#1 entered the hardware store and contacted CM#1. NE#1 advised CM#1 he was being trespassed from the property, telling CM#1 he needed to know his identity. CM#1 provided a first and last name and date of birth.⁴ NE#1 warned CM#1 that he would be arrested if he provided false information. After observing CM#1 put his hands in his pockets, NE#1 conducted a pat frisk of CM#1. NE#1 asked CM#1 if he had warrants, noting that CM#1 appeared nervous. CM#1 denied having warrants. NE#1 then exited the store to locate a photograph for the identity CM#1 provided. NE#1 found a photograph for the name CM#1 provided. NE#1 spoke on the phone with another officer, noting he believed CM#1 gave a "bad name."

NE#1 reentered the store and approached CM#1, who was standing with WE#1. NE#1 showed WE#1 the photograph for the name CM#1 provided. WE#1 stated, "Oh yeah, absolutely not dude." NE#1 told CM#1, "So right now you're being detained for false..." CM#1 then appeared to say "please," before turning to his right and pushing a shopping cart out of the way. The shopping cart briefly blocked NE#1, who pursued CM#1. CM#1 then turned left down an aisle heading toward the front entrance. WE#1 and WE#2 also ran towards the front entrance, but down a different aisle parallel to CM#1. NE#1 followed directly behind CM#1; both men appeared to be running at a sprint.



Image from NE#1's BWV. CM#1 is sprinting down an aisle.

⁴ This information was later determined to be false.

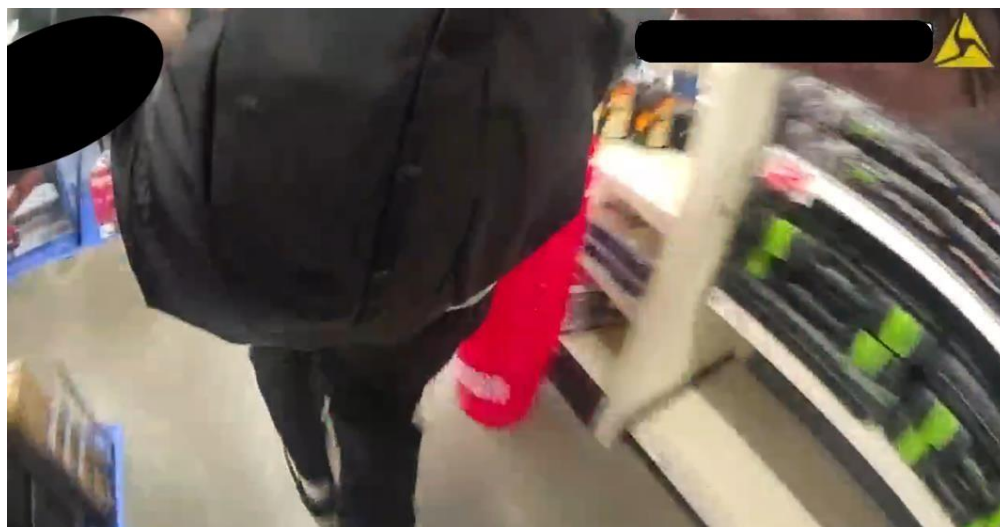


As CM#1 reached the end of the aisle, NE#1 grabbed the top of CM#1's backpack with both hands.



NE#1 grabbing CM#1's backpack with both hands.

NE#1 then starting to push CM#1 somewhat at a rightward angle.





As NE#1 continued his push, more space in the entryway became visible on BWV.



NE#1 then completed his push, releasing CM#1 to the right of a workhorse, into a cardboard stand.

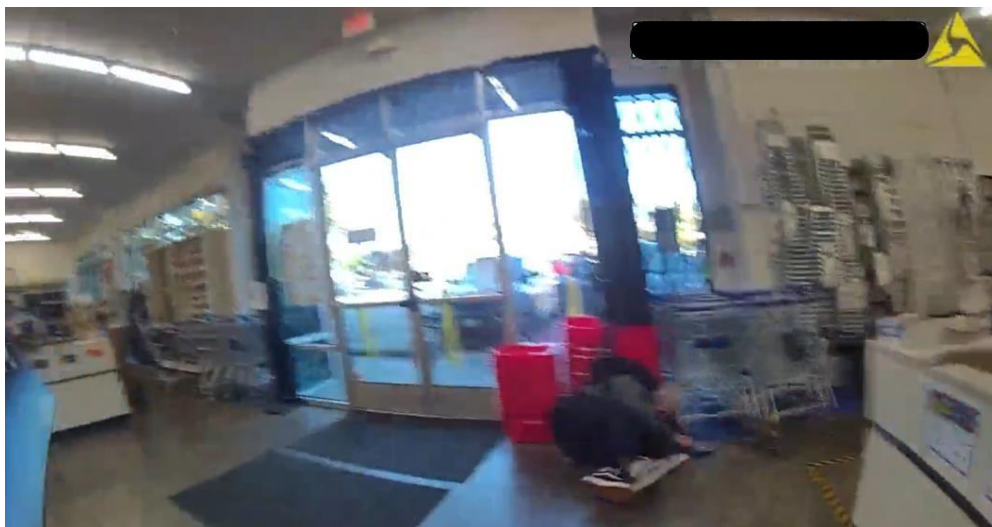




CM#1 appeared to fall forward toward the right of the main entry door.



CM#1 fell to the ground, striking the back of his head on the lower wheel area of a parked shopping cart.



CM#1 immediately began saying “ow” and “sorry” multiple times. Officers placed CM#1 in handcuffs and requested medical attention for CM#1. CM#1 stated he hit his head “really hard.” NE#1 recovered a medical bag from his vehicle and began attending CM#1.⁵

OPA noted NE#1’s BWV was activated at about 4:11 pm,⁶ about forty seconds before NE#1 entered the store. NE#1’s ICV was also activated at about 4:11 pm.⁷

⁵ NE#1 is an Emergency Medical Technician.

⁶ NE#1’s BWV also retained one minute of “buffering” period without audio prior to NE#1 activating his BWV.

⁷ NE#1’s ICV also retained one minute of “buffering” period without audio prior to NE#1 activating his ICV.



4. OPA Interviews

OPA interviewed NE#1 and a use of force expert witness.

a. Named Employee #1

OPA interviewed NE#1 on April 16, 2025. He stated he had no previous law enforcement experience but did attend a police academy in another state.

NE#1 stated that, on the date of the incident, he was working as a proactive unit to address high-impact shoplifting areas. NE#1 described calling the manager of the hardware store after the 911 call was made, noting he obtained details about the suspect and a previous felony-level incident where the same subject used a fire escape. NE#1 described responding to the scene and establishing containment. NE#1 said he entered the store after it became clear the suspect was not going to leave. NE#1 summarized contacting the suspect, CM#1, and obtaining identifying information, which later turned out to be false. NE#1 recounted that, upon confronting CM#1, he fled, a use of force occurred, CM#1 was injured and was later treated at the hospital.

NE#1 described arriving at the location and noted he did not have probable cause to arrest CM#1 until later, when CM#1 provided a false name and fled after being detained. NE#1 said he pursued CM#1 to arrest him for the crimes of false reporting and obstruction.

NE#1 also described his experience with using force on a fleeing suspect. NE#1 stated SPD provided him with no training on how to safely take suspects fleeing on foot into custody. NE#1 said that, in the past, he has used different methods to do so, including Tasers, tackles, team takedowns, and grabs. Here, NE#1 said that pushing CM#1 caused CM#1 to lose his balance while sprinting at full speed. NE#1 reasoned this was preferable because tackling CM#1 was likely to cause injury to himself or CM#1 due to the tools that were on nearby shelves. NE#1 stated that he observed a “nice little area” while running down the aisle where he could push CM#1 that would present the least likelihood of injury to everyone.

NE#1 stated his push caused CM#1 to fall as he intended, but that CM#1’s attempts to maintain his balance and stay upright caused him to take extra steps and fall into the paint buckets. NE#1 stated that, based on his review of BWV, CM#1 hit his head on the paint buckets and not the adjacent shopping carts.

NE#1 stated SPD never trained him to use a push on a running subject. Both NE#1 and his union representative discussed the fact that SPD trained on multiple use of force options—including pushes, tackles, grabs, Tasers, and 40mm less-lethal launchers—but never trained on using force on a fleeing subject.

NE#1 analyzed his use of force as “*de minimis*.”⁸ He stated the force was objectively reasonable because CM#1 was fleeing, further de-escalation was not feasible, and no other options existed while CM#1 was running. NE#1 felt he used the least amount of force possible to make the arrest. NE#1 stated the force was necessary to make the arrest. NE#1 described the push as proportional to CM#1’s flight and that it was objectively minimal force. NE#1 elaborated:

⁸ *De minimis* force are actions meant to separate, guide, and/or control without the use of control techniques that are intended to, or reasonably likely to cause pain or injury. SPD Policy 8.050. Examples of *de minimis* force includes using hands or equipment to stop, push back, separate or escort, and the use of compliance holds without the use of sufficient force to cause pain. *Id.*



It is not my fault that the suspect decided to try and keep on his feet in order to continue his flight. The suspect chose to try and stay on his feet and keep running. When he lost his balance, he fell in his head. That was not my intent. That was not my purpose. There was plenty of distance when I pushed him to avoid that, but the suspect did what the suspect did.

NE#1 stated he has not pushed anyone while fleeing like this before. When asked if he considered the possibility that CM#1 would continue moving after being pushed, NE#1 responded in the negative. NE#1 said he knew CM#1 might travel some distance but felt the open space ahead of him combined with the use of his hands would allow CM#1 to defend himself from the fall. NE#1 stated that tacking or pulling CM#1 would have been more likely to cause significant injury. NE#1 also reasoned that allowing CM#1 to exit the building would have created a greater likelihood of injury, either due to the different surface (sidewalk) or the location of the building near an intersection and interstate.

NE#1 also spoke about his use of de-escalation prior to the use of force. He noted there were multiple uniformed officers on scene, he spoke to CM#1 in an informative way, and gave CM#1 warnings about what actions the officers would take. NE#1 felt that, after CM#1 fled, no further de-escalation was feasible. NE#1 stated that, prior to fleeing, he did not feel CM#1 gave any indication of flight that would warrant putting CM#1 in handcuffs. NE#1 acknowledged that he did not give CM#1 any verbal commands while chasing him, noting that he typically does when feasible. Here, NE#1 stated the pursuit was too short for warnings to be feasible. NE#1 stated he believed his use of de-escalation was within policy.

NE#1 reviewed the specific language of SPD's BWV policy during his OPA interview. NE#1 acknowledged that he technically violated the policy by failing to activate his video prior to arrival, but noted he was not engaging with the suspect before entering the store. NE#1 felt this lapse should not have resulted in a full investigation, that this was not a willful policy violation, and he would be more mindful to activate his video within policy going forward.

b. Use of Force Expert Witness

OPA interviewed an expert witness concerning SPD training and tactics concerning pushing a fleeing subject.

UOF Expert has been employed by SPD for seventeen years and has no prior law enforcement experience. He is currently assigned to the advanced training unit and is the lead instructor for SPD's defensive tactics program. He has been assigned to the advanced training unit for seven years and the lead defensive tactics instructor for three years. Overall, he has been a defensive tactics instructor for the last sixteen years and has a black belt in jiu jitsu. He stated he has used force as a police officer multiple times.

UOF Expert stated SPD does not train on how to end a foot pursuit and was unaware of SPD ever providing such training. He was asked about how SPD officers are trained to factor in their surroundings or "backdrop" when assessing use of force options. He stated this is taught for shooting situations. For using less lethal tools—such as the Taser or 40mm—he stated officers are instructed to be aware of the environment. But UOF Expert stated this is not mentioned for using "empty hand" tactics because the suspect dictates where a use of force occurs.

UOF Expert stated SPD does not train officers to push fleeing suspects. He said he was not aware of any department that does teach this tactic. He evaluated some of the pros and cons of using this technique on a running person. He stated it is not trained because there is no smooth and safe way to stop a running subject, and the manner of running



could change the dynamics. He stated tackling would involve holding the suspect and putting additional weight on them during their forward momentum, while tripping the suspect would also cause them to fall. He stated using a Taser would prohibit the suspect from using their hands to brace their fall. He also noted that “backward” takedowns are generally not taught because its difficult to control the suspect’s head and, additionally, the suspect can sometimes free themselves if, for instance, their backpack is grabbed, and they remove the backpack. He stated the benefit of a push is that the suspect still could use their hands to protect themselves from the fall.

UOF Expert reviewed NE#1’s BWV from the incident and noted CM#1 travelled a longer distance than he would have expected after being pushed. He was unable to offer a better alternative in this situation, noting that other options would have had similar outcomes. He also noted the risks of waiting to apprehend the suspect outside would have been higher due to the concrete surface and busy environment.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.200 - Using Force (1) Use of Force: When Authorized

The Complainant alleged that NE#1 used excessive force by shoving an unarmed, fleeing suspect into a metal object resulting in the suspect receiving nine stitches.

SPD 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 objectively 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 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 Policy 8.200-POL-1. The policy also lists a number of 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. SPD Policy 8.050. Lastly, the force used must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

Here, OPA finds the reasonableness, necessity, and proportionality of NE#1’s use of force extremely questionable. However, for the reasons set forth below, OPA recognizes that NE#1 has not been provided any training on his options for ending a foot pursuit and the considerations he should give to those options.

1. Objective Reasonableness

NE#1 was investigating CM#1 for non-violent misdemeanors. NE#1 was investigating CM#1 for shoplifting but, at the time of the contact, had not established probable cause for this offense. Instead, NE#1 was attempting to trespass CM#1 from the hardware store. When CM#1 provided a false name, NE#1 developed probable cause for making a false statement to a public servant⁹ and, when CM#1 fled, obstructing a law enforcement officer.¹⁰ These are both

⁹ RCW 9A.76.175.

¹⁰ RCW 9A.76.020.



gross misdemeanors. Additionally, the level of threat and resistance posed by CM#1 was low—he ran away.¹¹ Moreover, NE#1 had already frisked CM#1 and found no evidence that CM#1 was armed. Similarly, CM#1 did not pose an “immediate threat” to any officers or a “danger” to the community.¹²

At the time NE#1 confronted CM#1, his conduct was headlong flight—NE#1 described him as sprinting at full speed, which was corroborated on BWV. The risk of escape was high and CM#1 had not been positively identified, but the government interest in preventing his escape was, at best, intermediate. He was suspected of property crimes (shoplifting and, potentially, a felonious retail theft with special circumstance), and non-violent crimes against society (false statements and obstruction). While allowing CM#1 to escape could have undermined public trust, any use of force to stop him needed to be proportional to the threat he posed.

NE#1 had only seconds to make a decision, but NE#1 had other officers present and detailed his training and experience at length in his use of force statement. CM#1 did not show any signs of aggression or violence during this incident and had already been frisked for weapons—nor did NE#1 appear to consider any of the surrounding items as weapons of opportunity. Other factors here also weighed in against higher levels of force, as NE#1 appeared to quickly catch up with CM#1, had a high defensive tactic skill level, was armed with both lethal and less-lethal tools, and had two other officers on scene. The environment was also notable as it was the interior of a hardware store—where there were many hard, metal objects in the surrounding area—and both CM#1 and NE#1 appeared to be running at a full sprint.

A crucial factor in this analysis is the potential for injury. OPA disagrees with NE#1’s assessment that his push constituted *de minimis* force. In making this assessment, NE#1 appeared to believe that a “push” is categorically *de minimis*. Not so. In reviewing the potential for injury, officers must consider the “facts, and the circumstances confronting them.” SPD Policy 8.200-POL-1. This includes their surroundings and dynamics. NE#1 knew the surroundings had multiple hard objects and that CM#1 was moving at a full sprint. The mechanics—and NE#1’s stated intent—in pushing CM#1 was to push CM#1’s “upper body forward and over his center of gravity to cause him to fall to the ground.” See NE#1’s Use of Force Statement. The very foreseeable result of this tactic was to cause CM#1 to fall forward, headfirst, in an uncontrolled manner at full speed in the interior of a hardware store. At absolute minimum, this was Type I force but—most fairly—was Type II. See SPD Policy 8.400-POL-1 (comparing types of force, including “controlled” takedowns as an example of Type I, and takedowns causing injury requiring more than first aid as Type II). Had CM#1’s head hit the doorframe immediately behind the paint buckets—instead of the hard but not “fixed” metal shopping cart—this could have been a Type III use of force. See *id.* (example of Type III force provided as “striking a person’s head into a hard, fixed object”). Overall, despite documenting in detail the perceived risks of tackling CM#1 or pulling him down, NE#1 greatly underestimated the obvious risks of pushing CM#1 under the facts and circumstances present here.

2. Necessity

Under the totality of the circumstances, there was no reasonably effective alternative to apprehend CM#1 other than the use of physical force. CM#1 had committed to fleeing, at a full sprint, with an obvious intent to avoid being

¹¹ At his OPA interview, there was some discussion about CM#1’s intent in pushing the shopping cart. However, NE#1 stated he did not interpret this as an assaultive act.

¹² NE#1 later learned CM#1 had open warrants and a threat to law enforcement caution, but he was not aware of these factors at the time of the use of force.



identified and arrested. The use of force here was all but inevitable. Alternatively, NE#1 could have permitted CM#1 to escape.

CM#1 did not appear to pose a threat to any sworn officers or others, so the only justification for pushing CM#1 was to effect a lawful purpose—here, stopping CM#1’s escape and placing him under arrest. The reasonableness of this was discussed above. The proportionality is discussed below.

3. Proportionality

As discussed above, NE#1 appeared to greatly underestimate the level of force he used to stop CM#1. Even with the benefit of hindsight, NE#1’s assessment that this use of force was *de minimis* relied on an extremely narrow analysis of the risks presented. Notably, NE#1 framed CM#1’s efforts to maintain his footing after being pushed as an affirmative choice, as opposed to an involuntary action that naturally resulted from being pushed off balance while running at full speed.

4. Final Analysis

NE#1 was faced with a challenging, evolving situation and had only seconds to determine his course of action.¹³ CM#1 was fleeing at a full sprint and headed towards the store exit. NE#1 suspected CM#1 for multiple shopliftings and had just developed probable cause for two gross misdemeanors. He could either allow CM#1 to escape or use force to stop him. He chose to use force. NE#1 evaluated the risks of the options he recognized and determined the safest course was to push CM#1 over. To his credit, he tried to push CM#1 towards what he perceived as an open area, which he estimated was about twenty to thirty feet long.¹⁴ BWV also appeared to corroborate that NE#1 pushed CM#1 somewhat toward the right, avoiding the workhorse/table that was straight ahead. NE#1 also fairly assessed that this force option may pose fewer risks as CM#1 could use his hands to brace his fall.

Recognizing the importance of apprehending criminals, OPA still questions NE#1’s decision-making in this instance. First, NE#1 greatly underestimated the level of force he used and the risk to CM#1. Second, NE#1 overestimated the risk of stopping CM#1 later. Exiting the store doors would potentially have slowed CM#1 down and allowed NE#1 to work with other officers to take CM#1 into custody in a controlled manner. NE#1’s speculation that this presented a “high degree of possibility” of “seriously injur[ing] someone” due to a swinging door was not corroborated by BWV, which did not appear to show any patrons by the door. Finally, OPA agrees with the FRU that the principal issue in this case is that NE#1’s use of force—however well intended—was not proportional to the crime or threat posed by CM#1. The risk posed to CM#1 by pushing his upper body while running at a full sprint did not appear to be outweighed by the public interest in stopping CM#1.

SPD’s use of force policy specifically notes that officers, “must rely on **training**, experience, and their assessment of the situation to decide an appropriate level of force to be applied.” SPD Policy 8.050 (emphasis added). Here, NE#1 his union representative, and the UOF Expert all discussed the absence of SPD training for options to end foot pursuits. OPA believes the need for such training is apparent, particularly with respect to the uncontrolled nature of pushing a running subject. Not only was NE#1’s assessment of the risks involved with this tactic limited, but OPA is currently

¹³ OPA determined the entire foot pursuit lasted about eleven seconds.

¹⁴ OPA responded to the site of the incident and confirmed the distance from the shopping carts to the end of the aisle—where NE#1 pushed CM#1—was about twenty-four feet.



investigating another incident where an officer pushed a running subject resulting in a Type III investigation.¹⁵ To the extent OPA finds NE#1's insight into the level of force he used in this circumstance lacking, he has not been trained on the risks of pushing a running subject.

Accordingly, OPA recommends this allegation be Not Sustained – Management Action.

- **Management Action Recommendation:** SPD should develop a training module on tactics for ending foot pursuits to include different force options, relevant considerations, practical exercises, and anticipated risks. Any such training should review practices from comparable, large law enforcement agencies and incorporate any identified best or promising practices. SPD should consider reviewing a representative sample of recent foot pursuits terminated by use of force to determine the relative safety of different methods.

Recommended Finding: **Not Sustained – Management Action**

Named Employee #1 – Allegation #2

8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force

It was alleged that NE#1 may have failed to de-escalate by not taking different actions.

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 Policy 8.100-POL-1. 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.*

Overall, NE#1 used sufficient de-escalation tactics and techniques. Three uniformed police officers—including NE#1—responded to the incident. They engaged in considerable pre-contact planning that, ultimately, did not bear out as CM#1 did not exit the store. The officers contacted CM#1, and NE#1 spoke to CM#1 in a calm, informational manner, largely getting voluntary compliance up to the moment CM#1 fled. NE#1 explained the process to CM#1, warned him about the consequences of lying, and gave him an opportunity to come clean. The officers also engaged with CM#1 over several minutes. At the point CM#1 fled, further de-escalation was no longer feasible. While some verbal commands to stop would have been advisable, OPA does not believe they would have been effective under the circumstances.

While reviewing this incident, OPA recognized some issues with the officers' scene management that could potentially have reduced the risk of force. However, these applied equally to all three officers on scene, did not appear to rise to the level of misconduct, and will be most appropriately handled by the force review process.

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

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

¹⁵ See 2024OPA-0459 / 2024FIT-0011.



Named Employee #1 – Allegation #3

16.090 – In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Sworn Employees Record Activity

It was alleged that NE#1 failed to activate his BWV and ICV as required by policy.

SPD Policy 16.090-POL-2(2) outlines the categories of police activity sworn employees are expected to record. When safe and feasible, sworn employees must record all dispatched calls, traffic and *Terry* stops, on-view infractions and criminal activity, and arrests and seizures, among other things. SPD Policy 16.090-POL-2(2). Sworn employees are required to record even if the event is out of view of the camera. *Id.*

As NE#1 recognized, he did not begin his BWV or ICV until he was preparing to enter the hardware store. At this time, he had been on scene at a dispatched call for about twenty-five minutes. During this time, he spoke with the 911 caller by phone and prepared a plan for contacting the suspect if he exited the building. These events were required to be recorded.

OPA appreciated NE#1's candor regarding this allegation. OPA also acknowledges that, at this juncture, NE#1 had not attempted to contact the suspect. Finally, NE#1 has not recently been disciplined or received a supervisor action for failing to record police activity.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Required Training:** NE#1's chain of command should discuss OPA's findings with him, review SPD Policy 16.090-POL-2(2) with him, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented in Blue Team.

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