



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 10, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0335

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)
# 2	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)

Named Employee #5

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)

Named Employee #6

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)



# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper (Expedited)
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Named Employee #7

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of 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:

It was alleged that Named Employee #7 (NE#7)—an unknown employee—used excessive force during the Complainant's (CM#1) arrest. A Type III Force Investigation Team (FIT) investigation (2022FIT-0015) followed as the Complainant lost consciousness during the incident. Community Member #2 (CM#2)—CM#1's girlfriend—alleged Named Employee #1 (NE#1), Named Employee #3 (NE#3), Named Employee #4 (NE#4), and Named Employee #5 (NE#5) "dragged" her, and Named Employee #6 (NE#6) forcefully shoved Community Member #3 (CM#3)—CM#2's mother. Finally, CM#2 alleged that Named Employee #2 (NE#2) and NE#6 broke her laptop.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's review and agreement, believed it could reach, and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case. However, FIT interviewed the named employees during its investigation. OPA reviewed those interviews.

SUMMARY OF INVESTIGATION:

OPA reviewed the related body-worn video, an incident report, surveillance footage, computer-aided dispatch (CAD) data, and radio and 9-1-1 communications. OPA also reviewed the FIT Investigation, including officer statements.

A. CAD Data & Incident Report

On October 7, 2022, at 2:00 am, Community Member #4 (CM#4)—an apartment complex security guard—called 9-1-1 to report a suspicious person. The 9-1-1 dispatcher noted, "Check for male in front of [apartment], [CM#4] believes male is wanted for armed robbery, known to carry knives and bear mace, no weapons seen."

Witness Employee #1 (WE#1) ran CM#1's name through a criminal justice database and found active robbery and Department of Corrections (DOC) warrants. WE#1 also located CM#1's photograph. WE#1 wrote the incident report and noted his familiarity with CM#1 from several prior calls.

B. Body-Worn Video (BWV)

OPA reviewed BWV for the Named and Witness Employees. BWV showed the following.



Witness Employees #1-3 arrived at the apartment building and contacted CM#4. WE#1 showed CM#4 CM#1's photo. CM#4 confirmed CM#1 was the suspicious person. WE#1-3 entered the building and encountered CM#1 in front of an apartment door. WE#1 asked CM#1's name. CM#1 provided the false name "Antonio." WE#1 continued past CM#1, then turned around. CM#4 and WE#1-3 signaled that CM#1 was the person they were looking for. WE#1 confronted CM#1 with his real name. CM#1 fled to a nearby stairwell. WE#1-3 chased CM#1.

WE#1 followed CM#1 into the building's lobby. CM#1 fled towards the building's main entrance, with double push-bar doors leading to a gated breezeway. The breezeway was approximately 11.5 ft x 12.5 ft. As CM#1 pushed through the double doors, WE#1 caught him. WE#1 wrapped his arms around CM#1. WE#1 and CM#1 fell. WE#3 arrived in the breezeway shortly after. BWV showed CM#1 on his knees, bent at the waist, as WE#1 attempted to control him.

WE#1-3 struggled to handcuff CM#1. BWV showed officers on either side of CM#1 and another near his legs. During the struggle, CM#2 entered the breezeway and repeatedly shouted that CM#1 was "Antonio" and should be released. CM#1 lurched forward and landed on CM#2's legs. The witness employees ordered CM#2 to get from under CM#1. CM#2 said her leg was pinned under CM#1, so she could not move. NE#4 and NE#6 arrived. BWV showed CM#3 standing over CM#2. NE#6 touched CM#3's shoulder and asked her to step back. CM#3 did not stumble or fall. CM#3 replied she was trying to pull CM#2 from under CM#1.

WE#1 controlled CM#1's right arm and lifted him, allowing NE#4 and NE#6 to drag CM#2 from under CM#1. Officers handcuffed CM#1. CM#1 rapidly twisted his upper body and said he could not breathe. The witness employees placed CM#1 into a modified recovery position. Officers said they planned to remove CM#1's backpack. CM#2 said the backpack was hers. NE#6 cut the backpack off CM#1. Later, NE#2 slid the backpack away from CM#1 and CM#2.

CM#1 thrashed his head as officers attempted to control him. WE#3 grabbed CM#1's head. CM#1 opened his mouth widely, and an officer stated, "Watch out, he's trying to bite you." CM#1 again complained he could not breathe. An officer requested Seattle Fire Department (SFD) for medical aid. CM#1 sat upright but tried to move his head toward the ground. NE#1 used her hands to prevent CM#1 from lowering his head. CM#1 moved his upper body rapidly before officers placed him back on his side. CM#1 twisted his body free from the officers' grasp. CM#1 repeatedly banged his head against the tile floor. The officers tried to prevent CM#1 from slamming his head. CM#1 continued to thrash and hit his head despite officers' orders and efforts to restrain him.

WE#2 spoke with CM#1, which caused CM#1 to stop slamming his head. Shortly after, CM#1 became unresponsive and appeared unconscious. CM#2 said CM#1 was having a seizure. CM#1 was placed into the recovery position. WE#2 found CM#1 had an active pulse and breathing. CM#1 stuck his feet under the breezeway gate. The officers pulled CM#1 from under the gate, but CM#1's foot was stuck. The officers attempted to free CM#1, but CM#1 kept his leg under the gate. The officers eventually released CM#1's leg.

Officers lifted CM#1 onto a gurney, where CM#1 resisted. Officers held CM#1 down while gurney restraints were applied. After the restraints were applied, CM#1 freed his lower body and slid his legs off the gurney. CM#1 yelled that the officers twisted his head. BWV showed CM#1 lifting his head and slamming it against the gurney's frame. Officers held the sides of CM#1's head as CM#1 twisted his chest and lower body. CM#1 moved his legs off the gurney.



Officers released his head to restrain his legs. CM#1 again violently struck the right side of his head against the metal gurney frame.

As CM#1 was moved into an ambulance, WE#2 held the sides of CM#1's head and told him to stop hitting his head. CM#1 replied, "Nope. I'm about to make this whole place hella bloody." Inside the ambulance, officers sat on CM#1's legs and held the sides of his head. CM#1 complained about an officer sitting on his knees and that his head was being twisted. BWV showed the officer was not twisting CM#1's head. Before they reached the King County Jail, CM#1 said he could not breathe and was "drowning in his sweat." Ambulance employees opened the rear door to facilitate airflow. At the King County Jail sally port, CM#1 again became unresponsive. Officers requested the ambulance employees to evaluate CM#1. BWV ended as ambulance employees treated CM#1.

C. Surveillance Footage

OPA reviewed the apartment building's security footage.

The security camera footage showed CM#1 fleeing WE#1. WE#1 grabbed CM#1 from behind and fell. CM#1 appeared to fall on WE#1.

The security camera captured when CM#2 was pinned underneath CM#1. An officer stood behind CM#2 and appeared to grasp CM#2's underarms to drag her from under CM#1.

The security camera footage also showed NE#6 using a straight, outstretched arm to move CM#3 away from the scene.

D. OPA Interviews

OPA interviewed CM#2 by phone on October 18, 2022. CM#2 said she heard a commotion outside her door and ran to see what happened. CM#2 said she saw three police officers on CM#1. CM#2 said she saw CM#1's head hit the ground but could not see what caused it. CM#2 mentioned a separate incident involving CM#1 and a different law enforcement agency where she believed excessive force was used. CM#2 said CM#1 suffers from mental health issues. CM#2 said she stepped in to help when she saw CM#1's head hitting the ground. CM#2 said a "domino effect" caused CM#1 to fall on her during the struggle.

CM#2 said CM#3 came downstairs and saw the struggle. CM#2 said CM#3 was told to remove CM#2 from under CM#1, then another officer "pushed the hell out of [CM#3]." CM#2 described it as a forceful two-handed shove. CM#2 stated that she was "yanked" by her arm and dragged across the floor. CM#2 further alleged that her backpack was thrown across the floor twice during the incident. After the incident, she inspected her laptop and found it was broken.

OPA attempted to contact CM#3 by phone and through CM#2 but was unsuccessful.

E. FIT Investigation & Jail Booking Information

This incident was classified as a Type III use of force because CM#1 lost consciousness and was investigated by FIT. FIT's investigation included analyzing the crime scene and interviewing the involved officers, CM#1, and witnesses. FIT also obtained CM#1's medical records.



FIT interviewed CM#1 at a hospital. CM#1 stated he was returning CM#2's purse when he encountered WE#1-3. CM#1 said officers tackled him to the ground. CM#1 further alleged officers "kept trying to choke him." CM#1 declined to comment further. CM#1's active warrants were also confirmed.

FIT interviewed the involved officers. Officer statements were consistent with BWV.

NE#1 said he attempted to cradle CM#1's head to stop him from slamming it against the ground. NE#1 said he and NE#3 moved CM#2 because CM#2 refused to move while officers placed CM#1 on a gurney. NE#1 said CM#2 complained of leg pain and refused to stand. NE#1 feared CM#1 might fall on CM#2. NE#1 said she and NE#3 grabbed CM#2's underarms to drag her from the gurney.

NE#6 said when he arrived, he asked CM#3 to step away from CM#2. NE#6 also said CM#1 repeatedly struck his head against the ground.

WE#1-3 said they thought CM#2 intervened to "unarrest" CM#1, so they wanted to remove her. Officers also explained CM#1 self-harmed by hitting his head against the ground and various objects. FIT also interviewed an SFD employee who said CM#1 struck his head against the floor and had to be immobilized to prevent further self-harm.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional

CM#2 alleged NE#1 dragged her arm after CM#2 was injured.

Employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers," whether on or off duty. *Id.* Additionally, employees must "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.*

OPA reviewed relevant BWV and FIT interviews. CM#2 alleged NE#1 dragged her without warning across the floor. BWV showed CM#2 was asked to make room for CM#1 and officers as they struggled to place CM#1 on a gurney. CM#2 replied she could not stand due to a leg injury. NE#1 and NE#3 dragged CM#2 from the gurney by her underarms. NE#1 told FIT she feared CM#1's thrashing would cause him to fall off the gurney onto CM#2.

Here, after asking CM#2 to leave the scene, NE#1 and NE#3 used *de minimis* force to move her. It was not unprofessional or "unnecessary escalation."

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**



Named Employee #1 – Allegation #2

8.200 – Using Force 1. Use of Force: When Authorized

It was alleged that NE#1 used excessive force to remove CM#2 from the scene.

An officer's use of force must be reasonable, necessary, and proportional. SPD Policy 8.200(1). Officers may use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." *Id.* Reasonableness depends "on the totality of the circumstances" known to the officers when the force is applied and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." SPD Policy 8.050.

Here the uses of force were reasonable, necessary, and proportional. After CM#2 was asked to leave the chaotic scene, NE#1 and N#3 used *de minimis* force to separate her from CM#1, who actively resisted the officers.

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

5.001 – Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional

CM#2 alleged NE#2 threw her backpack, causing her laptop to break.

Here, BWV showed NE#6, cut the backpack off CM#1, and placed it on the ground. Later, NE#2 slid the backpack on the floor. OPA did not observe NE#2 "throwing" the backpack or demonstrating disregard for it.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional

For the reasons at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #3 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

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



Named Employee #4 - Allegation #1

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to be Professional

CM#2 alleged NE#4 dragged her arm after she was injured.

OPA reviewed relevant BWV concerning NE#4's interaction with CM#2 and NE#4's FIT interview. While CM#2 was pinned under CM#1, NE#4 pulled CM#2 from under CM#1. CM#2 said her leg was pinned and could not move. When asked to give her arm to officers, CM#2 did not respond. NE#4 stopped trying to pull CM#2. When other officers lifted CM#1, NE#4 under hooked CM#2's arms with his arms and pulled her out. NE#4's actions were not unprofessional or "unnecessary escalation."

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #4 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

For the reasons at Named Employee #4 - Allegation #1, OPA found NE#4's *de minimis* force applied to CM#2 was reasonable, necessary, and proportional.

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

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

Named Employee #5 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#5 used excessive force to remove CM#2 from the scene. As discussed at Named Employee #5 - Allegation #2, NE#5 did not use force against CM#2.

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #5 - Allegation #2

5.001-POL-10 Employees Will Strive to be Professional

CM#2 alleged NE#5 dragged her by her arms after CM#2 was injured.

BWV showed NE#5 did not drag CM#2 by her arms. However, NE#5 ordered CM#2 to move to allow CM#1 to be loaded onto a gurney. CM#2 said she could not move because her leg was injured. NE#1 and NE#3 moved CM#2 backward. It was not unprofessional or "unnecessary escalation."

Accordingly, OPA recommends this allegation be Not Sustained - Unfounded (Expedited).



Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #6 - Allegation #1

5.001-POL-10 Employees Will Strive to be Professional

As outlined at Named Employee #6 - Allegation #2, BWV showed NE#6 placed his arm on CM#3's left shoulder and moved her backward. It was not unprofessional or unnecessary escalation.

OPA recommends that this allegation be Not Sustained - Unfounded (Expedited).

Recommended Finding: **Not Sustained - Unfounded (Expedited)**

Named Employee #6 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#6 "forcefully shoved" CM#3.

BWV showed NE#6 put his arm on CM#3's left shoulder and walked forward. CM#3 did not stumble or fall. Additionally, surveillance footage showed CM#3 was not "forcefully shoved."

NE#6's *de minimis* force was reasonable, necessary, and proportional to clear the chaotic scene.

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

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

Named Employee #7 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that Unknown Employees used excessive force during CM#1's arrest.

BWV and FIT's investigation showed force applications during CM#1's arrest were reasonable, necessary, and proportional. OPA did not see an officer use unauthorized or excessive force during the encounter. CM#1 attempted to flee WE#1, who pursued and grabbed CM#1 before he escaped. WE#1 and CM#1 fell as WE#1 pulled CM#1 away from the breezeway exit. CM#1 appeared to fall on WE#1. The force used against CM#1 after being handcuffed was necessary to control CM#1 as CM#1 thrashed and twisted his body. CM#1 also repeatedly hit his head against the ground and hard objects and intentionally stuck his foot under the breezeway gate. CM#1 explicitly voiced his intent to make the scene "hella bloody." The named and witness officers used reasonable, necessary, and proportional force to prevent CM#1 from escaping, resisting, and self-harming.

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

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