




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 10, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0384

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations	Sustained
Imposed Discipline		
Written Reprimand		

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.100 - De-Escalation 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Sustained
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Lawful and Proper
Imposed Discipline		
Resigned Prior to Proposed Discipline		

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.100 - De-Escalation 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Training Referral
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Lawful and Proper
# 3	8.300 - Use of Force Tools 4. Officers May Use TASERS in the Following Circumstances: [...]	Not Sustained - Lawful and Proper

Named Employee #4

Allegation(s):		Director's Findings
# 1	8.100 - De-Escalation 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force	Not Sustained - Training Referral
# 2	8.200 - Using Force (1) Use of Force: When Authorized	Not Sustained - Lawful and Proper



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 Named Employee #2 (NE#2), Named Employee #3 (NE#3), and Named Employee #4 (NE#4) used unauthorized force and failed to use de-escalation tactics to reduce the need for force. It was also alleged NE#3 unjustifiably deployed his TASER. Finally, it was alleged Named Employee #1 (NE#1) failed to investigate and/or refer an allegation of policy violations.

SUMMARY OF INVESTIGATION:

On August 27, 2022, NE#2, NE#3, and NE#4 responded to a domestic violence (DV) call that resulted in the use of force, including the TASING of Community Member #1 (CM#1). That incident led to a Type II force investigation. See SPD Policy 8.400. During the Type II review, the reviewing administrative lieutenant sent OPA an unsubstantiated misconduct screening (UMS). See OPA Manual, Section 8.1; SPD Policies 5.002-POL-4 and 5.002-PRO-1. The UMS addressed Community Member #2's (CM#2), CM#1's girlfriend, allegation that the officers used excessive force against CM#1.

After reviewing the UMS, OPA opened an investigation. During its investigation, OPA reviewed the UMS, Computer-Aided Dispatch (CAD) data, incident report, Type II use of force documents, body-worn video (BWV), and private security video. OPA also interviewed CM#1 and the Named Employees. OPA called CM#2 several times, but those attempts were unsuccessful.

a. Computer-Aided Dispatch (CAD) Call Report

CAD data showed CM#2 called 9-1-1 on August 27, 2022 at 2:19 am to report CM#1 held her down and kicked her several times. The call remarks noted, "CRYING FEMALE, SOUNDED LIKE SHE WAS TALKING [TO] SOMEONE IN BACKGROUND." CM#2 stated she and CM#1 were intoxicated. CM#2 provided CM#1's first name and description (recorded in the CAD remarks as "BM" or black male). CM#2 told 9-1-1 CM#1 was in the apartment and she would meet officers in front of the building. The CAD also noted, "MALE HALF IS THREATENING SUICIDE BY COP AND FEMALE HALF IS BEING VERY AGGRESSIVE."

b. Incident Report

NE#2 wrote the incident report. NE#2 wrote she was dispatched to a DV call and noted the CAD call remarks. NE#2 also wrote, on arrival, the officers found CM#1 and CM#2 outside the apartment complex. NE#2 noted CM#1 stood close to CM#2, who was crying on the phone. NE#2 wrote the officers identified themselves and ordered CM#1 to remove his hands from his pockets, but CM#1 refused. NE#2 wrote the officers grabbed CM#1's hands, but CM#1 tensed and pushed away to break free. NE#2 wrote CM#1 resisted lawful commands, prevented a lawful arrest, struggled with officers, and interfered with their investigation. NE#2 wrote CM#1 was eventually arrested.



NE#2 also interviewed CM#1 and recorded his account of the underlying incident. NE#2 wrote CM#1 recalled, after a night of drinking he went to CM#2's apartment. CM#1 reported he and CM#2 argued, during which CM#1 grabbed CM#2's wrists, and CM#2 called CM#1 abusive. CM#1 stated he gave CM#2 a phone to call 9-1-1.

NE#2 also interviewed CM#2 and recorded her account of the underlying incident. NE#2 wrote CM#2 stated CM#1 came over after a night of drinking. According to NE#2's report, CM#2 said CM#1 mounted, straddled, and pinned her by her wrists, causing her pain. CM#2 declined medical assistance.

NE#2 wrote CM#1 was arrested for DV Assault 4, resisting arrest, and obstruction.

c. Type II Use of Force Documents

NE#3's TASER use resulted in a Type II force investigation. NE#3 wrote an involved officer statement. NE#2 and NE#4 wrote witness officer statements. The use of force was reviewed by their sergeant—NE#1—and an administrative lieutenant, watch commander, and precinct captain.

NE#2 wrote, before arriving at the scene she was apprised of the CAD report. NE#2 wrote she asked the 9-1-1 call taker to instruct CM#2 to meet the officers outside the building. NE#2 recalled, upon officers' arrival, CM#1 and CM#2 were arguing outside the building. NE#2 stated CM#2 was on the phone visibly upset and CM#1 had CM#2 backed into a corner. NE#2 wrote she identified CM#1 as the call suspect and CM#2 as the call victim. NE#2 wrote she approached CM#1 while announcing her office. NE#2 stated CM#1 turned to face her with his hands in his pockets. NE#2 wrote she ordered CM#1 to remove his hands but CM#1 was non-compliant. NE#2 stated she believed CM#1 "began to size [NE#2] up," so she went hands-on and "trapped the suspect's hands with both of my hands and stopped them from moving." NE#2 wrote NE#3 grabbed CM#1's left hand, NE#2 grabbed CM#1's right hand, and they pulled CM#1's hands from his pockets. NE#2 wrote she and NE#3 put CM#1 in the escort position for handcuffing, but CM#1 started to resist and stated, "Let me go." NE#2 wrote she ordered CM#1 to relax and requested a "fastback."¹ NE#2 wrote officers used a control hold to take CM#1 to the ground, but CM#1 tried to get to his feet, pulled his arms away, and shifted his body weight. NE#2 wrote CM#1's resistance caused NE#4 to "slam" into a wall. NE#2 wrote that NE#3 used a "drive stun" TASER application on CM#1, resulting in "sudden compliance from [CM#1]." NE#2 wrote CM#1 was handcuffed without further incident. NE#2 wrote CM#1 was placed in the recovery position, cleared by the Seattle Fire Department, and transported to jail.

NE#4's witness officer statement was consistent with NE#2's statement. Additionally, NE#4 documented her attempted head control technique to take CM#1 to the ground. NE#4 also documented, when three officers initially took down CM#1, he was "strong enough and determined to escape custody that he was able to stand back up." NE#4 also wrote, after CM#1 stood up, he pushed NE#4 and NE#2 causing NE#4's head to hit a window.

¹ That is a radio call for expedited backup.



NE#3 also wrote an involved officer statement. NE#3's statement was consistent with NE#2's and NE#4's but provided additional detail. NE#3 wrote the officers approached the building with NE#2 in the lead, NE#3 about 10 feet behind NE#2, and NE#4 about 10 feet behind NE#3. NE#3 wrote CM#1 and CM#2 stood face-to-face about two feet apart with CM#2's back to a wall. NE#3 noted CM#1's hands were in his pockets. NE#3 wrote he believed CM#1 saw the officers' approach and that CM#1 would run or possibly had a weapon. NE#3 stated the officers used commands and contact and cover as de-escalation tactics. NE#3 wrote further de-escalation was unfeasible or reasonable due to CM#1 and CM#2's proximity, which could allow CM#1 to further assault CM#2. NE#3 also wrote, due to the "suicide-by-cop" note for the call, he wanted to quickly gain control of CM#1's hands and frisk him for weapons. NE#3 also wrote CM#1 was a large male with a significant power advantage over NE#2 and NE#3. NE#3 also noted they encountered CM#1 in an entrance area with large glass panes and hard surfaces. NE#3's description of going hands-on was consistent with the other officers, but NE#3 provided additional information about his TASER application. NE#3 wrote CM#1 presented a higher level of resistance that could cause harm to the officers and NE#3, so NE#3 decided to use a higher level of force to gain compliance. NE#3 wrote using the TASER in dart mode was not an option due to his proximity to CM#1, so NE#3 applied the TASER in drive stun mode against CM#1's ribs. After a single deployment, NE#3 warned CM#1 he would be tased again if he did not comply. NE#3 wrote CM#1 complied and was handcuffed.

NE#1 reviewed the use of force. NE#1 documented his debriefing with NE#2, NE#3, and NE#4. NE#1 wrote he discussed "team tactics and communication, developing a plan and giving commands to the subject before and during the incident."

The reviewing administrative lieutenant documented that NE#2's de-escalation efforts included ordering CM#1's hands out of his pockets. The admin lieutenant noted de-escalation was no longer feasible after CM#1 pulled away and ignored orders. The admin lieutenant also noted NE#3 used his TASER "in the middle of an active and escalating struggle with a suspect and two additional officers" and it was "not reasonable" for NE#3 to provide a warning. NE#3 also noted, tactically, the officers had intended to approach together, but NE#2 "got too far ahead."

The watch commander's review criticized the officers' failure to plan. The watch commander wrote although there was "urgency to make the scene safe," the "initial contact might have progressed more smoothly if officers had developed a contact plan, engaged in more effective verbal communication, and been in closer proximity to each other." The watch commander also wrote NE#2 should have advised the other officers she intended to go hands-on. The watch commander wrote, once CM#1 actively resisted, the officers' tactics aligned with training and best practices. The watch commander also stated the "lack of well-formed communication and lack of a coordinated plan may have contributed to truncated de-escalation," but ultimately concurred that de-escalation was no longer safe and feasible after NE#2 went hands-on. The watch commander requested NE#3 further explain why he did not issue a warning before using his TASER. The watch commander documented NE#3's explanation, specifically it was difficult to communicate given ongoing yelling and CM#1 previously ignored the officers' orders.

The precinct captain wrote he concurred with the watch commander's review.

d. Body-Worn Video



The Named Employees' BWVs were activated throughout their response. BWV captured most of the officers' struggle with CM#1, but NE#3 and NE#4's BWV fell off during the struggle so their BWVs missed parts of the encounter. In summary, BWV depicted the following:

NE#2, NE#3, and NE#4 arrived and approached the building. NE#2 radioed their arrival and requested CM#2 meet them out front. As they approached, people stood in the building's entryway.

As the officers entered the entryway, CM#2 was out front against a wall/window. CM#1, who stood with his hands in his pockets, faced CM#2. CM#1 and CM#2 stood about two feet apart. NE#2 was the first officer to contact CM#1 and CM#2. NE#2 approached CM#1 from behind. Within eight feet from CM#1, NE#2 announced, "Hi, Seattle Police." CM#1 turned to face NE#2 with his hands still in his pockets. From less than four feet away, NE#2 ordered CM#1 to remove his hands. NE#3 reissued that order. CM#1 did not comply. NE#2 continued to approach CM#1. From about two feet away, NE#2 again ordered CM#1 to remove his hands. NE#2 then grabbed CM#1's right wrist with her left hand and CM#1's left wrist with her right hand and removed his hands from his pockets. NE#3 approached CM#1's left side and used both hands to grab CM#1's left arm. NE#2 grabbed CM#1's right arm. CM#2 asked the officers to "please stop." NE#4 guided CM#2 away from the struggle.

CM#1 repeatedly pulled his arms away and stated, "let me go." NE#2 ordered him to "stop" and radioed for a fastback. NE#4 joined NE#2 and NE#3's effort to control CM#1.

Officers eventually brought CM#1 to the ground. However, CM#1 stood up while actively resisting the officers' attempt to control him. A TASER arcing was heard. NE#3 TASED CM#1 and he was brought to the ground. NE#3 ordered CM#1 to "put your hands behind your back or you're going to get TASED again." The officers then rolled CM#1 onto his stomach and handcuffed him. About 29 seconds elapsed from when NE#2 grabbed CM#1's wrists to NE#3 TASING him. CM#1 was handcuffed about 55 seconds after the TASER application.

Later, CM#1 arrived to screen the arrest. While on the scene, NE#1 spoke to CM#2. NE#1 asked CM#2 if she wanted to talk about what occurred. NE#1 explained he was required to respond due to the TASER deployment. CM#2 stated, "I'm so pissed by the tasing. Can you help explain the policy to me? Because that really, really pissed me off." NE#1 asked CM#2 what she observed. CM#2 stated she and CM#1 were outside "calmly" awaiting SPD when the officers "walked up" and "tackled [CM#1] to the ground." NE#1 asked if the officers said anything. CM#2 said she did not remember everything the police said. As NE#1 and CM#2 discussed the incident, CM#2 stated, "why couldn't, so why couldn't you just walk up calmly, to calm people, and ask us what was going on?" CM#2 also stated "they immediately went for him," "immediately grabbed at his body, shoving him around, pushed him on the ground," and "started tasing him." NE#1 asked CM#2 if the officers said anything, CM#2 stated "they were saying things," but questioned why that was relevant. NE#1 stated he would write that CM#2's recollection was that the officers said nothing. CM#2 then stated NE#1 "put words in my mouth." NE#1 replied, "well you're telling me that you can't remember they said anything, I wasn't here, right?" CM#2 responded, "he didn't even know you all were there until they were touching him." Later, NE#1 had a second conversation with CM#2 where she reiterated that CM#1 was unaware of the officers



until they put their hands on him. CM#2 stated the officers “snuck up” on CM#1 and that his hands were already in his pockets.

e. Private Security Video

The apartment building’s private security video also captured the incident. The video does not have sound. The video captured the encounter from an above angle.

That video showed CM#1 and CM#2 talking when NE#2 approached. NE#2 quickly approached CM#1, appearing to outpace NE#3 and NE#4. When NE#2 grabbed CM#1’s wrists, NE#3 and NE#4 were about five to eight feet from her. After NE#2 and NE#3 grabbed CM#1’s arms, they guided him towards the building’s wall/windows. As CM#1 pulled his arms away, NE#4 approached CM#1 from the front and grabbed the back of CM#1’s neck or head. NE#4 appeared to attempt to pull CM#1’s head towards her but was instead pulled off the ground. As CM#1 struggled with the officers, the group moved from the wall/windows to the ground. CM#1 stood up with the three officers holding him. NE#3 removed his TASER. A light shone from the TASER and reflected on CM#1 before NE#3 connected it with CM#1’s left midsection/ribcage. CM#1 and the officers went to the ground.

f. OPA Interview – Community Member #1

OPA interviewed CM#1.

CM#1 stated he knew the police were called and he was talking to CM#2 when they arrived. CM#1 said he was unaware the police arrived until they told him to put his hands up. CM#1 stated the officers approached him aggressively and put their hands on him. CM#1 stated, before he could remove his hands from his pockets, the officers tased him.

CM#1 stated he was concerned by how quickly the incident escalated to him getting TASED. CM#1 stated he was not violent with anyone, but admitted he did not immediately comply with the request to remove his hands from his pockets. CM#1 stated the officers did not give him enough time to comply before grabbing him.

g. OPA Interview – Named Employee #1

OPA interviewed NE#1. NE#1 recalled he responded to screen uses of force and CM#1’s arrest.

NE#1 did not recall CM#1 alleging excessive force. NE#1 also recalled speaking with CM#2 but did not believe CM#2 complained about excessive force. When asked whether CM#2’s account (officers approached, threw CM#1 to the ground, and tased him) constituted an excessive force allegation, NE#1 responded “Arguably, we could argue that that’s an allegation of assault.” However, NE#1 stated that was why he also asked clarifying questions and also “do a thorough investigation and find out what the officers said.” NE#1 stated, “Because arguable, what [CM#2’s] giving is either an allegation of force or she’s saying that the officers ran up and assaulted her boyfriend but she didn’t actually tell me that so I have to do the investigation myself.” Nevertheless, NE#1 stated he did not believe CM#2 alleged



excessive force. Instead, NE#1 stated CM#2 simply, “said exactly what the officers did.” NE#1 said it was not “an allegation of force because after reviewing it, I didn’t believe it was excessive.” Moreover, NE#1 concluded CM#2’s statements amounted to articulations she was “unhappy that any force was used,” rather than an excessive force allegation.

NE#1 also stated, after learning about an OPA complaint related to this incident, he contacted OPA to self-report he was the reviewing sergeant and should be included as a Named Employee.

h. OPA Interview – Named Employee #2

NE#2 separated from the Department. NE#2 agreed to a voluntary OPA interview.

NE#2 recalled responding to a DV call and while en route the female stated her partner was intoxicated and threatened suicide by a cop. NE#2 stated as the officers approached the building she saw CM#1 “cornering” CM#2. NE#2 stated it looked like they were arguing, and CM#2 was crying. NE#2 stated she heard CM#2 on the phone with 9-1-1.

NE#2 stated she identified herself as an SPD officer and asked CM#1 to show his hands. NE#2 stated CM#1 refused to show his hands and gave her a “stare down.” NE#2 stated CM#1’s temporary detention was justified based on the call and CM#1 was not following commands. NE#2 also stated she was concerned about CM#1 concealing weapons in his pockets, so she went to trap his hands.

NE#2 stated NE#3 assisted her with placing CM#1 in the escort position, but CM#1 tensed up and shoved NE#3. NE#2 recalled ordering CM#1 to relax, but CM#1 fought her. NE#2 described CM#2 as larger than her with a muscular build.

NE#2 stated that, when she approached, she did not expect CM#1 and/or CM#2 to be outside. NE#2 also stated she was concerned by the note that CM#1 threatened suicide by a cop. NE#2 stated she recognized CM#1 and CM#2 as the subjects of the 9-1-1 call because they were arguing, CM#2 was crying and on the phone with 9-1-1. NE#2 stated because they expected the individuals to be inside, things moved “really fast.” NE#2 stated when she ordered to see CM#1’s hands she did not intend to “immediately go hands-on with him and fight him.” However, NE#1 stated CM#1 “immediately started fighting us, giving us active resistance and w a threat to us because I didn’t know what he had in his pockets.

NE#2 denied using reportable force on CM#1 and said she only used “control holds” on CM#1’s arm. NE#2 also stated, before using force, further de-escalation was unfeasible. NE#2 stated she had a “split second” to make the scene secure while CM#1 was “cornering the victim.”

i. OPA Interview – Named Employee #3

NE#3 recalled responding to the DV call and contacting CM#1 and CM#2. NE#3 stated CM#1 ignored officers’ commands and resisted detention. NE#3 stated there were safety concerns because the call noted indicated CM#1



would attempt suicide by cop. NE#3 found that note particularly concerning because “that’s a phrase used to describe an incident where a suspect is potentially going to use a weapon on officers to force officers to take lethal action against them.” Further, the call was for a violent offense and CM#1 potentially had weapons.

NE#3 stated as he approached, CM#1 and CM#2 were in proximity which was a concern because “he could assault her again, or, you know, commit further crime.”

NE#3 stated they used de-escalation tactics like responding with multiple officers and issuing commands before contacting him. NE#3 also saw CM#1 turn towards NE#2 after ignoring her order to show his hands. NE#3 also described using trained “team tactics” to put CM#1 in the “escort position.” NE#3 described CM#1 pulling away, tightening up, and not allowing NE#3 to take his hand. NE#3 recalled he and NE#2 ordered CM#1 to stop resisting.

NE#3 stated the officers did not use time, distance, and shielding as they entered the entryway due to the nature of the call and the proximity of CM#1 (the reported offender) and CM#2 (the reported victim.) NE#3 stated, “we closed in to make sure that we could separate the victim from the suspect.”

NE#3 stated he tried to use control holds and team tactics to subdue CM#1, but they were ineffective. NE#3 stated, after CM#1 stood up after the takedown, he used his TASER because he “thought it was pretty clear that his intention was to resist further and officers had already been, sort of, you know, run against the wall, so I was concerned... further resistance by [CM#1] was just going to result in more officers being harmed.” NE#3 stated he cycled his TASER once and did not believe it was effective for the full five seconds.

j. OPA Interview – Named Employee #4

NE#4’s OPA interview was consistent with NE#2 and NE#3. Additionally, NE#4 described trying to get “head control” of CM#1, but that CM#1 was able to straighten himself out and, at some point, they went to the ground. NE#4 denied using reportable force.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations

It was alleged NE#1 failed to investigate or refer CM#2’s misconduct allegations.

Supervisors who become aware of a potential policy violation must investigate it or refer the allegations to OPA, depending on their severity. SPD Policy 5.002-POL-5. Minor allegations of misconduct may be investigated by a supervisor, while allegations of serious misconduct – such as the use of excessive force – must be referred to OPA. See SPD Policy 5.002-POL-5.



Here, NE#1 failed to properly address CM#2's allegations of a serious policy violation: excessive force. CM#2 specifically asked NE#1 to "explain the policy" to her because she was "pissed off" by the TASER usage. Also, CM#2 alleged she and CM#1 "calmly" awaited the officers when they "tackled" CM#1 and tased him before he could comply with their commands. During his OPA interview, NE#1 admitted those statements plausibly described an "assault." The evidence suggests CM#2 clearly, although unsophisticatedly, raised excessive force and failure to de-escalate allegations. Where excessive force is specifically defined as a serious policy violation, NE#1 was obligated to refer it to or screen it with OPA. At a minimum, if there was confusion about CM#2's position, NE#1 should have clarified whether she intended to articulate a complaint.

While OPA understands that a person simply recounting an application of force does not automatically trigger a complaint, that is not what CM#2 did here. Here, CM#2 specifically expressed displeasure with the applications of force and questioned their reasonableness and necessity.

While OPA might have viewed NE#1's omission as minor or unwilful misconduct appropriate for a training referral, it cannot do so here. Since 2017, NE#1 has received a training referral for failing to report force (2017OPA-0112) and a sustained finding for failing to report an alleged policy violation (2017OPA-1283).

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #1

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

It was alleged NE#2 failed to use de-escalation where safe and feasible.

SPD policy instructs, "When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force." SPD Policy 8.100-POL-1. Officers are also encouraged to use team approaches to consider whether any officer has successfully established rapport with the subject. *Id.* The selection of de-escalation options is guided by the "totality of the circumstances." Further, the policy emphasizes the use of communication, time, distance, and shielding to minimize the need for force. *Id.*

Here, NE#2 did not exhaust de-escalation opportunities before going hands-on with CM#1. Specifically, she abandoned the benefit of the team approach by walking well ahead of NE#3 and NE#4, rapidly accelerated the encounter by immediately going hands-on with CM#1, and failed to communicate her plan to her teammates before doing so.

OPA understands the apparent and legitimate safety concerns and acknowledges it was a rapidly developing situation where NE#2 was surprised to encounter CM#1 and CM#2 in the apartment entryway, but those concerns highlighted the need for a team approach and the advantages of time, distance, and shielding. Specifically, with planning, they could have decided for NE#3 to go hands-on with CM#1 first (since he was of comparable size), issued orders from a safe distance and gave CM#1 time to comply, or ordered CM#2 to step away from CM#1 (if they thought his proximity endangered her.) However, NE#2's response escalated CM#1 and forced her partners to close the distance between themselves and CM#1 without evaluating whether that exposed them to an unknown danger. Moreover, NE#2's



explanation that she went hands-on with CM#1 because he may have had a concealed weapon in his pocket makes no sense because if he did have a weapon, she put herself in serious imminent danger by surprising him and pulling his hands out his pockets.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #2

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

It was alleged NE#2 used excessive force.

An officer's use of force must be reasonable, necessary, and proportional. SPD Policy 8.200(1). Officers shall only use "objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective." Whether force is 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, in light of the circumstances surrounding the event." SPD Policy 8.050. The policy lists several 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 amount of force used was reasonable to effect the lawful purpose intended." *Id.* Last, the force used must be proportional to the threat posed to the officer. *Id.*

Here, although OPA found NE#2 failed to exhaust de-escalation opportunities, once NE#2 decided to approach CM#1, CM#1's noncompliance drove the interaction. During the struggle with CM#1, NE#2 and NE#4 used *de minimis* control holds to secure and handcuff CM#1. That low level of force was objectively reasonable when weighed with the dangerous nature of the DV call, the suicide-by-cop threat, and the need to apprehend CM#1. Moreover, given CM#1's level of resistance and noncompliance, some level of force was necessary to apprehend CM#1 and proportional to the threat CM#1 posed.

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

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

Named Employee #3 - Allegation #1

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

It was alleged NE#3 did not engage in de-escalation before applying force.

While all the responding officers could have done better by creating a contact plan, communicating during their response, and devising a team-oriented approach, NE#3 and NE#4's responses to this incident were driven by NE#2's decision to rapidly approach and go hands-on with CM#1. Once NE#2 made that decision, neither NE#3 nor NE#4 had other options but to assist NE#2 with detaining CM#1. Once CM#1 ignored orders and actively resisted, de-escalation was far less safe, feasible, and aligned with law enforcement priorities.



Given the weaknesses in the planning, communication, and team approach here, OPA finds a training referral appropriate. Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#3's chain of command should discuss OPA's findings with NE#3, review SPD Policy 8.100 with NE#3, and provide any retraining and/or counseling it deems appropriate, recognizing these issues were addressed following a Type II investigation. Any retraining and/or counseling should be documented and maintained in Blue Team.

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

Named Employee #3 - Allegation #2

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

It was alleged NE#3 used excessive force.

For the reasons stated above at Named Employee #2, Allegation #2, NE#3's *de minimis* force to get CM#1 into custody was lawful and proper. The only remaining issue concerns NE#3's use of a TASER.

Here, OPA found NE#3's TASER use reasonable, necessary, and proportional. NE#3 was faced with an actively resistant subject who stood with three officers attached to him after they brought him to the ground. CM#1 ignored several officers from various officers and reportedly committed a violent crime and threatened suicide by a cop. Moreover, three police officers struggled for twenty-nine seconds to restrain CM#1 with control holds resulting in one falling and NE#4 hitting her head. Under those circumstances, it was objectively reasonable to use the TASER to force CM#1's compliance. Moreover, no lesser amount of force could reasonably be expected to successfully achieve their lawful purpose. Finally, the limited use of the TASER was proportional to the threats the officers or others faced if the struggle continued.

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

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

Named Employee #3 - Allegation #3

8.300 - Use of Force Tools 4. Officers May Use TASERs in the Following Circumstances:

It was alleged NE#3 may have used his TASER in an improper circumstance.

SPD Policy 8.300-POL-2(4) outlines the circumstances where an officer may use a TASER. As with all uses of force, policy requires TASER applications to be objectively reasonable, necessary, and proportional. SPD Policy 8.300-POL-2(4). Additionally, an officer may only use a TASER when, (1) a subject "causes an immediate threat of harm to any person," or (2) when public safety interests require the subject to be taken into custody and the level of resistance presented by the subject is both likely to cause injury to the officer or subject and hands-on control tactics or other force options would likely cause greater injury to the subject than the use of the TASER. *Id.*

Here, as discussed above at Named Employee #3, Allegation #2, the use of the TASER was objectively reasonable, necessary, and proportional. Moreover, several safety concerns required CM#1's detention. Moreover, any other



option, including continuing to struggle with CM#1 for a longer period using only control holds, risked more serious injury to CM#1 and the officers than was likely with the TASER.

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

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

Named Employee #4 - Allegation #1

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

For the reasons set forth above at Named Employee #3, Allegation #1, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#4's chain of command should discuss OPA's findings with NE#4, review SPD Policy 8.100 with NE#4, and provide any retraining and/or counseling it deems appropriate, recognizing these issues were addressed following a Type II investigation. Retraining and/or counseling should be documented and maintained in Blue Team.

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

Named Employee #4 - Allegation #2

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

For the reasons set forth above at Named Employee #2, Allegation #2, OPA recommends this allegation be Not Sustained – Lawful and Proper.

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