



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 23, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS JR.,
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0104

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)	Not Sustained - Lawful and Proper (Expedited)
# 2	8.100 – De-Escalation, 8.100-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)	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:

Named Employee #1 (NE#1) and Witness Officer #1 (WO#1)—NE#1's student officer—responded to a burglary call resulting in a foot chase. The Complainant alleged that NE#1 used unauthorized force and failed to de-escalate by tackling Community Member #1 (CM#1)—the burglary suspect—after CM#1 stopped running and raised his hands.

ADMINISTRATIVE NOTE:

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

On April 1, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On February 26, 2024, the Complainant filed an OPA complaint, writing that an officer used unauthorized force and failed to de-escalate when CM#1—a fleeing suspect—heard a Taser warning and stopped running with his hands raised. The Complainant wrote that the officer did not give CM#1 time to comply with orders to get on the ground before he tackled CM#1, who was nonthreatening and not suspected of committing a violent crime.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), police reports, and use of force reports. The Complainant elected to email OPA in lieu of an interview. The



Complainant's email, consistent with his OPA complaint, reiterated his belief that NE#1's use of force was not objectively reasonable, necessary, or proportional.

B. Computer-Aided Dispatch (CAD) Call Report

On December 11, 2023, at 2:59 AM, CAD call remarks noted, "VIA LIVE VIDEO MONITORING: COURTYARD, [REPORTING PARTY] IS OWNER OF THIS [BUSINESS] AND IS SEEING 2 SUSP[ECT]S OUTSIDE AND HAVE NOT MADE IT INSIDE YET. NO [WEAPONS] SEEN."

C. Body-Worn Video (BWV)

NE#1's BWV captured the following:

WO#1 drove a patrol vehicle, with NE#1 in the passenger seat. NE#1 pointed out the suspect, and WO#1 accelerated. NE#1 and WO#1 exited their patrol vehicle near CM#1, who was fleeing, and chased after him on foot. NE#1 and WO#1 shouted, "Get on the ground!" NE#1 directed WO#1 to holster the firearm WO#1 drew. NE#1 shouted at CM#1, "Get on the ground! You will get shot!" WO#1 drew his Taser while running and shouted, "I will Tase you!" NE#1 told WO#1, "Hit him!" WO#1 aimed his Taser at CM#1's back and shouted, "Get on the ground now!" WO#1 and CM#1 momentarily stopped running:



NE#1 overtook WO#1, and then approached CM#1, who walked away while partially raising his hands:



NE#1 tackled CM#1 from behind,¹ and CM#1 fell on his stomach. A brief struggle ensued but was not fully captured on BWV due to its proximity to CM#1. NE#1 shouted, “Get your arm out!”² NE#1, WO#1, and backing officers handcuffed CM#1.

NE#1 tackled CM#1 from behind,³ and CM#1 fell on his stomach. A brief struggle ensued but was not fully captured on BWV due to its proximity to CM#1. NE#1 shouted, “Get your arm out!”⁴ NE#1, WO#1, and backing officers handcuffed CM#1.

D. Police Report and Use of Force Reports

NE#1’s police report was consistent with BWV observations.

NE#1’s type II⁵ use of force statement was also consistent with BWV observations. NE#1 wrote that as he responded to the incident location, an officer radioed that armed suspects burglarized the same business several times. NE#1 wrote that because CM#1 was noncompliant, he directed WO#1 to deploy the Taser at CM#1. NE#1 wrote that CM#1

¹ NE#1’s use of force statement noted that CM#1 lowered his hands to his waistband before being tackled, raising concerns that he was reaching for a weapon. BWV appeared inconclusive on this matter.

² NE#1’s use of force statement noted that CM#1 tucked his right hand under his body, so NE#1 pulled CM#1’s arm out to prevent him from grabbing a weapon in his waistband.

³ NE#1’s use of force statement noted that CM#1 lowered his hands to his waistband before being tackled, raising concerns that he was reaching for a weapon. BWV appeared inconclusive on this matter.

⁴ NE#1’s use of force statement noted that CM#1 tucked his right hand under his body, so NE#1 pulled CM#1’s arm out to prevent him from grabbing a weapon in his waistband.

⁵ Type II is force that causes, or is reasonably expected to cause, physical injury greater than transitory pain but less than great or substantial bodily harm. SPD Interim Policy 8.050 (effective May 19, 2023). Type II force includes a takedown that causes injury or is reasonably expected to cause injury. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).



slowed down, and then slowly moved forward. NE#1 wrote that he intended to conduct a “front takedown” when he saw CM#1’s raised hands but decided to conduct a “football style tackle” instead because CM#1 started reaching down into his waistband, and NE#1 believed he was too close to CM#1 to use his Taser or firearm at that point. NE#1 explained, “I decided to tackle the suspect to prevent him grabbing a weapon.” NE#1 wrote that his tackle caused scratches on CM#1’s hands and leg.

A watch lieutenant and captain approved NE#1’s use of force, finding it objectively reasonable, necessary, and proportional.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)

The Complainant alleged that NE#1 used unauthorized force when he tackled CM#1.

Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all persons. SPD Interim Policy 8.200(1) (effective April 24, 2023). The calculus of reasonableness must consider that officers are often forced to make split-second decisions about the force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the officers’ actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. SPD Interim Policy 8.050 (effective May 19, 2023). A proportional use of force must reflect the totality of circumstances surrounding the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and assessment of the situation to decide an appropriate level of force. *Id.*

NE#1’s tackle was objectively reasonable. Before engaging CM#1, NE#1 became aware that CM#1 may have been armed since an officer radioed that armed suspects previously burglarized the same business. After NE#1 and WO#1 located CM#1, CM#1 fled and was noncompliant. CM#1 slowed down with his hands slightly raised when presented with a Taser warning but, according to NE#1, suddenly lowered his hands to his waistband. NE#1’s tackle was objectively reasonable, given the potential for CM#1 to access a weapon. NE#1’s tackle was necessary to prevent CM#1 from possibly accessing a weapon and using it against NE#1 or WO#1. Additionally, NE#1 articulated that drawing his Taser or firearm was not feasible because, at that point, he was already too close to CM#1. NE#1’s tackle was proportional to neutralize the threat CM#1 posed to NE#1 and WO#1, given CM#1’s determination to escape, noncompliance, possibly being armed, and, according to NE#1, reaching for his waistband. NE#1 modulated his use of force after backing officers assisted in handcuffing CM#1. Overall, a preponderance of the evidence indicates that based on the evidence provided, NE#1’s tackle was objectively reasonable, necessary, and proportional under the circumstances.

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



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

Named Employee #1 – Allegation #2

8.100 – De-Escalation, 8.100-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)

The Complainant alleged that NE#1 failed to de-escalate before tackling CM#1.

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force. SPD Interim Policy 8.100-POL-1 (effective April 24, 2023). Officers are encouraged to use team approaches to consider whether any officer has successfully established a rapport with the subject. *Id.* De-escalation options should be guided by the totality of the circumstances. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

NE#1 utilized communication by ordering CM#1 to “get on the ground.” When CM#1 refused to comply and elected to flee, time, distance, and shielding were infeasible de-escalation tactics. During the chase, NE#1 continued to shout orders at CM#1 and warned him that he could get shot. When CM#1 slowed down and appeared to surrender, he reportedly lowered his hands to his waistband, heightening concerns that he was drawing a weapon. Given this potential threat and CM#1’s continued noncompliance, further de-escalation tactics were infeasible, and NE#1 was authorized to apply force. Overall, a preponderance of the evidence indicates that based on the evidence provided, that NE#1 de-escalated to the extent feasible under the circumstances.

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

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