



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 28, 2024

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0274

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Lawful and Proper
# 2	15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report	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 shoplifting call at a grocery store where the Complainant, a security guard, forcibly detained Community Member #1 (CM#1), the suspected shoplifter. The Complainant alleged that NE#1's investigation was inadequate, and his incident report was inaccurate.

ADMINISTRATIVE NOTE:

On December 2, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On June 25, 2024, the Complainant submitted an OPA complaint. He wrote that he detained CM#1, an "aggressive shoplifter," after observing her trying to steal from the store. He also indicated that SPD instructed his employer to detain CM#1 for warrants. He wrote that he was investigated for detaining CM#1 based on NE#1's mistaken belief that a security guard could not detain anyone for a property crime. He wrote that NE#1 watched the store camera but inaccurately documented that the Complainant picked up CM#1 and slammed her against the ground. He wrote that the video showed CM#1 being "brought" to the ground, not picked up or slammed. He described NE#1's investigative deficiencies, like failing to investigate whether CM#1 possessed stolen merchandise. He wrote that he was later charged with assault based on NE#1's "negligent" investigation and dishonest incident report.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), store video, incident report, and court documents. OPA also interviewed the Complainant and NE#1.



B. Computer-Aided Dispatch (CAD) Call Remarks

On February 24, 2023, at 9:06 AM, CAD call remarks noted, "FORMER SHOPLIFTER INSIDE THE STORE, KNOWN TO HAVE [MULTIPLE IDENTIFICATIONS], SECURITY HAS SUSPECT DETAINED ON THE GROUND NOW. NO CRIMES KNOWN TODAY."

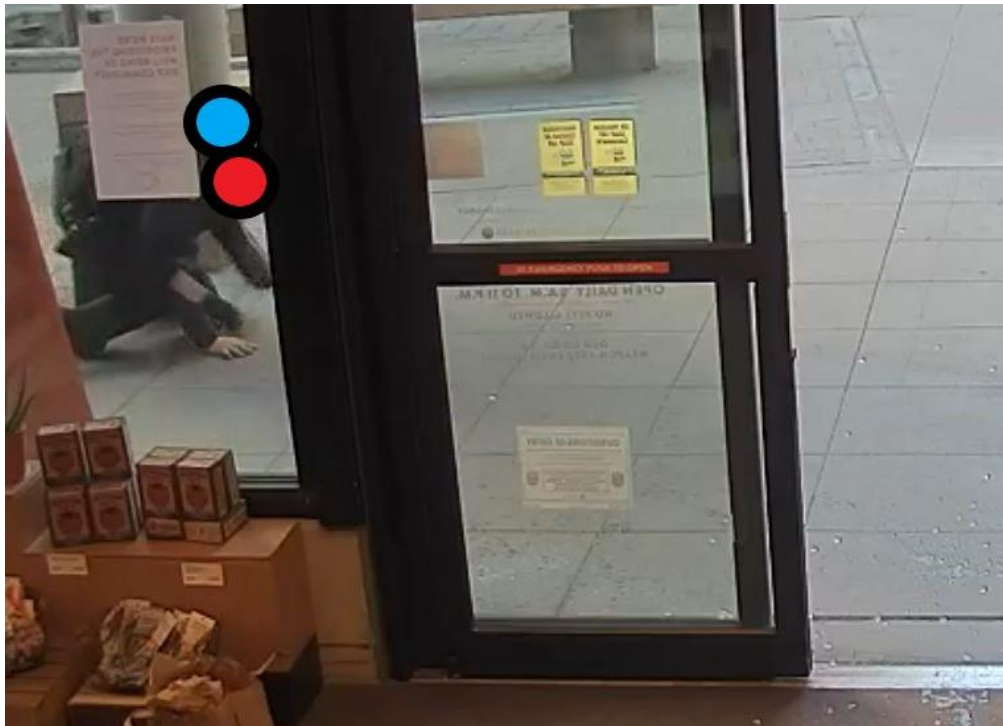
C. Body-Worn Video (BWV) and Store Video

BWV captured the following:

Two backing officers entered the store and spoke with the Complainant. He said he caught CM#1 "trying to shoplift." He said CM#1 was a known shoplifter at other store locations. He said his supervisor confirmed CM#1's "identity theft" and "suspicion of warrants" and directed him to detain CM#1. He clarified that he saw CM#1 "acting suspicious" and concealing several items. He said CM#1 argued with him when he confronted her at the register. He said CM#1 wanted to fight and grabbed him at the entrance, so he forcibly detained her. NE#1 arrived, and a backing officer told him that CM#1 may have committed robbery.

NE#1 and Community Member #2 (CM#2), a store employee, entered an office and watched the store video, which lacked audio. It captured the following:

The Complainant stood in CM#1's way as she tried to exit. He directed her to set her grocery bag aside. They engaged in a dialogue. She moved away from him out of the video's range, but he followed. They reappeared in the video showing the Complainant grab CM#1's right arm. She tried to pull away from him, but he wrapped his arm around the back of her neck, grabbed her grocery bag, and set it aside. She spilled a drink, freed herself from his arm wrap, and went through the entrance door. She tried to flee, but he grabbed her arms and held her from behind. She pulled away out of the video's range as he held onto her. They reappeared in the video showing the Complainant on top of CM#1 and guiding her onto the ground in the tabletop position.



CM#1 (red) braced her fall with her hands pressed against the ground as the Complainant (blue) was behind her. A white poster taped to the store's window and the black window frame partially obstructed the struggle.

While sitting on her upper legs, the Complainant pressed CM#1's upper body toward the ground onto her stomach and handcuffed her. He escorted her into the store.

NE#1 discussed with CM#2 what he saw from the video. NE#1 said CM#1 was passive and non-assaultive. NE#1 said the Complainant threw CM#1 to the ground and handcuffed her. NE#1 said the Complainant lacked lawful authority to restrain anyone since he was a security guard, not a government officer authorized to deprive someone's freedom. NE#1 said this situation was not robbery, but he would recommend charges for theft. CM#2 said he would like CM#1 trespasses and noted her multiple thefts from prior incidents. CM#2 said he did not retrieve stolen merchandise from CM#1 but believed the Complainant did and saw her conceal items. CM#2 said the Complainant's supervisor directed security guards to detain CM#1 pursuant to SPD guidance. NE#1 said SPD officers have arrested security guards for assault based on unauthorized aggression.

NE#1 interviewed CM#1. She said she was detained because the Complainant told her she had warrants. She said she denied that accusation and told him he could not arrest her because he was not a police officer. She said she paid for the items but admitted, "Yeah, I tried to do it in the beginning, but then I paid for it right there at the register."¹ She insisted she paid for the items. She denied having the receipt but said the store could reprint it.

NE#1 obtained a copy of the receipt from CM#2 and compared it against several items next to a register. A backing officer told NE#1 that CM#1 had no warrants. The Complainant, standing next to NE#1, said CM#1 set these items

¹ CM#1 did not clarify what she meant when she said she "tried to do it in the beginning." The context suggests she was alluding to a shoplifting attempt.



on the counter when he confronted her there. He said these items were not on her person as she tried to exit. He said, "So, I wasn't – I wasn't detaining for uh shoplifting." He continued, "I was only detaining on a reasonable suspicion for warrants because she's coming to multiple uh [stores] using different names," suggesting identity fraud. NE#1 replied, "We're gonna go over right now and take her out of handcuffs."

NE#1 reapproached CM#1, uncuffed her, and told her she was trespassed from the store but would not be charged. NE#1 briefly inspected CM#1's purchased items and then she left with them. NE#1 spoke with the store's chief executive officer, telling him he would recommend assault charges against the Complainant because a video showed him "throw[] her onto the ground." NE#1 acknowledged the throwing was "not like super clear," but it was visible through the glass doors. NE#1 believed CM#1 did not shoplift because she only took purchased items while setting aside unpurchased items before leaving.

NE#1 reapproached the Complainant and CM#1 in the office. NE#1 said he would recommend fourth-degree assault charges against the Complainant for "throwing [CM#1] on the ground" for trying to leave.² NE#1 noted the Complainant was not a government officer, so he lacked lawful authority to physically detain or arrest people. NE#1 also said CM#1 neither shoplifted nor was assaultive. The Complainant protested, saying he was told by his supervisor and CM#2 to detain CM#1. He also insisted state law permitted reasonable detentions. NE#1 said the Complainant could argue his case in court and then terminated contact with him.

D. Incident Report

NE#1's incident report described NE#1's observations of the store video as follows:

The video shows the subject, [CM#1], attempted to leave the store. Store security, [the Complainant], attempted to stop [CM#1] at the front of the store before she left. [CM#1] has her hands up in the video and is trying to walk around [the Complainant] to leave; [the Complainant] prevents her from leaving and began grabbing her wrist to detain her. The incident leads outside where you can see [the Complainant] pick [CM#1] up off[f] the ground from a standing position and slams her on the ground to detain her.

E. OPA Interviews

On July 9, 2024, OPA interviewed the Complainant. He said he suspected CM#1 of shoplifting because he saw her conceal items. He said she previously paid for some items while concealing others. He said she relinquished concealed items when he confronted her at the register. He said he confronted her again at the entrance to ascertain whether she concealed other items. He said he brought her to the ground using a controlled "arm bar" tactic. He denied picking her up, throwing her, or slamming her against the ground. He believed NE#1's description of the use of force was inaccurate and unsupported by video. He said he told the backing officers that he suspected CM#1 of shoplifting and thought he provided additional justification for detaining her by explaining she had warrants. He believed state law permitted him to detain someone, indicating NE#1's investigation was inadequate.

² Court records indicated that the City of Seattle later charged the Complainant with fourth-degree assault and unlawful imprisonment.



On November 12, 2024, OPA interviewed NE#1. He described what he saw on video, saying, “Once [CM#1] was outside, it looked like [the Complainant] grabbed her, threw her to the ground, and then placed handcuffs on her and brought her inside.” He clarified, “At one point, it seemed as though she was slightly picked up off the ground and then slammed to the ground.” He characterized being brought to the ground as controlled and being thrown or slammed as uncontrolled. He said the Complainant justified CM#1’s detention based on the possibility she had warrants for previous shoplifting. He believed security guards lacked lawful authority to physically detain someone for suspicion of warrants. He believed the Complainant used excessive force against someone without evidence of a crime. He said the items on the receipt were consistent with the items CM#1 possessed when she left the store.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged that NE#1 conducted an inadequate investigation.

In primary investigations, officers must conduct a thorough and complete search for evidence. SPD Policy 15.180-POL-1. Sworn personnel must know how to collect the most common physical evidence that might be encountered in a primary investigation. *Id.* Only evidence impractical to collect or submit to the Evidence Unit shall be retained by the owner. *Id.* Officers shall photograph all evidence retained by the owner. *Id.*

NE#1’s investigation was thorough. He conferred with his backing officers, interviewed all relevant parties (the Complainant, CM#1, and CM#2), and reviewed physical evidence, including the store video, receipt, and purchased items. NE#1 initially responded to the store believing he was investigating theft since the Complainant reported seeing CM#1 conceal items. However, the available evidence dispelled NE#1’s suspicion of criminal activity. CM#1 said the Complainant detained her for warrants. The Complainant admitted to detaining CM#1 for possible warrants, not shoplifting. The Complainant also said CM#1 set aside concealed items at the counter. NE#1 found no discrepancies in his review of the receipt and CM#1’s purchased items. A backing officer found no warrants on CM#1. Since NE#1’s investigation uncovered no reasonable suspicion of criminal activity, releasing CM#1 without searching her was warranted. Finally, CM#1’s and the Complainant’s improper reliance on propensity evidence—that CM#1 had prior shoplifting incidents—to establish guilt in this incident did not prejudice NE#1’s investigation.

Moreover, NE#1 misstated the law when he said the Complainant could not legally detain a shoplifter. State law permits a mercantile establishment to detain a person “in a reasonable manner” for “not more than a reasonable time” to investigate the ownership of merchandise, so long as it had “reasonable grounds” to believe the detained person committed or attempted to commit theft or shoplifting on the premises. *See* RCW 9A.16.080. While the mercantile establishment lacks authority to arrest shoplifters, it is authorized to use “all reasonable force to effect” a detention. *See State v. Miller*, 103 Wn.2d 792, 795, 698 P.2d 554, 556 (1985) (emphasis added). The reasonableness of such force is a factual question “determined in the light of the circumstances of each particular case.” *Id.* Ultimately, NE#1’s misunderstanding of the law did not impact the thoroughness of his investigation. A prosecutor reviewed the available evidence and believed criminal charges were warranted. In court, NE#1 was entitled to raise legal defenses against his criminal charges, such as the mercantile establishment defense, and litigate whether he used reasonable force to detain CM#1 based on reasonable grounds. These defenses, however, did not render NE#1’s investigation unthorough.



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

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

Named Employee #1 – Allegation #2

15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#1's incident report was inaccurate.

Officers must document all primary investigations in a report. SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. *Id.*

NE#1's incident report stated that the Complainant picked up CM#1 and slammed her against the ground. That description was not readily apparent in OPA's review of the store video. It showed the Complainant forcibly guiding CM#1 to the ground in the tabletop position. It also showed him pressing her upper body toward the ground onto her stomach. NE#1's description did not accurately reflect the use of force captured on video.

However, NE#1 described the video as "not like super clear." Indeed, the Complainant and CM#1 went in and out of the video's range, and a poster and doorframe partially obstructed the struggle. During his investigation, NE#1 was consistent in what he perceived occurred and explained he interpreted the video differently. NE#1's incident report and statements to OPA were also consistent with his perception. Furthermore, NE#1 viewed the Complainant's method of taking Park to the ground as uncontrolled or unguided. Thus, based on the totality of the circumstances, NE#1 genuinely, believed CM#1 was thrown or slammed, although mistaken. Thus, a preponderance of the evidence suggests NE#1 did not intentionally mischaracterize the use of force he observed, however; NE#1 should be retrained and counseled on the importance of carefully reviewing and accurately documenting uses of force.

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

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 15.180-POL-5 with NE#1, including the importance of carefully reviewing and accurately documenting uses of force, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

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