



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE

September 9, 2024

Chief Joseph Cecile
Syracuse Police Department
511 S. State Street
Syracuse, NY 13202

Via Email

Re: Executive Law § 75(5)(b) Referral of Police Officer Grant Prudhomme
OAG Matter No. 1- 794210477

Dear Chief Cecile,

We have reviewed your agency's referral of Syracuse Police Department ("SPD") Officer Grant Prudhomme pursuant to Executive Law § 75(5)(b). Based on our review, we conclude that Officer Prudhomme engaged in a pattern of use of excessive force and unjustified arrests involving members of the public.

This letter sets forth the findings, conclusions, and recommendations of the Office of the New York State Attorney General (OAG). We ask that you respond to the recommended remedial actions within 90 days pursuant to Executive Law § 75(5)(c).

I. Overview of Investigation

The June 27, 2022 referral was based on a series of complaints, six of which are described in detail below.¹

Following receipt of the referral, OAG personnel reviewed SPD's internal investigative files, body worn camera (BWC) footage, disciplinary outcomes, relevant police paperwork, policies that governed the alleged misconduct, Officer Prudhomme's personnel file and officer training history, and internal correspondence and forms related to Officer Prudhomme's disciplinary history. We interviewed several individuals who made complaints against Officer Prudhomme and witnesses to those incidents. We also interviewed Officer Prudhomme pursuant to Executive Law § 75(4)(e).

¹ The referral was based on 21 complaints, many of which did not involve misconduct.

II. Findings

The findings of fact described below are based on an evaluation of the evidentiary record using a preponderance of the evidence standard.

A. Complaint #1 (19-161)

1. Factual Background

Complaint 1 involved a use of force in the early morning hours of November 27, 2019 as SPD officers responded to a reported stabbing at the corner of South Clinton Street and West Fayette Street in Syracuse, outside several bars. BWC footage from SPD officers show an unidentified individual (“Mr. Doe”) speaking with an SPD officer who directed him to leave the area. As Mr. Doe was walking away, he made a rude remark to the officer who had asked him to leave.² Without any warning or justification, Officer Prudhomme approached Mr. Doe, who was walking backwards away from the area that he had been directed to leave and who did not appear to see Officer Prudhomme, and forcefully shoved him into Complainant 1, a Black female in her mid-50s who was not engaging with officers in any way. Mr. Doe hit Complainant 1 with so much force that she fell to the pavement, causing an injury to her head and an injury to her left elbow that required five stitches and orthopedic surgery. It does not appear that Officer Prudhomme inquired after Complainant 1’s well-being or sought to assist her after she fell to the ground, although other SPD officers ultimately did so.

Officer Prudhomme later claimed in his incident report that Mr. Doe had “attempted to run past me and into the crime scene” and was “attempting to push through me into the scene,” but the BWC footage shows instead that Mr. Doe was walking away from the area as requested by the other officer when he was confronted and immediately shoved by Officer Prudhomme.³

Complainant 1 filed a complaint with SPD on December 6, 2019, alleging that officers forcefully pushed her to the ground and refused to provide aid for her injuries. SPD subsequently opened an investigation. Although SPD noted that Officer Prudhomme initiated contact with the third party causing that third party to collide with the Complainant, the SPD investigation concluded that “it was [Officer Prudhomme’s] duty to preserve the crime scene” and as such, the use of force allegation was not substantiated. Mr. Doe’s identity is unknown and it is not clear whether he suffered any injury from the incident.

2. OAG Findings

The Fourth Amendment provides that “[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be

² Mr. Doe appears to have called the officer “fucking four eyes,” apparently in reference to the officer’s eyeglasses.

³ The incident can be viewed most clearly from 7:09:05 to 7:09:25 on Officer Fahey’s BWC. Mr. Doe appears to be South Asian, rather than “a black ... male” as stated by Officer Prudhomme in the Incident Report.

violated.” U.S. Const. Amend. IV. The Constitution of the State of New York also provides this right. N.Y. Const. art. I, § 12.

SPD’s Use of Force Policy allows officers to use only such force “that is objectively reasonable when necessary to accomplish lawful objectives . . . such as to effect an arrest, prevent an escape, or in defense of themselves or others.” Officers are also authorized to use objectively reasonable force when overcoming resistance to a lawful police order following a verbal warning.⁴ Factors determining the reasonableness of force are set forth by SPD Use of Force Policy § 300.6.⁵ These factors are in line with those established by the United States Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989) and subsequent rulings.

We conclude that Officer Prudhomme had no justification for pushing Mr. Doe without warning and with such force that he injured the Complainant, and thus that the force was excessive in violation of the Fourth Amendment, the New York State Constitution art. 1, § 12, and SPD policies and procedures.⁶ See *Graham v. O’Connor*, 490 U.S. 386 (1989); Syracuse Police Department Policy Manual, Chapter III, Policy 300. The three *Graham* factors that should be considered in determining whether constitutionally excessive force has been used by an officer are: “the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.” 490 U.S. 386, 396 (1989).

An application of the *Graham* factors makes clear that the force used by Officer Prudhomme was excessive. Mr. Doe posed no threat to the safety of officers and others, but rather was walking away from the scene as he was instructed to do. Mr. Doe had no interaction whatsoever with Officer Prudhomme before he was pushed by him; he merely made a rude statement to another officer while complying with that officer’s instructions.⁷ The BWC shows that Officer Prudhomme is significantly larger than Mr. Doe. Finally, Mr. Doe did not appear to see Officer Prudhomme, let alone to have been warned by him prior to the push, and the push was so forceful that Mr. Doe collided with Complainant 1 who was knocked to the ground and required medical attention.

It should also be noted that Officer Prudhomme’s statements in the incident report that Mr. Doe tried to “run past” and “push through” him and that Mr. Doe was moving towards the secured area, rather than away from it, are contradicted by video evidence and evince a failure to report incidents fairly and accurately as required by SPD’s Use of Force Policy.

⁴ See SPD Use of Force Policy § 300.5.

⁵ See SPD Use of Force Policy § 300.6.

⁶ Force claims under the New York State Constitution are evaluated under the federal Fourth Amendment standard. See *Macareno v. City of New York*, 187 A.D.3d 1164, 1166 (2d Dep’t 2020) (applying *Graham* factors to excessive force claim under Federal and State Constitutions).

⁷ Mr. Doe’s verbal statements criticizing the police were protected by the First Amendment. “The freedom of individuals verbally to oppose or challenge police action without thereby risking arrest is one of the principal characteristics by which we distinguish a free nation from a police state.” *City of Houston, Tex. v. Hill*, 482 U.S. 451, 462–63, 472 (1987).

B. Complaint #2 (21-484557)

1. Factual Background

On September 18, 2021, Officer Prudhomme and several other SPD officers responded to a disturbance involving the removal of a former occupant's property from the residence of Complainant 2. While walking towards the entrance of the house, Officer Prudhomme told Complainant 2, a Black woman in her mid-50s who apparently owned the home, to stay near the base of the driveway. As Officer Prudhomme spoke to a woman (apparently Complainant 2's daughter) who was standing in the doorway to house and another woman who he was guiding into the house, Complainant 2 walked up the driveway. Standing approximately 2-3 feet away from Officer Prudhomme, she shouted towards the women in the doorway. Officer Prudhomme then turned towards Complainant 2 and yelled, "What did I just say? Get the fuck over there now!" Then, as Complainant 2 took two steps backwards, in apparent compliance with Officer Prudhomme's command, he stepped forward and forcefully shoved Complainant 2, causing her to stumble several feet away, while yelling "get the fuck back over there" and "I am so sick of every fucking body."

Complainant 2 filed a complaint with SPD. SPD exonerated Officer Prudhomme on the basis that he was "mostly calm throughout much of the call and was attempting to de-escalate the situation."

2. OAG Findings

We conclude that Officer Prudhomme used excessive force in violation of SPD policy when he shoved Complainant 2 in front of her house. While Section 300.5(f) of the SPD Use of Force policy in effect at the time permitted officers to use force to "[o]vercom[e] resistance to a lawful police order following a verbal warning," here, Complainant 2 did not comply with Officer Prudhomme's initial instructions to remain at the bottom of her own driveway, but she appeared to be complying with Officer Prudhomme's second command to "Get the fuck over there now!" when he shoved her. She did not display any threatening behavior, nor was she verbally aggressive towards any of the officers on scene. Complainant 2 was standing several feet away from Officer Prudhomme, in the vicinity of her own front door, and did not make any threatening gestures or statements. The shove and discourtesy exhibited by Officer Prudhomme were not objectively reasonable, particularly given that the Complainant 2 was a middle-aged woman who was substantially smaller in stature than Officer Prudhomme. As such, Officer Prudhomme's use of force on Complainant 2 was excessive and unjustified under SPD policy.

C. Complaint #3 (21-30)

1. Factual Background

On March 4, 2021, Officer Prudhomme and another officer responded to the office of a car rental company in regards to a civil dispute. In the lobby, Complainant 3, a Black male, was sitting in a chair in the corner, speaking on the phone and refusing to leave, even though the office had closed approximately fifteen minutes earlier, due to a dispute over what Complainant

3 contended was an improper charge for a rental car. He was on his cell phone, apparently speaking with a supervisor from the rental car company. Officer Prudhomme and the other officer both instructed Complainant 3 to exit the establishment. After a few minutes of discussion with the officers, Complainant 3 stood up from the chair and walked to the door, paused in the doorway, and told the officers that he would be back tomorrow.⁸ When Officer Prudhomme told Complainant 3 to “get the fuck out of here,” Complainant 3 responded, “Fuck you, f*ggot.”

In response, Officer Prudhomme approached and forcibly shoved Complainant 3 through the doorway, and then pushed him twice more in his chest while both men were outside of the establishment. Officer Prudhomme then used both of his hands to grab Complainant 3’s shoulders and deliver one knee strike to his left hip. Officer Prudhomme then delivered another knee strike to Complainant 3’s left hip causing him to fall to the ground. After taking Complainant 3 to the ground, Officer Prudhomme told him that he was under arrest and placed him in handcuffs with the assistance of the other officer.

While Officer Prudhomme stated in his incident report that, after he pushed Complainant 3 out of the door, Complainant 3 “threw a punch with his left hand striking my right hand,” this punch cannot be seen on the BWC footage.

Complainant 3 was charged with the violation charge of second-degree Harassment and with the misdemeanor charge of Resisting Arrest. These charges subsequently were adjourned in contemplation of dismissal.

On April 7, 2021, Complainant 3 filed a complaint with the SPD alleging use of excessive force. SPD found that Officer Prudhomme’s use of force was reasonable and necessary to control Complainant 3.

2. *OAG Findings*

We conclude that Officer Prudhomme unnecessarily escalated the situation by telling Complainant 3 to “get the fuck out of here” as Complainant 3 was in the process of leaving the office, pushed Complainant 3 through the door when it was unnecessary to do so, and then arrested him without probable cause.

This use of force was contrary to the Fourth Amendment and SPD’s Use of Force policy. *See* U.S. Const. amend. IV.; N.Y. Const. art. I, § 12; *see also* SPD Use of Force Policy § 300.6. In the Incident Report, Officer Prudhomme alleged that Complainant 3 “punched him” while he was exiting the establishment. Officer Prudhomme’s recitation of events is inconsistent with the BWC footage. The video evidence shows that Complainant 3 was standing in the threshold of the door in the process of leaving the establishment when Officer Prudhomme pushed him several

⁸ Officer Prudhomme entered the office at 17:15:20, according to the time stamp on his BWC, and pushed Complainant 3 out of the door at 17:18:20, four minutes later. The other officer had arrived at the Hertz office at 17:11:55 according to his BWC, approximately four minutes before Officer Prudhomme.

times and then took him to the ground outside. Video evidence does not depict Complainant 3 in a combative stance, nor throwing any punches at Officer Prudhomme. Complainant 3 did not pose an immediate, credible threat and was standing at the door of the establishment on his way out when he was forcefully pushed out and taken to the ground. Officer Prudhomme not only failed to de-escalate this encounter, but affirmatively escalated it. Therefore, Officer Prudhomme's force was excessive, and his report of the incident was inaccurate.

Officer Prudhomme also lacked probable cause to arrest Complainant 3 for Harassment in the Second Degree and Resisting Arrest in violation of the Fourth Amendment. While Complainant 3 used obscenities as he was exiting the establishment, the brief exchange was only directed towards Officer Prudhomme. Complainant 3's verbal statements criticizing the police were protected by the First Amendment. *City of Houston, Tex. v. Hill*, 482 U.S. at 462–63, 472. As to the charge of Harassment in the Second Degree,⁹ Officer Prudhomme alleged that Complainant 3 “threw a punch with his left hand” striking Officer Prudhomme, but the BWC footage does not show a punch or other contact with Officer Prudhomme's person. Under these circumstances, Officer Prudhomme lacked probable cause to arrest Complainant 3 for Harassment in the Second Degree, as his conduct did not amount to actual or threatened physical contact. *See* Penal Law § 240.26(1).

As to the charge of Resisting Arrest,¹⁰ as depicted on BWC, Complainant 3 did not actually resist arrest and was not made aware that he was under arrest until he had been taken to the ground by Officer Prudhomme. In addition, New York State Penal Law requires an authorized arrest or authorized governmental conduct, which was not present here. “A key element of resisting arrest is the existence of an authorized arrest, including a finding that the arrest was premised on probable cause.” *People v. Jensen*, 86 N.Y.2d 248, 253 (1995). Therefore, “an individual who intentionally prevents an unauthorized arrest is not guilty of resisting arrest.” *Id* (internal citations omitted). “When the official function involved is an arrest, it must be shown that the arrest was authorized.” *People v. Vogel*, 116 Misc.2d 332, 333 (App. Term, 2nd Dept. 1982). Because there was no probable cause for the initial arrest for Harassment in the Second Degree, there should have been no arrest for Resisting Arrest.

It should also be noted that Officer Prudhomme's narrative of the encounter, as articulated in the incident report, was inconsistent with video evidence and indicates a failure to report incidents fairly and accurately as required by SPD's Use of Force Policy.

⁹ A person is guilty of Harassment in the Second Degree in violation of New York State Penal Law § 240.26(1) when, with intent to harass, annoy or alarm another person, he strikes, shoves, kicks, or otherwise subjects such other person to physical contact, or attempts or threatens to do the same.

¹⁰ A person is guilty of Resisting Arrest in violation of New York State Penal Law § 205.30, when he intentionally prevents or attempts to prevent a police officer or peace officer from effecting an authorized arrest of himself or another person.

D. Complaint #4 (21-91)

1. Factual Background

On October 11, 2021, Officers Prudhomme and other officers responded to reports of an individual in possession of a gun. Video evidence shows officers confronting Complainant 4, a Middle Eastern man who matched the caller's description of the individual with a weapon, in front of a convenience store. Upon arriving at the store, which was apparently owned by Complainant 4, the officers began questioning him and using their flashlights to look through the windows of his parked vehicle. Simultaneously, other officers called the SPD intelligence unit to verify whether Complainant 4 was the individual alleged to have the weapon and were awaiting a response before continuing their investigation.

As the officers were waiting, three women and a young child (who appears from the video to be between three and five years old) walked past the officers and approached the store. One of the women said something that is not audible as she walked by the officers. Officer Prudhomme responded, "why don't you shut up and mind your own business?" Moments later, the women got into a verbal dispute with someone in a car parked near the store. Both groups (the women and the people in the car) were cursing at each other. One of the women said something to the effect of "I do what the fuck I want to, I'm a grown-ass motherfucker," apparently directed towards the people in the car, which was pulling away and driving down the road. Officer Prudhomme then said to her, "You don't act like it. You act like a fucking child." As the women reacted to Officer Prudhomme's statement, another officer guided them towards and across the street. As the women were walking away, one of them appeared to say something like "take off your badge" to Officer Prudhomme, who responded to the women, who were standing next to the small child, "I'll take it off right now and I'll beat the shit out of you right here."

After some time passed, officers directed their attention back to Complainant 4, who was standing on the sidewalk holding a baseball bat in his hand. Officers instructed Complainant 4 to drop the bat, which he immediately did. Officer Prudhomme approached Complainant 4, pushed him, and yelled, "why are you being a fucking idiot? Are you fucking stupid? Get the fuck in [to the convenience store] dude, I am sick of listening to you, we are waiting for the fucking cameras to come back now get in fucking side." Officer Prudhomme proceeded to push Complainant 4 towards the store entrance three times. When Complainant 4 hesitated and stated that he had been shot in the stomach five months ago, Officer Prudhomme grabbed Complainant 4's arm, took him to the pavement, and handcuffed him. Ultimately, the intelligence unit advised that Complainant 4 was not the individual sought and he was released.

On October 26, 2021, Complainant 4 lodged a complaint with SPD alleging excessive force by Officer Prudhomme. SPD's Internal Affairs Division reviewed the BWC footage and incident reports, ultimately finding the use of force complaint lodged by the Complainant unsubstantiated. Officer Prudhomme was suspended by SPD for five days for engaging in verbally abusive behavior and challenging a bystander to fight, and received a written reprimand for failing to fully investigate the call and not reviewing security camera footage when he was given the opportunity to do so.

2. *OAG Findings*

We concur with SPD's conclusion that Officer Prudhomme's offensive statements to the women, made in the presence of a small child, were verbally abusive and contrary to policy. In addition, while Section 300.5(f) of the SPD Use of Force policy in effect at the time permitted officers to use force for the purpose of "[o]vercoming resistance to a lawful police order following a verbal warning," there was no need for Officer Prudhomme to shove Complainant 4 or take him to the ground. Although Officer Prudhomme claimed that Complainant 4 was "wielding the bat threateningly" to justify his actions, video evidence shows Complainant 4 immediately dropped the bat when requested to do so by a different officer, did not make any threatening gestures towards officers, and was taken to the ground and handcuffed after the bat was already on the ground and out of the Complainant 4's reach and after he had moved towards the entrance of the store as requested by Officer Prudhomme.

E. Complaint #5: (22-049)

1. Factual Background

On March 24, 2022, Officer Prudhomme was dispatched to the Salt City Market in Syracuse in response to a situation in which other officers were already present. Officer Prudhomme arrived after Complainant 5, a young Black female, was laying on the ground, restrained and in handcuffs. Officer Prudhomme and other officers escorted Complainant 5 to a police vehicle. While locked in the vehicle's backseat, Complainant 5 began kicking the door. Officer Prudhomme opened the vehicle door, pulled Complainant 5 out of the vehicle onto the street, and placed his knee on her lower waist area. He then twisted her body so that his legs were holding down her legs and used his left hand to forcibly hold her face to the ground for one minute and 46 seconds, while her hands remained handcuffed behind her back. Officer Prudhomme stood her up, began escorting the Complainant to the transport van, and raised Complainant 5's handcuffed wrists up to her head level, where he held them for another 26 seconds.

Officer Prudhomme repeatedly shouted at Complainant 5 to "shut up" as he held her face to the ground. After the incident, Officer Prudhomme did not report the force used to a supervisor and did not include the use of force within the incident report. Interdepartmental memoranda show that Officer Prudhomme told an SPD sergeant that he was not involved in a use of force. In his interdepartmental memo and in his interview that OAG personnel conducted on November 29, 2023, Officer Prudhomme said that he was advised by a sergeant to draft a Use of Force report to "cover our ass."

On March 27, 2022, Officer Prudhomme was placed on administrative leave while SPD investigated a complaint lodged by a family member of Complainant 5. SPD concluded that Officer Prudhomme used excessive force against Complainant 5 in violation of SPD policy and that he did not complete the required use of force form as required by the SPD Use of Force Policy, and ultimately suspended Officer Prudhomme for eight working days.

2. *OAG Findings*

We agree with SPD's conclusions that Officer Prudhomme's use of force was not reasonable, that he used discourteous language, and that he failed to inform a superior and fill out a use of force form in violation of SPD's Use of Force Policy.

As a result of this incident, an SPD sergeant conducted an internal audit, reviewing video footage from five randomly-chosen incidents where Officer Prudhomme was involved, although in some of those incidents, Officer Prudhomme had limited contact with the public. In a March 28, 2022 memo describing this review, the SPD sergeant found Officer Prudhomme to be "even tempered with excellent communication and interpersonal skills" and that he was "patient" with a "calming voice" who does an "excellent job at de-escalating agitated people."

F. Complaint #6 (23-060)

1. Factual Background

In the early morning hours of May 21, 2022, several officers, including Officer Prudhomme, were attempting to keep bystanders away from an arrest that other officers were making on a sidewalk after a fight broke out at Armory Square in Syracuse, NY. While engaging in crowd control, Officer Prudhomme pushed several people who were standing or walking near the edge of the sidewalk observing the arrest, one of whom was Complainant 6A, a young Black male. After being pushed by Officer Prudhomme in the shoulder blade area of his back four times, Complainant 6A shrugged his shoulder and moved his elbow, deflecting Officer Prudhomme's hand. Officer Prudhomme grabbed Complainant 6A and struck him in the chest, causing Complainant 6A to stumble a few feet back. Officer Prudhomme then placed Complainant 6A in handcuffs. Officer Prudhomme escorted Complainant 6A to a police vehicle down the street, accompanied by several other SPD officers, as Complainant 6A asked why he was being arrested. Several people who had been standing with Complainant 6A followed him. Officer Prudhomme requested that Complainant 6B, a young Black male who was recording the incident and making rude comments to the officers, step back, which he did.¹¹

After Complainant 6B stepped back, Officer Prudhomme placed him in handcuffs. While escorting him to the police vehicle, Officer Prudhomme lifted the handcuffed wrists of Complainant 6B above head level, placing tension on his shoulders and upper back, much as he had done to Complainant 5. Complainant 6B fell to the ground and Officer Prudhomme lifted him again by his handcuffed hands. During the search of his person, Officer Prudhomme again lifted the handcuffed wrists of Complainant 6B twice above head level, placing tension on his shoulders and upper back.

Complainant 6A was charged with Harassment in the second degree, a violation, and Complainant 6B was charged with Obstruction of Governmental Administration in the second degree, a misdemeanor. Per the advice of the Onondaga County District Attorney's Office (OCDA), SPD dropped the charges against both complainants.

¹¹ Complainant 6B pointed at various officers and said they were "gay."

Officer Prudhomme initially failed to sufficiently document the probable cause for the arrest of the Complainants in his incident report. His supervisor mandated that he revise the paperwork associated with this incident because “the documentation of the initial account of the incident by Officer Prudhomme was insufficient to draw a determination for the appropriateness of the use of force and probable cause for both arrests.” In his revised incident report, Officer Prudhomme maintained that Complainant 6A had “elbowed him” and that in response, Officer Prudhomme had grabbed him and administered a palm punch to his chest. Officer Prudhomme further maintained that while effectuating the arrest of Complainant 6A, Complainant 6B had “swiped his arm out” attempting to “physically obstruct the arrest” of Complainant 6A.

SPD opened an internal investigation into the allegations of excessive force by Officer Prudhomme. SPD found that Officer Prudhomme had failed to report an “unmistakably clear use of force” against Complainant 6A and did not appropriately describe the grounds for both arrests, though the investigator concluded that Officer Prudhomme did have probable cause. SPD specifically noted that “alternate force options would have been more appropriate in the scenario presented by [Complainant 6B] after he was placed into handcuffs.” As a result, Officer Prudhomme was suspended for 90 hours without pay.

2. *OAG Findings*

We agree with SPD’s finding that Officer Prudhomme did not report his use of force and that the force he used after handcuffing Complainant 6B was not appropriate. We also conclude that Officer Prudhomme lacked sufficient basis for the arrests of Complainant 6A or 6B. Arrests for violations are assessed under the “reasonable cause” standard. CPL 140.10. Courts have interpreted “reasonable cause” as “the equivalent of probable cause.” *People v. Ortiz*, 63 Misc.3d 32, 34 (1st Dep’t 2019).

The basis for Complainant 6A’s arrest was the charge of Harassment in the second degree (Penal Law § 240.26), which is a violation—a low-level non-criminal offense. Officer Prudhomme lacked reasonable cause to arrest Complainant 6A for Harassment. Under Penal Law § 240.26(a), “a person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person . . . He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same.” Here, Officer Prudhomme’s recitation of the facts did not accurately portray the events as evidenced by BWC video. Video evidence shows that Complainant 6A did not strike, shove or kick Officer Prudhomme, and that all physical contact was initiated by Officer Prudhomme.

The arrest of Complainant 6B for Obstruction of Governmental Administration was also unjustified. Under Penal Law § 195.05, “a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act . . .” Complainant 6B did not swipe his arm out in an attempt to

obstruct the arrest of Complainant 6A as Officer Prudhomme wrote in the second draft of his incident report. And while Complainant 6B was rude to Officer Prudhomme and other officers, he was compliant with their commands and, before he was arrested, he had stepped back as requested by Officer Prudhomme. Officer Prudhomme lacked the requisite probable cause to arrest the Complainants and falsified his incident report.

OAG's investigation further found that Officer Prudhomme's use of force against both complainants was excessive and unjustified based on authorized use-of-force guidelines, set forth in SPD's Use of Force Policy and the Fourth Amendment. *See* U.S. Const. amend. IV.; N.Y. Const. art. I, § 12; *see also* SPD Use of Force Policy § 300.6. Officer Prudhomme failed to use de-escalation tactics and applied unnecessary force against the complainants, even though neither of the individuals exhibited any threatening behavior or posed a threat to officers. Officer Prudhomme's actions with respect to Complainant 6B were particularly egregious given that he had been disciplined less than two months earlier for nearly identical misconduct in raising Complainant 5's handcuffed hands over her shoulders.

III. CONCLUSIONS AND RECOMMENDATIONS

The incidents described above constitute a pattern of use of excessive force and unjustified arrests in violation of SPD's Use of Force Policy, the Fourth Amendment of the United States Constitution, and Article I, § 12 of the New York State Constitution.

A. Officer Prudhomme Engaged in a Pattern of Excessive Force

Executive Law § 75(5)(b) requires that the OAG "determine whether the subject officer . . . has engaged in a pattern or practice of misconduct, use of excessive force, or acts of dishonesty." To identify a pattern of misconduct for purposes of Executive Law § 75(5)(b), we look to whether the subject officer engaged in multiple acts of similar misconduct.

Here, Officer Prudhomme engaged in repeated acts of excessive force and unjustified arrests:

- Officer Prudhomme pushed Mr. Doe, who did not see Officer Prudhomme approach, without warning or justification with such force that Mr. Doe was knocked off balance and knocked Complainant 1, a Black woman in her 50s, to the ground, injuring her head and arm.
- Officer Prudhomme pushed Complainant 2, a Black woman in her 50s, without justification as she was complying with his shouted order.
- Officer Prudhomme needlessly escalated an encounter with Complainant Complainant 3, a middle-aged Black man, grabbed him by the shoulders, delivered multiple knee strikes to his hips, and brought him to the ground without justification, and arrested him without probable cause.
- Officer Prudhomme took Complainant 4 to the ground and forcibly restrained him without justification.

- Officer Prudhomme pulled Complaint 5 out of a police vehicle while she was handcuffed, then held her head and body against the ground, and then after she stood up, lifted her handcuffed hands above her shoulders, apparently with the intent of causing her pain.
- Officer Prudhomme arrested Complainant 6A and 6B without reasonable cause and unjustifiably raised Complainant 6B's cuffed hands over his shoulders, despite recently having been disciplined for similar conduct.

In addition to the pattern of excessive force, Officer Prudhomme also did not report force as required, used unprofessional language, and in several instances his descriptions of the circumstances of the events were contradicted by video evidence.

B. Recommendations

The OAG recommends the following remedial actions pursuant to Executive Law § 75(3)(f).

Given this persistent pattern of misconduct, termination would have been an appropriate penalty after Complaints 5 and 6 and is consistent with disciplinary guidelines at other agencies, such as the Disciplinary System Penalty Guidelines released by the New York City Police Department.¹²

To the extent that further discipline is precluded by the Civil Service Law, SPD should take the following remedial actions to prevent the inappropriate use of excessive force and other misconduct by Officer Prudhomme, including and at minimum:

- (1) remove Officer Prudhomme from positions that require contact with the public;
- (2) in the alternative to Recommendation (1), review and monitor arrests and uses of force by Officer Prudhomme for two years by a designated supervisor or the Office of Professional Standards (“OOPS”), including an assessment of whether Officer Prudhomme has reported his own conduct accurately;
- (3) re-train Officer Prudhomme regarding the use of force, pain compliance techniques, and the circumstances when such techniques are appropriate; and
- (4) train Officer Prudhomme regarding bias and how to respect and interact with individuals from different backgrounds.

¹² See *New York City Police Department Disciplinary System Penalty Guidelines, Use of Excessive Force*, New York City Police Dep't, 23 (Feb. 15, 2022), https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-disciplinary-penalty-guidelines-effective-2-15-2022-final.pdf

Pursuant to Executive Law § 75(5)(c), we request that SPD inform the OAG and other required parties within 90 days of the actions SPD is taking in connection with these recommendations.¹³ We appreciate the cooperation of you and your agency.

Thank you,

LETITIA JAMES
Attorney General of the State of New York

By: Brenda Osorio
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Tyler Nims
Bureau Chief
Law Enforcement Misconduct Investigative Office

¹³ Executive Law § 75(5)(c) provides that “[t]he head of any covered agency shall advise the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, the minority leader of the assembly and the division of criminal justice services within ninety days of the issuance of a report by the law enforcement misconduct investigative office as to the remedial action that the agency has taken in response to any recommendation for such action contained in such report.”