



**SPECIAL MEETING AGENDA**

Tuesday, December 3, 2024  
5:30 PM - 7:00 PM  
City Council Chambers

**Commissioners:**

Luc Jasmin III  
Amy McColm  
Jenny Rose  
Ladd Smith  
Phillip Wetzel

**OPO Staff:**

Bart Logue  
Luvimae Omana  
Christina Coty

**OPOC Legal Counsel**

Brennan Schriebman

**Introduction - *Commissioner Jasmin***

1. Welcome
2. Agenda and minutes approval
3. Public forum

**Guest Speaker - N/A**

**OPO Reports - *Ombuds Bart Logue***

1. October Monthly Report
2. Closing Reports: F23-054, K24-007, F24-038

**Commission Business - *Commissioner Jasmin***

1. Recommendations discussion / approval
2. NACOLE Annual Conference recap
3. Chair and Vice-Chair elections
4. Commissioners speak out
5. December meeting
6. Executive Session - Performance Appraisal Review
7. Adjournment

The next scheduled OPOC meeting will be held on December 17, 2024

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# Office of Police Ombudsman Commission Minutes

**September 24, 2024**

Meeting Minutes: 1:57

Meeting called to order at: 5:30pm

## Attendance

- OPOC Commissioners present: Ladd Smith, Luc Jasmin, Amy McColm, Jenny Rose, Phillip Wetzel
- OPO staff members present: Luvimae Omana, Christina Coty, Bart Logue
- City Legal – Tim Szambelan

## Briefing Session

- Agenda – **Approved with minor edit**
- August Minutes – **Approved**

## Items Session

- **Public Forum:**
  - Debbie Novak – Discussed the first settlement between the WSCJTC and an officer, which involved a traffic accident with an SPD officer.
  - Anwar Peace – Discussed his concerns pertaining to SPD political involvement over the years. He stated that this has created a culture that continues to allow the behavior with the latest involving a political sticker on a patrol vehicle. He was encouraged by the termination of the officer and is hopeful that this is a new direction.
  - Police Guild President Duncan – Discussed the guild contract. He stated it is not solely the Police Guild's contract, it is a 50/50 CBA with the City of Spokane. There is also another entity that has continued to use the guild contract to impede the work of the Ombuds office. He is willing to work on moving the contract forward, but he is only half of the negotiating table.
- **Ombudsman Monthly Report:**
  - 226 contacts in month, 9 interviews, 2 complaints and 4 referrals, 11 cases certified, 10 IA Interviews, 78 SPD meetings, 12 community meetings, Annual Report presentation to City Council, BLEA graduation, Excelsior Wellness soft opening
- **Guest Speaker: Chief Hall**
  - Thanked the commission for inviting him to help build the relationship with the OPOC and the community.
  - Jenny Rose – Asked about community policing initiatives and how that will help Spokane
    - Chief Hall – He considers community policing as authentic community engagement, understanding what each community legitimately wants (more engagement or less engagement). You must show up, roll your



# Office of Police Ombudsman Commission Minutes

- sleeves up and do the work. He is seeing this in patrol, but thinks they need to do a better job of letting the public know this is happening.
- Phillip Wetzel – What did you do in Tucson to infuse the department with commitment for constitutional policing?
    - Kevin Hall – When you are hiring, you want to make sure you have constitutional policing in mind. People who want to be police officers will find us, we need to go out and find the people we want to bring in that will hopefully start to move the needle in diversity, on pro-social behavior, and empathy. We want to increase performance, always striving to be better tomorrow than you were today.
  - Amy McColm – How do you think that we can increase transparency in policing?
    - Chief Hall – It is very important to figure out the laws here in Washington state and how to work through them. He must figure out the legal structures that bind us, then work on how he can increase transparency. A lot of transparency is going to be me just coming here and talking with you.
  - Ladd Smith – How do you plan to connect with the different marginalized groups in Spokane?
    - Chief Hall – I think it comes down to respect. Respect for who they are and respect for culture, understanding that there is a lot of historical trauma with government. For them to trust, you must show up when you say that you are going to show up. It's trust building 101. My plan is to meet with these folks. There are going to be groups who need more attention and care because the trust is so broken and fractured.
  - Luc Jasmin – Who is Kevin Hall?
    - Chief Hall – Joined the Air Force. The military was a good way to grow up, understanding structure and rules. When he got out, he finished his 2 degrees (sociology and psychology), moved to Tucson and joined the Tucson PD where he rose through the ranks. His father is full blooded Coleville tribe member and so they spent a lot of time traveling through Spokane. He has a deep passion for professional policing and making policing better. He has an even deeper passion for evidence-based policing, policing that is based on science and the best available research for what works.

## Commission Business

- **Outside Legal Counsel Interview – Brennan Schreiber and Ms. Galina**
  - The commission conducted an interview for outside legal counsel
- **Executive Session**
  - Outside Legal Counsel employment discussion
  - Start: 7:00pm



# Office of Police Ombudsman Commission Minutes

- End: 7:06pm
- Commissioner Jasmin informed the candidates that they would be notified regarding their decision in the next couple of days.
- **Community Safety Proposal** – Jenny Rose attended the Neighborhood Council meeting and had questions regarding the flyer about the sales tax increase that was put out by the administration. She wanted to know why the OPOC was not asked to speak on that, and asked, “how can we be better aware of these types of things?”
- **October meeting** – Due to the OPO being out of the office for NACOLE, IACP and Harvard Kennedy Executive Forum, the OPOC discussed cancelling the October meeting.
  - Jenny Rose motioned to cancel the October OPOC meeting, Seconded by Ladd Smith
  - **Approved** – October meeting will be cancelled
- **Commissioner Speak Out**
  - **Rose** – Thank-you Tim for being here
  - **McColm** – Nothing currently
  - **Smith** – Thank-you to Tim Szambelan for serving us during this time, you have been steadfast, and it is appreciated.
  - **Wetzel** – Gobsmailed at how much work is being done by Ombuds Logue and Deputy Ombuds Omana

**Motion Passes or Fails: 3**

**Meeting Adjourned at: 7:25pm**

**Note: Minutes are summarized by staff. A video recording of the meeting is on file -  
Spokane Office of Police Ombudsman Commission**

<https://my.spokanecity.org/bcc/commissions/ombudsman-commission/>

2024/10

Public Safety & Community Health Committee

# MONTHLY REPORT



OFFICE OF THE  
POLICE OMBUDS  
INDEPENDENT CIVILIAN OVERSIGHT

# HIGHLIGHTS OF ACTIVITIES

Current	YTD	Contacts, Complaints, and Referrals
815	<b>2732</b>	Contacts*
7	<b>123</b>	OPO interviews
0	<b>9</b>	Letters of officer appreciation / commendations
1	<b>40</b>	OPO generated complaints
4	<b>51</b>	Referrals to other agencies / departments
0	<b>0</b>	Cases offered to SPD for mediation
0	<b>0</b>	Mediation completed

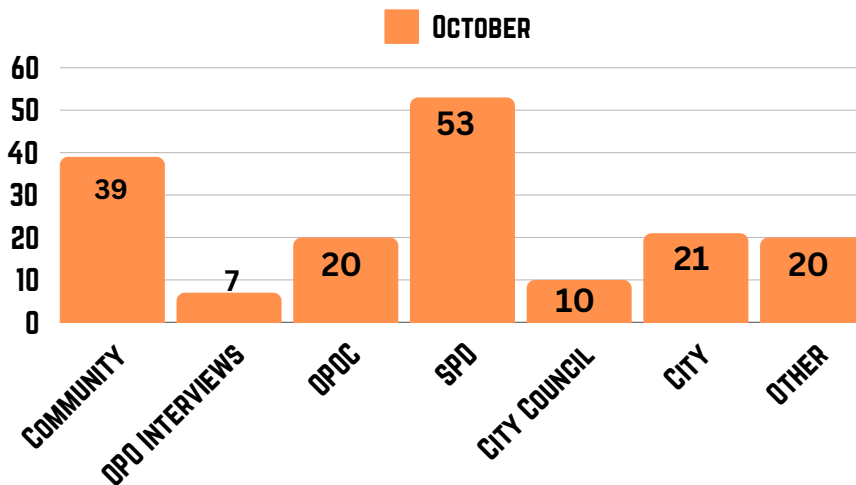
Current	YTD	IA Investigation Oversight
4	<b>66</b>	Cases certified
0	<b>1</b>	Cases returned for further investigation
0	<b>1</b>	Cases declined to certify
0	<b>0</b>	Web cases reviewed
9	<b>89</b>	Oversight of IA interviews

Current	YTD	Other Oversight Activities
0	<b>157</b>	Special cases reviewed*
0	<b>16</b>	SPD review boards / D-ARPs
53	<b>487</b>	Meetings with SPD
8	<b>88</b>	Oversight meetings
26	<b>112</b>	Community meetings
4	<b>48</b>	Training
0	<b>5</b>	Critical incidents

\*Use of Force, K9, Collisions, and Pursuits

\*Contacts include those made at conferences

# CONTACTS



645 Oversight connections made at the NACOLE and IACP Conferences and Harvard Workshop

## Community meetings

- Regional Economy Day Scavenger Mission at Avista Stadium
- Leadership Spokane Regional Economy Class Day at Spokane Valley Library
- Leadership Spokane Alumni Class event
- Public Health and Safety Committee meeting

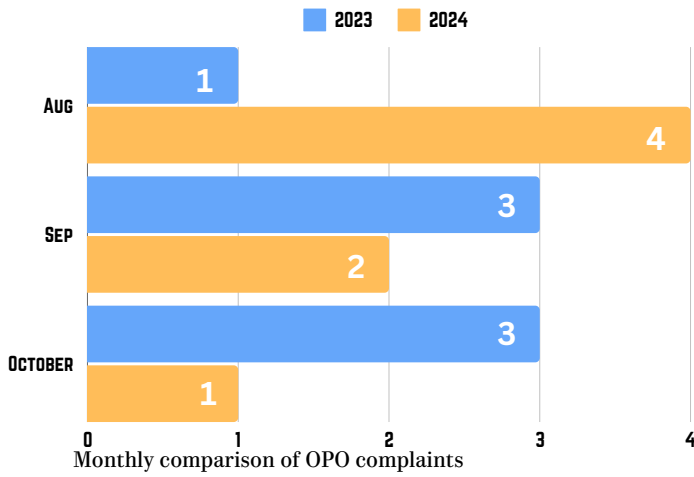
## OPOC meetings

- PAC Quarterly Meeting
- Office of Independent Investigations Meeting
- Community Connectors
- NAACP candidate forum
- NEYFS - Harvest on the Block

## Oversight / Outreach

- NACOLE Executive Board / Committee meetings (2)
- NACOLE Meet the Candidates townhall
- NACOLE candidate forum
- NACOLE panel presenter - Empowering POST Boards to Bolster State - Level Oversight

# COMPLAINTS



**112%**  
 Increase in  
 Year to Date  
 OPO Complaints  
 2023 vs. 2024

## Summary of complaint

<b>OPO 24-47</b>	A community member stated that they were arrested for DUI, while he was walking. Additionally, they had concerns regarding his towed vehicle.
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**7**  
 Community Member  
 Interviews  
 Conducted

**POLICY VIOLATION**  
 1



# REFERRALS

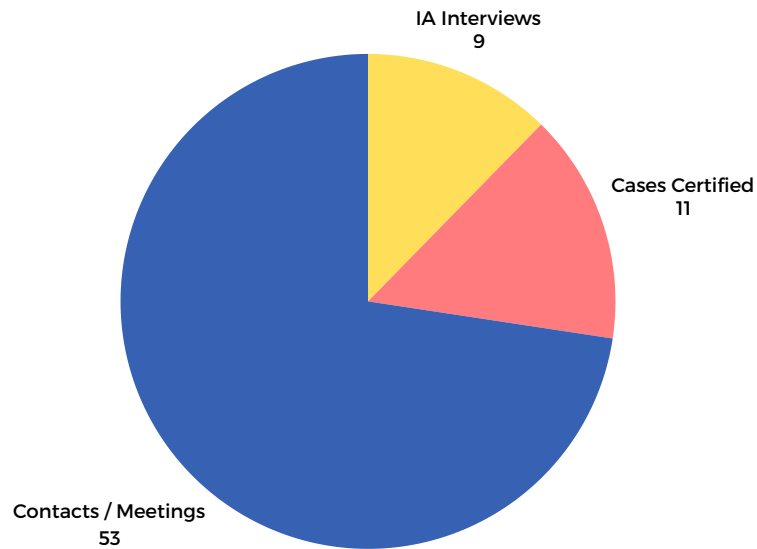
Type of Referral	#
Internal	3
External	1



## Summary of referrals

ER 24-48	A community member was frustrated with the lack of response by the Spokane County Sheriffs Office regarding the unhoused and a drug dealer in their neighborhood. SCSO
IR 24-49	A community member alleged that an officer did not return their drivers license after a traffic stop. SPD/IA
IR 24-50	A community member stated that an officer made assumptions and false statements about political canvassing in neighborhoods. The community member did not want to file an official complaint on the matter. SPD/IA
IR 24-51	A community member wanted an update on what is going on with an investigation into a local chop shop that had their motorcycle. SPD/IA

## OVERSIGHT ACTIVITIES



## Training

- NACOLE Annual Conference
- IACP Annual Conference
- Harvard Kennedy Public Safety and Police Accountability Executive Workshop
- COPA Citizen's Academy

## Upcoming

- Office of the Independent Police Monitor peer review
- OPO Ordinance / Budget / Office space requests
- USOA Annual Conference
- Chula Vista PD drone program meeting
- Use of Force Summit
- WSCJTC Commission meeting

OPOC Meetings - In person: Every 3rd Tuesday @ 5:30pm in City Hall | Virtual: available  
For more information visit: <https://my.spokanecity.org/opoc>

**F23-054**

# **OMBUDS CLOSING REPORT**

**POLICY AND PROCEDURES REPORT  
AND RECOMMENDATIONS**



**OFFICE OF THE  
POLICE OMBUDS**  
INDEPENDENT CIVILIAN OVERSIGHT

This report was authored by Bart Logue, Police Ombuds, and co-authored by Luvimae Omana, Deputy Police Ombuds. The Office of the Police Ombuds (OPO) presented this report to the Office of the Police Ombuds Commission on December 3, 2024.

## CONTACT US:

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Spokane, WA 99201

**Hours:**

M-F, 8:00 AM – 4:30 PM

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## Staff Information

### **Bart Logue, Police Ombuds**

Bart Logue began serving in this capacity in September 2016, after serving as the Interim Police Ombuds. Bart also serves as a Commissioner on the Washington State Criminal Justice Training Commission. Bart is a Certified Practitioner of Oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE). Bart has a Master of Forensic Sciences from National University and a Master of National Security Affairs from the Naval Postgraduate School. Bart is a graduate of the Federal Bureau of Investigation National Academy, Session 239, and is also a certified Advanced Force Science Specialist.

### **Luvimae Omana, Deputy Police Ombuds**

Luvimae Omana joined the Office of the Police Ombuds in 2015 and has served as an Assistant to the Ombuds, Administrative Analyst, and Deputy Police Ombuds. She has dual degrees in Business Administration and Political Science from the University of California, Riverside and a Juris Doctorate from Gonzaga University School of Law. Luvimae is licensed to practice law in Washington. Luvimae is a Certified Practitioner of Oversight through NACOLE. Luvimae is also a certified Advanced Force Science Specialist.

### **Christina Coty, Administrative Specialist**

Christina began working at the City of Spokane in 2015 for the ITSD department in contract procurement and joined the Office of the Police Ombuds in 2018. Christina is a Certified Practitioner of Oversight through NACOLE. Prior to her work at the City of Spokane she worked for Sony Electronics as a Regional Sales Manager managing the retail store operations in Southern California.

### **Tim Szambelan, OPO Attorney**

Tim works in the Civil Division of the City Attorney's Office and currently represents the Office of the Police Ombuds and other departments within the City of Spokane. Tim is licensed to practice law in Washington and Arizona.

This document was reviewed by the City Attorney's Office as to form prior to submission for review by the Spokane Police Guild pursuant to the requirements provided in Article 27 of the Agreement between the City of Spokane and the Spokane Police Guild (2023-2026).

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## Mission, Authority, and Purpose

The Office of Police Ombuds exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department (SPD) by providing independent review of police actions, thoughtful policy recommendations, and ongoing community outreach.

The OPO does so through providing independent and thorough oversight of matters that impact the community and the department. We desire to help bridge the gap between the community and the SPD by writing closing reports on cases that are of public concern to increase accountability and transparency into the matter as well as closing reports that may lead to recommendations for improving police policies or practices. By insisting on transparency, our goal is to help eliminate similar incidents in the future and ensure that the practices contained herein are limited and/or never happen again. It is also our intent to highlight effective police practices to give the community a better understanding as to why those practices were utilized, although this is limited by provisions within the 2023-2026 Collective Bargaining Agreement (CBA).

Spokane Municipal Code (SMC) §04.32.030 and the CBA provide authority for the OPO to publish closing reports on a case once it has been certified by the Police Ombuds and the Chief of Police has made a final determination in the matter. The OPO can also publish policy and procedure reports regarding cases the OPO reviews during a review board process. The OPO's recommendations will not concern discipline in specific cases or officers and shall not be used in disciplinary proceedings of bargaining unit employees. Reports are solely meant to further discussion on aspects of incidents that may be improved upon.

Reports also provide opportunities for policy and procedure recommendations that can result in improved police performance through their eventual implementation. Writing a report allows us to provide a more thorough review of what occurred in an incident to offer recommendations for improving the quality of police investigations and practices, including the Internal Affairs (IA) investigative process, policies, and training or any other related matter.

The OPO may also recommend mediation to the Chief of Police at any time prior to certifying a case. Should all parties agree and the officer(s) participate in good faith, the OPO may publish a report following a mediation including any agreements reached between parties. Mediations are governed by the Revised Code of Washington (RCW) 7.07.070 and are considered confidential. The content of the mediation may not be used by the City or any other party in any criminal or disciplinary process.



## Required Disclosures

Under Article 27 of the current CBA between the City of Spokane and the Spokane Police Guild, this report must provide the following disclosures:

1. Any closing report from an IA investigation shall clearly state the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred;
2. The report will include the current policy practice, policy, and/or training as applicable and shall expressly state the policy recommendations that follow reflects the OPO's opinion on modifications that may assist the department in reducing the likelihood of harm in the future; they do not reflect an opinion on individual job performance under the current policy, practice, or training;
3. A report shall not comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs from the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.
4. The OPO's closing report shall not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, or to reconsider any decision(s) previously made concerning discipline.
5. The report may not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, but not limited to decisions regarding defense and indemnification of an officer; and
6. The names of officers or witnesses may not be disclosed.<sup>1</sup>

Additional information and records regarding this matter are available through the City Clerk's Office by [Public Records Requests](#).

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<sup>1</sup> In addition to not mentioning officer or witness names, every effort was made to remove identifying pronouns throughout this report. The same standard was used for the complainant and involved persons.

## Summary

### Procedural History

This incident occurred on September 21, 2023. The incident was reviewed by SPD as a use of force. Following the use of force, the subject had scrapes on their legs, road rash on their face, complained of right hip/thigh pain, knee pain, lower back pain, and head pain. The subject also required hospitalization for preexisting injuries. Officer F was the final reviewer and made the final determination on December 19, 2023. The case was reviewed by the Use of Force Review Board on March 12, 2024.<sup>2</sup>

The OPO's summary of facts are based upon a careful review of reports, BWC footage, the chain of command review, and participation in the Use of Force Review Board. This closing report provides an analysis of issues identified through the chain of command review and review board processes, which allow for a policy and procedures report.

### OPO Summary of Facts

#### Incident

At around 7:30pm, Officer A responded to an apartment complex for a possible assault.<sup>3</sup> Dispatch reported that a group of people were beating an individual on crutches. Dispatch provided an update that one of the involved individuals left on a bike with items in their hand. As Officer A was enroute to the call, they observed the subject riding a bike with crutches. Officer A concluded that the subject was an involved party to the call but was unsure if they were the suspect or the victim. The officer turned their patrol vehicle around and attempted a "bike stop" on the subject. This involved turning on emergency lights behind the subject. Officer A reported that the subject looked back at them but did not stop. When the BWC video starts, the emergency lights are seen bouncing off the structures Officer A is driving by. The subject can be seen alongside the police vehicle. At this point in the video, there is still no audio. Officer A reported that they got alongside the subject and cracked their driver's side door open, identified themselves as police, and ordered the subject to stop. Officer A did not lower the window; rather, opened the driver's side door while the vehicle was still moving. The subject replied that they didn't do anything wrong and continued to ride away.

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<sup>2</sup> Under the agreement between the City and the Police Guild in the current CBA, the OPO is prohibited from mentioning whether the officer(s) acted properly, whether the officer's actions were acceptable, or whether or not the officer's actions were in compliance with training or policy. As such, the final determination by the chain of command cannot be mentioned.

<sup>3</sup> Note: the initial part of the incident is based only on Officer A's report or what can be visually seen on camera since they activated their BWC part of the way through the incident. The first 30 seconds of the BWC is in buffer mode and there is video but no audio. The audio begins as Officer A was tackling the subject to the ground.

The subject approached a construction area that was taped off, had cones, and large concrete roadblock barricades. Officer A opened their car door as they approached, came to a stop, and then pursued the subject very briefly on foot. The subject stopped and was off the bike's seat when they reached the narrow gap between the barricades. The subject lifted the tape to get under it. At that point, Officer A caught up to the subject and tackled them to the ground.

Officer A said they took the subject to the ground to prevent them from continuing to flee from the officer and from the scene of a possible assault. Officer A described the takedown as, "grabbing ahold of [their] upper body with both arms and used my legs to drive our momentum forward and get [the subject] to the ground."<sup>4</sup>

Since the officer was very close to the subject, the takedown tactic was not clearly observed on BWC. When the officer and the subject separate, the subject is on their right side on the ground with the bike and crutches entangled with their legs and the officer is on top of them. The officer tries to get control of the subject's hands to handcuff the subject but is delayed by the subject's legs being entangled with the bike and with the backpack the subject carrying still on their back.

The BWC audio starts at the 1:00 mark. Officer A was giving the subject directions on where to keep their hands and the subject was complaining they could not breathe. Officer A's left knee can be seen on the subject's right buttock/hip area. The subject cried out in pain several times but the sirens in the background distorted what they said. It sounds like the subject complained about their knee and their shoulder. Officer A placed the subject in handcuffs and detained them for obstructing. Officer A then gave commands to the subject to move their leg to get untangled from the bike but when the subject grimaced in pain, Officer A began to try and untangle the subject. Officer A rolled the subject to their side and tried to identify what specific areas on the subject hurt.

The subject said they ran because they had a "stupid" warrant from a year ago for "sleeping in a house."<sup>5</sup> The subject was still in great pain unable to sit up straight, they groaned and complained of pain in their leg and back. They were compliant when they answered the officers' questions about their warrant and their identity. Officer A ran the subject's name through dispatch and asked for paramedics to evaluate the subject. Officer A read the subject their rights and the subject was willing to answer questions but was more concerned with the placement of their foot. They asked Officer A for assistance and Officer A complied. Officer A asked why the subject did not stop and the subject responded it was because they had a warrant and they were scheduled for an operation and did not want a charge to interfere with their operation.<sup>6</sup> Officer A then says, "Don't you think it would've been a little more peaceful if, uh, you would've just stopped for me? Because then once we got here, you decided to try and go that way underneath and continue that way. I would've ran your ass down and tackled you." The subject responded,

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<sup>4</sup> Officer A Field Case Report, case 2023-20189122 at 2 (September 21, 2023).

<sup>5</sup> Officer A's BWC at 4:50.

<sup>6</sup> *Id.* at 7:09.

“Oh my god, I know. You did,” and the officer continued, “Well it would’ve been worse because we would’ve slid for probably ten feet.”<sup>7</sup> Officer A then asked about what happened at the apartment complex. The subject said there was another individual who thinks the subject stole from them two years ago and they have an ex-partner in common and they were taking it out on the subject. The subject said they showed up to the apartment and the other individual was all over them and the subject could not get away. Several people tried to intervene and told the individual to leave the subject alone. When they finally did, the subject got on their bike and left the apartment. Officer A told the subject the call they were responding to and the subject confirmed they were the one getting beat up.

When the paramedics showed up, the subject said they were 1.5 years overdue for hip surgery. The subject was seeing a doctor but had missed too many appointments so the doctor released them from their care. A paramedic asked the subject if they wanted to go to the hospital and the subject quickly agreed. At the 10:40 mark, someone in the background can be heard asking the subject if they want to be the victim of an assault. The subject responded they just wanted to get away from the individual that assaulted them. Officer A then told the subject they were detained for their warrant and are under arrest for obstructing.<sup>8</sup> As the paramedics prepared to place the subject on a stretcher, Officer A told the subject they were under arrest for obstructing and “stat one burglary.”<sup>9</sup> The subject complained their head hurt from hitting the concrete, and they were also experiencing right leg pain and hip pain. The paramedics took the subject to the hospital and the officer followed.

Officer A contacted Officer C due to the subject’s injuries and complaint of pain due to the takedown. After an evaluation, a doctor informed Officer A that the subject had a fracture below the femur head but it was still considered a hip fracture. The doctor was not aware of any other injuries. The subject was admitted to the hospital since the fracture would need surgery.

The subject was cited and released for obstructing. Officer A’s BWC was activated late. They said it was because the subject ran from them and they activated the camera as soon as they saw it was not recording.<sup>10</sup>

#### Supervisor review

Officer C noted the following in arriving at their suggested finding of “In Compliance with Policy:”

- Officer A initially failed to activate their BWC. Their camera was in buffer mode when the use of force occurs. You could see what occurs upon contact but there is no audio for the first 60 seconds of the video.

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<sup>7</sup> *Id.* at 7:44.

<sup>8</sup> *Id.* at 11:00.

<sup>9</sup> *Id.* at 13:20.

<sup>10</sup> *See supra* note 3 at 4.

- The footage does not clearly show the use of force when the subject fell on the bicycle. When the footage clears up, the subject is seen on their right side and Officer A is attempting to control hands.
- Officer A activated their camera approximately 34 seconds after they stopped and exited their vehicle.
- Officer A appears to be calm and collected while placing the subject into handcuffs.
- The subject's complaint of pain is audible on the BWC footage.
- Officer A made a lawful investigative stop on an individual they believed was involved in the call for an assault. The subject failed to stop for Officer A. Officer A used a body weight takedown technique to apprehend the actively fleeing subject.

Officer D noted the following in arriving at their suggested finding of "In Compliance with Policy:"

- This use of force comprised of the body weight manual force of taking a fleeing subject to the ground for the purpose of handcuffing them.<sup>11</sup>
- "Absent any claimed injury or other extenuating circumstance, this level of force would not typically be considered a reviewable use of force."<sup>12</sup> The subject reported a preexisting injury that was aggravated with the force technique.
- It is difficult to see exactly how Officer A applied the takedown technique but what is seen on BWC is not inconsistent with Officer A's description of events.
- Officer A's decision to detain the subject was reasonable since it was very likely they were involved in the assault, particularly because they were carrying crutches.
- It could have been surmised that the subject had crutches because they were the victim or they recently stole the crutches from the victim in the assault.
- The amount of force was reasonable under the circumstances.
- "The level of force was minimal, and absent the aggravation of the pre-existing injury, would not have even required a COC review."<sup>13</sup>

Officer E noted the following in arriving at their suggested finding of "In Compliance with Policy:"

- Officer A was still attempting to investigate the assault call but now developed probable cause for arrest for obstructing because the subject refused to comply with Officer A's lawful directives.
- It was discovered that the subject had an outstanding felony warrant for their arrest.
- The subject admitted to not complying with Officer A's commands because they had an outstanding warrant.
- The subject suffered very minor scrapes on their elbow and both knees.
- The subject admitted that they needed hip replacement surgery for several years.
- In a subsequent interview with Officer C, the subject said Officer A "didn't do anything wrong."
- The hip injury was a pre-existing condition.

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<sup>11</sup> Officer D IA Additional, case 2023-20189122 (September 21, 2023).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

- Officer A attempted numerous times to get the subject to stop and comply but the subject refused. Even after Officer A removed the subject from the bike, they continued to struggle against Officer A's attempts to place them in handcuffs.
- Officer A's actions were appropriate considering the incident being investigated.
- Officer A acted appropriately and spoke to the subject in a professional manner.

Officer F noted the following in arriving at their decision:

- This is a use of force incident because the subject complained of injury.

## Recommendations

### Recommendations to Policy and/or Training

#### Audio recorded in buffer mode on

Officer A initially failed to activate their BWC. Their camera was in buffer mode when the use of force occurs. You could see what occurs upon contact but there is no audio for the first 60 seconds of the video. Axon has confirmed it is a setting feature to turn audio during audio during buffer mode that already exists in SPD's systems.

**Recommendation 24-13: Recommendations: SPD should turn on audio during buffer mode of body worn camera recordings.**

#### Asking victims if they want to be a victim

The Use of Force Review Board previously discussed a training point that officers should not be asking victims if they want to be victims since the law does not provide discretion on whether officers should charge an aggressor with assault.<sup>14</sup> Here, someone in the background of Officer A's BWC video, presumably Officer B, asked the subject if they wanted to be a victim and the subject declined. This issue was not discussed any further on video and it is not discussed in Officer A's report.

**Recommendation 24-14: SPD should train officers to determine whether to charge an individual purely based on whether the elements of the law are met. The victim's wishes should not be a determining factor.**

<sup>14</sup> See generally [Wash. Rev. Code §9A.36](#).

### Eggshell skull rule

Washington State follows the eggshell skull rule. The eggshell skull rule is a common law doctrine that makes a defendant liable for the plaintiff's unforeseeable and uncommon reactions to the defendant's negligent or intentional tort.<sup>15</sup> In *Forbes v. ABM Industries, Inc.*, "the court observed that '{i}n a statutory tort case as in a common law case, the 'eggshell skull' rule prevails, so it is not a defense to an award of full damages that the plaintiff's injury was amplified by a preexisting condition for which the defendant was not responsible." 127 Wash.App. 1003 at 7 (2005)(quoting *Avita v. Metropolitan Club of Chicago Incorporated*, 49 F.3d 1219, 1228 (7<sup>th</sup> Cir.1995)). A common example of this doctrine is that a person's skull was very thin due to the person's own health condition, if the person gets into an accident, the other person who caused the accident will be liable for actual damages, although the average person would not suffer the same serious injuries in the same accident as the person with the thin skull.<sup>16</sup>

Since Washington requires you to take someone as they are, SPD may be found liable for additional injuries caused in applying a use of force technique. There was an emphasis both on scene and in the review of this case that the subject already had a preexisting injury with some reviewers making the point that this would not even be a use of force unless the subject complained of injury. Had they not complained of injury, this would have not been captured as a use of force when the subject needed major surgery, potentially in part, due to the physical force used by the officer.

**Recommendation 24-15: SPD should include aggravation of pre-existing injuries as a type of reviewable force to have as much documentation of the incident in the event the subject decides to pursue litigation.**

### Hypothetical danger

At the review board, a question was asked if there were any other steps the officer could have taken prior to using force. One member stated that we could have used lethal force citing personal experiences. Several members of the board also justified the action citing examples they experienced where the situation was worse than this case and cited hypothetical dangerous scenarios. One member even stated, up to lethal force can be de-escalation.

In the Department of Justice's investigation on the City of Phoenix and Phoenix Police Department (Phoenix), they had reasonable cause to believe that Phoenix PD engaged in excessive force, including deadly force. Officers used unreasonable force to dominate encounters within the first

<sup>15</sup> [https://www.law.cornell.edu/wex/eggshell\\_skull\\_rule#:~:text=Primary%20tabs,wex%20definitions](https://www.law.cornell.edu/wex/eggshell_skull_rule#:~:text=Primary%20tabs,wex%20definitions)

<sup>16</sup> *Id.*

few seconds and failed to employ strategies that avoid force.<sup>17</sup> They found that Phoenix's training has encouraged officers to use force when it is not lawful to do so, and to use serious force to respond to hypothetical, not actual danger.<sup>18</sup> This puts officers and others at risk and result in constitutional violations.

Here, the Use of Force Review Board relied on hypothetical scenarios when discussing whether the officer could have conducted some investigation. An officer's training and experience is critical in decision making; however, relying on hypothetical situations is a slippery slope in force analysis.

**Recommendation 24-16: Review board members should receive specific guidance on force analysis and review board expectations. Greater emphasis should be placed on alternatives to force and de-escalation. The review boards should also provide an analysis of the supervisory review; and provide recommendations when supervisory reviews fall short.**

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<sup>17</sup> U.S. Dep't. of Justice, Civil Rights Division, Investigation of the City of Phoenix and the Phoenix Police Department (2024) available at <https://www.justice.gov/crt/media/1355866/dl?inline>.

<sup>18</sup> *Id.*



## Summary of Recommendations

1. **Recommendation 24-13**: SPD should train officers to determine whether to charge an individual purely based on whether the elements of the law are met. The victim's wishes should not be a determining factor.
2. **Recommendation 24-14**: SPD should include aggravation of pre-existing injuries as a type of reviewable force to have as much documentation of the incident in the event the subject decides to pursue litigation.
3. **Recommendation 24-15**: Reviewers should focus their analysis on the officer's conduct and how it falls in or out of policy. The subject's admissions of guilt should not be a determining factor.
4. **Recommendation 24-16**: Review board members should receive specific guidance on force analysis and review board expectations. Greater emphasis should be placed on alternatives to force and de-escalation. The review boards should also provide an analysis of the supervisory review; and provide recommendations when supervisory reviews fall short.

**K24-007**

# **OMBUDS CLOSING REPORT**

**POLICY AND PROCEDURES REPORT  
AND RECOMMENDATIONS**



**OFFICE OF THE  
POLICE OMBUDS**  
INDEPENDENT CIVILIAN OVERSIGHT

This report was authored by Bart Logue, Police Ombuds, and co-authored by Luvimae Omana, Deputy Police Ombuds. The Office of the Police Ombuds (OPO) presented this report to the Office of the Police Ombuds Commission on December 3, 2024.

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## Staff Information

### **Bart Logue, Police Ombuds**

Bart Logue began serving in this capacity in September 2016, after serving as the Interim Police Ombuds. Bart also serves as a Commissioner on the Washington State Criminal Justice Training Commission. Bart is a Certified Practitioner of Oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE). Bart has a Master of Forensic Sciences from National University and a Master of National Security Affairs from the Naval Postgraduate School. Bart is a graduate of the Federal Bureau of Investigation National Academy, Session 239, and is also a certified Advanced Force Science Specialist.

### **Luvimae Omana, Deputy Police Ombuds**

Luvimae Omana joined the Office of the Police Ombuds in 2015 and has served as an Assistant to the Ombuds, Administrative Analyst, and Deputy Police Ombuds. She has dual degrees in Business Administration and Political Science from the University of California, Riverside and a Juris Doctorate from Gonzaga University School of Law. Luvimae is licensed to practice law in Washington. Luvimae is a Certified Practitioner of Oversight through NACOLE. Luvimae is also a certified Advanced Force Science Specialist.

### **Christina Coty, Administrative Specialist**

Christina began working at the City of Spokane in 2015 for the ITSD department in contract procurement and joined the Office of the Police Ombuds in 2018. Christina is a Certified Practitioner of Oversight through NACOLE. Prior to her work at the City of Spokane she worked for Sony Electronics as a Regional Sales Manager managing the retail store operations in Southern California.

### **Tim Szambelan, OPO Attorney**

Tim works in the Civil Division of the City Attorney's Office and currently represents the Office of the Police Ombuds and other departments within the City of Spokane. Tim is licensed to practice law in Washington and Arizona.

This document was reviewed by the City Attorney's Office as to form prior to submission for review by the Spokane Police Guild pursuant to the requirements provided in Article 27 of the Agreement between the City of Spokane and the Spokane Police Guild (2023-2026).

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## Mission, Authority, and Purpose

The Office of Police Ombuds exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department (SPD) by providing independent review of police actions, thoughtful policy recommendations, and ongoing community outreach.

The OPO does so through providing independent and thorough oversight of matters that impact the community and the department. We desire to help bridge the gap between the community and the SPD by writing closing reports on cases that are of public concern to increase accountability and transparency into the matter as well as closing reports that may lead to recommendations for improving police policies or practices. By insisting on transparency, our goal is to help eliminate similar incidents in the future and ensure that the practices contained herein are limited and/or never happen again. It is also our intent to highlight effective police practices to give the community a better understanding as to why those practices were utilized, although this is limited by provisions within the 2023-2026 Collective Bargaining Agreement (CBA).

Spokane Municipal Code (SMC) §04.32.030 and the CBA provide authority for the OPO to publish closing reports on a case once it has been certified by the Police Ombuds and the Chief of Police has made a final determination in the matter. The OPO can also publish policy and procedure reports regarding cases the OPO reviews during a review board process. The OPO's recommendations will not concern discipline in specific cases or officers and shall not be used in disciplinary proceedings of bargaining unit employees. Reports are solely meant to further discussion on aspects of incidents that may be improved upon.

Reports also provide opportunities for policy and procedure recommendations that can result in improved police performance through their eventual implementation. Writing a report allows us to provide a more thorough review of what occurred in an incident in order to offer recommendations for improving the quality of police investigations and practices, including the Internal Affairs (IA) investigative process, policies, and training or any other related matter.

The OPO may also recommend mediation to the Chief of Police at any time prior to certifying a case. Should all parties agree and the officer(s) participate in good faith, the OPO may publish a report following a mediation including any agreements reached between parties. Mediations are governed by the Revised Code of Washington (RCW) 7.07.070 and are considered confidential. The content of the mediation may not be used by the City or any other party in any criminal or disciplinary process.

## Required Disclosures

Under Article 27 of the current CBA between the City of Spokane and the Spokane Police Guild, this report must provide the following disclosures:

1. Any closing report from an IA investigation shall clearly state the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred;
2. The report will include the current policy practice, policy, and/or training as applicable and shall expressly state the policy recommendations that follow reflects the OPO's opinion on modifications that may assist the department in reducing the likelihood of harm in the future; they do not reflect an opinion on individual job performance under the current policy, practice, or training;
3. A report shall not comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs from the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.
4. The OPO's closing report shall not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, or to reconsider any decision(s) previously made concerning discipline.
5. The report may not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, but not limited to decisions regarding defense and indemnification of an officer; and
6. The names of officers or witnesses may not be disclosed.<sup>1</sup>

Additional information and records regarding this matter are available through the City Clerk's Office by [Public Records Requests](#).

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<sup>1</sup> In addition to not mentioning officer or witness names, every effort was made to remove identifying pronouns throughout this report. The same standard was used for the complainant and involved persons.



## Summary

### Procedural History

This incident occurred on May 29, 2024. The incident was reviewed by SPD as a use of force involving a canine. The subject had injuries from being bit by a police canine on their arm. Officer G was the final reviewer and made the final determination on June 27, 2024. The case was reviewed by the Use of Force Review Board on September 17, 2024.<sup>2</sup>

The OPO's summary of facts are based upon a careful review of reports, BWC footage, the chain of command review, and participation in the Use of Force Review Board. This closing report provides an analysis of issues identified through the chain of command review and review board processes, which allow for a policy and procedures report.

### OPO Summary of Facts

#### Incident

At around 2:30am, Officer A was patrolling the N. Ash and W. Spofford area when they recognized the subject from previous contacts. Officer A said the subject saw their police vehicle, the subject acted suspiciously by turning and quickly walking away. Officer A said that this behavior caught their attention, often, immediately fleeing indicates an individual is involved in criminal activity. Officer A reviewed their previous call history and identified the subject as an individual they previously arrested for violating a domestic violence order of protection violation (DVOPV) from September 2023. Officer A reviewed their previous call history and identified the subject. They ran the subject's name through their mobile data terminal and found they had a local felony warrant for burglary.

As such, the officer attempted to initiate a *Terry* stop or temporary detention. Officer A exited their patrol vehicle and contacted the subject by calling out their name. The subject stopped, turned around and looked at the officer. Officer A told the subject to stop and to come back to speak with them. The subject acknowledged Officer A's presence but denied being the person the officer was looking for, turned around, walked away even faster than before, and turned down a street, away from the officer's view. Officer A said this was sufficient to develop probable cause to charge the subject with obstruction of their investigation. Officer A advised other officers on the radio of the subject's last known location. Dispatch confirmed over the air that the subject had an active warrant for first degree burglary and a misdemeanor warrant for DVOPV. Officer A

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<sup>2</sup> Under the agreement between the City and the Police Guild in the current CBA, the OPO is prohibited from mentioning whether the officer(s) acted properly, whether the officer's actions were acceptable, or whether or not the officer's actions were in compliance with training or policy. As such, the final determination by the chain of command cannot be mentioned.

requested a perimeter be set up by other officers and for a canine unit to respond. Note, the summary up to this point is based solely on Officer A's report since they did not activate their BWC during the interaction with the subject described above.<sup>3</sup>

When the canine arrived, Officer B asked for the probable cause, the subject's name, a description, and the last location they were seen. Officer B then asked over the radio for someone to be stationed on Spofford.<sup>4</sup> No other tactical planning occurred before they began tracking the subject with their canine. Officer B gave several announcements advising they were police, the subject was under arrest, they were being tracked by a police canine, and if the subject did not surrender, they may get bit. Officer B was joined by several other officers for a tracking team.<sup>5</sup> The canine led officers half a block to 1620 W. Augusta Avenue where officers found a vehicle parked up against a chain link fence. The vehicle's tires were removed and the vehicle was held up by car jacks. The tires had been placed on their side, underneath the front and rear passenger doors, halfway underneath the vehicle. This made visibility under the vehicle difficult. Officer A said, "It should be noted the car was parked tucked up along the fence line and was pretty low to the ground. It would have been extremely dangerous for [o]fficers to both attempt to clear underneath the car and the area around the front of the car without the use of a police [canine]."<sup>6</sup>

At this point in the incident, Officer A said they had enough evidence to develop probable cause to arrest the subject for resisting arrest. There were several officers present who gave multiple canine announcements. Officer B gave numerous loud and appropriate announcements when they first took their canine out of their vehicle and then again as they approached the vehicle the subject was hiding under. Standard canine deployment announcements are: attention in the area; this is the Spokane Police Department; suspect you are under arrest; you are being tracked by a police dog; if he finds you he may bite you; give up now, if you do not give up we cannot guarantee your safety; attention citizens in the area – please stay in your homes. These announcements are given by multiple officers on the perimeter in an effort to ensure safety of anyone involved or nearby.

At 8:29, the canine alerted on the subject and Officer B gave their canine the command to "Fass, fass, fass," short for "fassen" which means "bite or hold" in German. Almost immediately, as Officer B said the command and the canine initiated the bite, the subject yelled out, "No, no, no, please! I give up! I give up!" Officer B documents this in their report as, "[The subject] only made the decision to try and surrender when the [canine] was literally 'mid-lunge' towards [them]."<sup>7</sup> The portion of the incident where the canine bit the subject was not seen on BWC. At 8:32,

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<sup>3</sup> Officer E IA Additional, case 2024-20103261 (noting that Officer A reported they had activated their BWC in their initial contact with the subject but later realized it was not activated) (May 29, 2024).

<sup>4</sup> Officer B's BWC at 1:34 (May 29, 2024).

<sup>5</sup> Officer B Field Case Report, case 2024-20103261 at 2 (May 29, 2024).

<sup>6</sup> Officer A Field Case Report, case 2024-20103261 (May 29, 2024).

<sup>7</sup> See *supra* note 5 at 5.

Officer B asked to see the subject's hands and the subject yelled back responses difficult to hear clearly but was generally upset the canine was biting them. At 8:37, Officer B grabbed onto the subject's hand to help get them out from under the car. At 8:45, the subject said, "[The canine] won't let go." By 8:46, the subject stopped complaining of the canine biting them. Officer B's report says the total bite duration was approximately 20 seconds, but it appears less than that on BWC.<sup>8</sup> Officer B called for other officers to get the subject's hands and the other officers responded. The moment the canine released the subject's arm was not visible on BWC. Officer B reported that they released their canine as soon as they determined other officers had physical control of the subject.<sup>9</sup> Once the subject was removed from the area, officers noticed a knife left behind. Officers requested medics responded to evaluate the subject. They bandaged the subject's arm and the subject was transported to Deaconess Hospital for treatment prior to booking.

At the hospital, Officer B read the subject their rights, the subject said they understood, and agreed to speak with law enforcement. While Officer B was done speaking with the subject, the subject told Officer A that they knew they are a police officer and continued walking after Officer A called out their name because they had a warrant and did not want to get arrested. Once the subject was cleared by the hospital, they were transported and booked into jail for their warrants, obstructing, and resisting arrest.

#### Supervisor review

The four supervisors who reviewed this case did not address alternative means to apprehend the subject and/or less lethal options. Officer D stated in their review that in the event the subject was located or additional force became necessary, the tracking team assisting Officer B provided adequate lethal force coverage.<sup>10</sup> Supervisor reviews also did not mention if officers had alternative means for using force, although they agreed with the officer's statements regarding a lack of alternative means to safely track the subject.

#### Use of Force Review Board

At the Use of Force Review Board, questions on canine tactics were raised surrounding the circumstances of this incident and the member who responded said they could only speak in generalities and not to the specifics of this case. They said they did not know if there were other officers around and whether they were prepared with alternative means.

## **Policy Recommendations**

### **Recommendations to Policy and/or Training**

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<sup>8</sup> See *supra* note 5 at 6.

<sup>9</sup> *Id.*

<sup>10</sup> Officer D Use of Force Supervisor Review, case 2024-20103261 (May 29, 2024).

Alternative tactical options when apprehending a boxed in subject

1. **SPD Policy 318.2 GUIDELINES FOR THE USE OF PATROL CANINES.** The canine handler may deploy the patrol canine to locate and apprehend a suspect when:
  - a. The individual has committed or threatened to commit any criminal offense; and
  - b. The individual poses an imminent threat of violence or serious harm to the public, any officer, or the handler; or
  - c. The individual is physically resisting arrest and the use of a canine is necessary to overcome such resistance; or
  - d. The individual(s) is/are believed to be concealed in an area where entry by other than the canine would pose a threat to the safety of officers or the public.

As with all decisions to use force, the decision to use a patrol canine must be objectively reasonable in view of the totality of the circumstances. Mere flight from pursuing officer(s) shall not serve as good cause for the use of a canine to apprehend an individual.

As circumstances permit, the canine handler should make every reasonable effort to communicate and coordinate with other involved personnel to minimize the risk of unintended injury. It is the canine handler's responsibility to evaluate each situation and determine whether the use of a patrol canine is appropriate and reasonable. The canine handler shall have the ultimate authority to decline the use of the canine whenever he/she deems the deployment is unsuitable.

2. **SPD Policy 301.4(II) REQUIREMENT TO USE REASONABLE CARE.** Officers should be aware that "reasonable care" is a legal requirement when using physical force under Chapter 10.120 RCW. Officers are required to use reasonable care when determining whether to use physical force or deadly force and when any physical force or deadly force against another person. (RCW 10.120.020(3)).

To that end, a peace officer shall when using physical force, officers shall use the least amount of physical force necessary to overcome resistance under the circumstances. (RCW 10.12.020(3)(b)). This includes a consideration of the characteristics and conditions of a person for the purposes of determining whether to use force against that person and, if force is necessary, determining the appropriate and least amount of force possible to effect a lawful purpose.

SPD's guideline for canine use is general and only provides the threshold before canines can be used to locate and apprehend. Separate justification for locating and apprehending are not required. The language in the guideline is generally about reasonableness and totality of the circumstances. Yet, the use of force policy's provision on reasonable care requires officers to use the least amount of force necessary to overcome resistance.

By contrast, the Seattle Police Department only allows "direct apprehension" by canines after specific felony crimes or misdemeanors are met and at least one of the following: (1) The canine

officer reasonably believes the subject poses an imminent threat of harm to the other officers; or the subject is trying to escape, such as by immediate flight from a crime against person(s) with aggravating factors (e.g. crime involved a firearm or the subject is reasonably believed to be in possession of a firearm or other potentially deadly weapon, etc.).<sup>11</sup>

Additionally, the Seattle Police Department acknowledges how effective of a tool canines can be to overcome violent resistance and reduce injuries to all parties involved. At the same time, the department expects its canine handlers to make all reasonable efforts to avoid unnecessary, and unnecessarily injurious, bites.<sup>12</sup> When the location of a subject in hiding has been determined, handlers will not command the canine to do a direct apprehension if alternative tactics are available, safe, and feasible.<sup>13</sup>

Under SPD's canine policy, no further justification is required after initial justification to locate a subject is established. Yet, reasonable care and state law that requires the least amount of force necessary. This leaves room for an additional tactical analysis before using a canine to apprehend a subject as factors may have changed from the initial assessment. For example, had the officer been required to reassess the use of a canine after locating the subject, they would have needed to consider other factors such as the subject's potential exit points, the likelihood they could escape if officers attempted alternative means of apprehending the subject, and alternative means to apprehend the subject without compromising officer safety and unnecessarily causing injuries/bites. This incident provided an opportunity to review the canine policy as compared to state law and a gap in policy was identified.

**Recommendation 24-10: SPD should update its canine policy to require all reasonable efforts to avoid unnecessary and unnecessarily injurious bites. When the location of the subject in hiding has been determined, handlers should not direct a direct apprehension if alternative tactics are available, safe, and feasible.**

Here, Officer B determined the use of a canine was the best tool to locate and apprehend the subject when they had to cover a residential area at night. Officer B said in their report, "With many other tools at our disposal (chemical munitions, blunt impact, taser, etc.) none of these tools have any application in locating a suspect who has fled. The [canine] is the only tool that can detect where the suspect has gone while simultaneously being out in front of officers for

<sup>11</sup> Seattle Police Dep't, [8.300-Pol-2\(4\) Use of Patrol Canines: Canine Officers May Use Direct Apprehension to Physically Apprehend a Subject](#) (Revised September 1, 2024).

<sup>12</sup> *Id.* at 8.300-Pol-2(2) Use of Patrol Canines: The Prompt and Proper Utilization of a Trained Canine Team Can be a Valuable Resource in Law Enforcement.

<sup>13</sup> [Guidance on Policies and Practices for Patrol Canines](#), POLICE EXECUTIVE RESEARCH FORUM (citing Seattle Police Dep't 8.300-Pol-2(7): Use of Patrol Canines: When Feasible, Canine Handlers Will Attempt Alternative Tactics Prior to a Direct Apprehension) (May 2020).

safety and stand-off at the exact same time.”<sup>14</sup> Officer B’s justification for why other alternatives were not feasible were only specific to locating the subject.

Officer B determined the subject was located under a vehicle parked up against a fence. This left the subject essentially trapped under the vehicle with officers surrounding them. As several officers said in their reports, there were multiple law enforcement vehicles surrounding the scene with lights flashing and the tracking team was comprised of at least four officers. The officers had the tactical advantage over the subject. Officers were disadvantaged in that they did not have a clear line of sight to the subject. Officer C said, “I could not see the [canine] because there wasn’t too much space to get around, and it was not safe to do so until the [canine] had clear[ed] that area.”<sup>15</sup> Officer A said the way the car was parked up to the fence and positioned really low, it would have been extremely dangerous for officers to attempt to clear the area underneath the car and the surrounding area without a canine.<sup>16</sup>

**Recommendation 24-11: Supervisors should conduct separate tactical analysis for each function in which a canine is deployed. The factors that justify the use of a canine to search for an individual may differ from the factors in apprehending an individual. This would ensure that officers are exercising reasonable care and using the least amount of force necessary in apprehending subjects.**

#### Administrative interviews after a canine incident

1. **SPD Policy 301.12(I) NOTIFICATIONS TO SUPERVISORS.** Supervisory notification shall be made as soon as practicable following the application of force in any of the following circumstances: canine deployment per Policy 318.
2. **SPD Policy 301.14.1 SUPERVISOR REPORTING.** When a supervisor becomes aware of an incident in which there has been a reviewable application of force, the supervisor shall complete a Use of Force Report in a timely manner. In the event a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still required to complete a Use of Force Report. Use of Force reports are required under the circumstances described in Section 301.12 Notification to Supervisors.
3. **SPD Policy 318.5 REPORTING CANINE USE, BITES, AND RESULTING INJURIES.** Whenever the canine is deployed, documentation shall be completed by the handler and turned in to the canine supervisor.

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<sup>14</sup> See *supra* note 5 at 4.

<sup>15</sup> Officer C Field Case Report, case 2024-20103261 (May 29, 2024).

<sup>16</sup> See *supra* note 6 at 3.

**If a bite or injury results from the use of the patrol canine, that information shall be documented utilizing use of force reporting procedures. The completed documentation will be forwarded through the appropriate chain of command for review.**

SPD's canine policy is clear that when a canine is deployed, the use of force reporting procedures will be followed. The use of force policy requires supervisor notification and further stipulates that the supervisor will respond to the scene if possible and complete a Use of Force Report. In most other use of force incidents, a supervisor conducts the administrative interview. At a minimum, an SPD supervisor who was not directly involved with the incident should conduct the administrative interview for the use of force.

Here, the two officers most involved in this incident were the ones who conducted both a criminal and administrative interview with the subject at the hospital. Officer B read the subject their rights and the subject agreed to speak with law enforcement. Officer B interviewed the subject related to the canine usage. Officer B's report says, "[they] confirmed that [they were] indeed aware that [law enforcement] was in the area and that were there looking for [them]...towards the conclusion of the interview, [they] eventually admitted that [they] could actually hear 'maybe both (cops and PAs)' but didn't give up because [they] didn't think that we knew where [they] were."<sup>17</sup> Then Officer A spoke with the subject. The subject told them that they knew Officer A was the police when they called out the subject's name and the subject denied it.<sup>18</sup> The subject said they kept walking because they knew they had a warrant and did not want to get arrested.<sup>19</sup>

It is unclear when canine handlers began interviewing subjects after the incident but this seems to be standard practice. This case prompted a closer review of policies and procedures. The discrepancy between the procedures when supervisors conduct administrative interviews in a typical use of force was notably different from canine interviews.

**Recommendation 24-12: Uninvolved supervisors should respond to every incident of force involving a canine to conduct an administrative investigation. A standardized list of questions should be used including: the factors requiring the canine use, determination of force options available, de-escalation tactics employed, and**

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<sup>17</sup> See *supra* note 5 at 5.

<sup>18</sup> See *supra* note 6 at 3.

<sup>19</sup> *Id.*

## Summary of Recommendations

1. **Recommendation 24-10**: SPD should update its canine policy to require all reasonable efforts to avoid unnecessary and unnecessarily injurious bites. When the location of the subject in hiding has been determined, handlers should not direct a direct apprehension if alternative tactics are available, safe, and feasible.
2. **Recommendation 24-11**: Supervisors should conduct separate tactical analysis for each function in which a canine is deployed. The factors that justify the use of a canine to search for an individual may differ from the factors in apprehending an individual. This would ensure that officers are exercising reasonable care and using the least amount of force necessary in apprehending subjects.
3. **Recommendation 24-12**: Uninvolved supervisors should respond to every incident of force involving a canine to conduct an administrative investigation. A standardized list of questions should be used including: the factors requiring the canine use, determination of force options available, de-escalation tactics employed, and interviewing the subject.



**F24-038**

# **OMBUDS CLOSING REPORT**

**POLICY AND PROCEDURES REPORT  
AND RECOMMENDATIONS**



**OFFICE OF THE  
POLICE OMBUDS**  
INDEPENDENT CIVILIAN OVERSIGHT

This report was authored by Bart Logue, Police Ombuds, and co-authored by Luvimae Omana, Deputy Police Ombuds. The Office of the Police Ombuds (OPO) presented this report to the Office of the Police Ombuds Commission on December 3, 2024.

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## Staff Information

### **Bart Logue, Police Ombuds**

Bart Logue began serving in this capacity in September 2016, after serving as the Interim Police Ombuds. Bart also serves as a Commissioner on the Washington State Criminal Justice Training Commission. Bart is a Certified Practitioner of Oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE). Bart has a Master of Forensic Sciences from National University and a Master of National Security Affairs from the Naval Postgraduate School. Bart is a graduate of the Federal Bureau of Investigation National Academy, Session 239, and is also a certified Advanced Force Science Specialist.

### **Luvimae Omana, Deputy Police Ombuds**

Luvimae Omana joined the Office of the Police Ombuds in 2015 and has served as an Assistant to the Ombuds, Administrative Analyst, and Deputy Police Ombuds. She has dual degrees in Business Administration and Political Science from the University of California, Riverside and a Juris Doctorate from Gonzaga University School of Law. Luvimae is licensed to practice law in Washington. Luvimae is a Certified Practitioner of Oversight through NACOLE. Luvimae is also a certified Advanced Force Science Specialist.

### **Christina Coty, Administrative Specialist**

Christina began working at the City of Spokane in 2015 for the ITSD department in contract procurement and joined the Office of the Police Ombuds in 2018. Christina is a Certified Practitioner of Oversight through NACOLE. Prior to her work at the City of Spokane she worked for Sony Electronics as a Regional Sales Manager managing the retail store operations in Southern California.

### **Tim Szambelan, OPO Attorney**

Tim works in the Civil Division of the City Attorney's Office and currently represents the Office of the Police Ombuds and other departments within the City of Spokane. Tim is licensed to practice law in Washington and Arizona.

This document was reviewed by the City Attorney’s Office as to form prior to submission for review by the Spokane Police Guild pursuant to the requirements provided in Article 27 of the Agreement between the City of Spokane and the Spokane Police Guild (2017-2021).

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## Mission, Authority, and Purpose

The Office of Police Ombuds exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department (SPD) by providing independent review of police actions, thoughtful policy recommendations, and ongoing community outreach.

The OPO does so through providing independent and thorough oversight of matters that impact the community and the department. We desire to help bridge the gap between the community and the SPD by writing closing reports on cases that are of public concern to increase accountability and transparency into the matter as well as closing reports that may lead to recommendations for improving police policies or practices. By insisting on transparency, our goal is to help eliminate similar incidents in the future and ensure that the practices contained herein are limited and/or never happen again. It is also our intent to highlight effective police practices to give the community a better understanding as to why those practices were utilized, although this is limited by provisions within the 2023-2026 Collective Bargaining Agreement (CBA).

Spokane Municipal Code (SMC) §04.32.030 and the CBA provide authority for the OPO to publish closing reports on a case once it has been certified by the Police Ombuds and the Chief of Police has made a final determination in the matter. The OPO can also publish policy and procedure reports regarding cases the OPO reviews during a review board process. The OPO's recommendations will not concern discipline in specific cases or officers and shall not be used in disciplinary proceedings of bargaining unit employees. Reports are solely meant to further discussion on aspects of incidents that may be improved upon.

Reports also provide opportunities for policy and procedure recommendations that can result in improved police performance through their eventual implementation. Writing a report allows us to provide a more thorough review of what occurred in an incident to offer recommendations for improving the quality of police investigations and practices, including the Internal Affairs (IA) investigative process, policies, and training or any other related matter.

The OPO may also recommend mediation to the Chief of Police at any time prior to certifying a case. Should all parties agree and the officer(s) participate in good faith, the OPO may publish a report following a mediation including any agreements reached between parties. Mediations are governed by the Revised Code of Washington (RCW) 7.07.070 and are considered confidential. The content of the mediation may not be used by the City or any other party in any criminal or disciplinary process.

## Required Disclosures

Under Article 27 of the current CBA between the City of Spokane and the Spokane Police Guild, this report must provide the following disclosures:

1. Any closing report from an IA investigation shall clearly state the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred;
2. The report will include the current policy practice, policy, and/or training as applicable and shall expressly state the policy recommendations that follow reflects the OPO's opinion on modifications that may assist the department in reducing the likelihood of harm in the future; they do not reflect an opinion on individual job performance under the current policy, practice, or training;
3. A report shall not comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs from the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.
4. The OPO's closing report shall not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, or to reconsider any decision(s) previously made concerning discipline.
5. The report may not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, but not limited to decisions regarding defense and indemnification of an officer; and
6. The names of officers or witnesses may not be disclosed.<sup>1</sup>

Additional information and records regarding this matter are available through the City Clerk's Office by [Public Records Requests](#).

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<sup>1</sup> In addition to not mentioning officer or witness names, every effort was made to remove identifying pronouns throughout this report. The same standard was used for the complainant and involved persons.

## Summary

### Procedural History

This incident occurred on May 20, 2024. The incident was reviewed by SPD as a use of force. The subject sustained a minor visible injury on the left side of their face area from being punched by Officer A, whereas Officer A sustained minor injuries on their left upper arm and right hand. SPD Employee F was the final reviewer and made the final determination on July 23, 2024. The case was reviewed by the Use of Force Review Board on September 17, 2024.<sup>2</sup>

The OPO's summary of facts are based upon a careful review of reports, BWC footage, the chain of command review, and participation in the Use of Force Review Board. This closing report provides an analysis of issues identified through the chain of command review and review board processes, which allow for a policy and procedures report.

### OPO Summary of Facts

#### Incident

At approximately 12:15pm, Officer A responded to the 700 block of South Lindeke where they located a grey BMW that had been reported stolen. An SPD officer began to electronically surveil the vehicle with the owner's permission. At around 4:16pm, Officer A observed the BMW on the move toward Spokane Valley and followed it. The BMW's driver parked the vehicle in front of 1306 North Blake Road and the Stolen Property Enforcement and Recovery (SPEAR) Unit detectives blocked the vehicle to keep it from fleeing. The driver attempted to evade the blocking technique with their vehicle. When this was not successful, the driver fled on foot through the apartment complex and officers followed. Officers A and B stayed with the stolen vehicle since it was still occupied by a front seat passenger.

The passenger climbed over to the driver seat and fled on foot. Officer A and Officer B chased the passenger, with Officer A as the lead pursuer and with Officer B following behind. Officer A's body worn camera (BWC) footage of the pursuit, use of force, and arrest was 1 minute and 57 seconds in duration. Officer A began to pursue the passenger at 1:14 of the BWC footage and began to give verbal commands at 1:21. Officer A gave commands to the passenger while in pursuit, "Stop. Police. Stop now. Stop. If I catch you... Police. Stop. You're under arrest. Stop. You're gonna get tased. You're gonna get tased. On the ground." At 1:41, the passenger comes

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<sup>2</sup> Under the agreement between the City and the Police Guild in the current CBA, the OPO is prohibited from mentioning whether the officer(s) acted properly, whether the officer's actions were acceptable, or whether or not the officer's actions were in compliance with training or policy. As such, the final determination by the chain of command cannot be mentioned.



into frame on the BWC. They had stopped running and had turned and faced the officer as the officer approached. By 1:43, the passenger has both hands up, one hand in the air and one hand holding a dark rectangular item that was later confirmed to be a cell phone.

As Officer A caught up to the passenger, the passenger started saying, "I didn't know..." at 1:45, Officer A on BWC was seen placing their right hand on the passenger's lower back/waist area. Then almost simultaneously, the passenger fell in a backwards motion. At 1:46, Officer A's closed fist is seen in contact with the passenger's face as they were falling to the ground. As Officer A attempted to take the passenger into custody, Officer A and the passenger had a brief scuffle that cannot be seen on camera. Around this time, Officer A says the passenger balled their fist and swung at them, dug their nails into the officer, and pulled the officer toward them.<sup>3</sup> A plain viewing of the video looks like as the passenger began to fall, they grabbed on to Officer A. That's when Officer A punched the passenger in the side of their face. The subject is not seen swinging at or punching the officer in the video. However, the officer articulated in his report that the passenger balled his fist and swung at the officer as they made contact.

The passenger's side of the story is as follows as documented by body worn camera footage. Officer C interviewed the passenger on scene for administrative purposes. Officer C asked the passenger what happened between them and the officer related to the use of force. The passenger said they ran because they were scared. The passenger added, "I guess [they] said I gripped [their] shirt while I was falling, so [they] punched me in my face."<sup>4</sup> The passenger continued, "I stopped, and I was putting my hands up. I was looking to stop and then he just slammed me on to the ground."<sup>5</sup> They also believed that they got punched in the face because they ran.<sup>6</sup> The passenger said twice that Officer A punched them when they were already on the ground.<sup>7</sup> Officer C asked the passenger if they hit Officer A and the passenger denied it, "No, I wasn't. I wasn't, I literally like, I stopped and I was gonna like, I literally stopped for [them]. I stopped."<sup>8</sup> Officer C followed up by asking if the passenger clenched their fists like maybe they were going to punch the officer and the passenger responded, "[Officer A] said that [they] said that, but I would say it's probably from [crosstalk] grabbing [their] thing. [They] said I grabbed [their] thing so [they] punched me in my face."<sup>9</sup> During the crosstalk, Officer C said body cameras captured the incident and would tell the truth. The passenger's demeanor and tone did not change and they continued to finish their sentence before Officer C interrupted. Officer C asked the passenger again about punching Officer A and the passenger responded, "No, okay. I didn't try no force to nothing. Okay. Literally as soon as [they] said freeze after I was already done running, I was like, all right, I'll just freeze."<sup>10</sup>

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<sup>3</sup> See *supra* note 3 at 4.

<sup>4</sup> Officer C's BWC at 25:43.

<sup>5</sup> *Id.* at 25:52.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 26:12 and 26:19.

<sup>8</sup> *Id.* at 26:25.

<sup>9</sup> *Id.* at 26:39.

<sup>10</sup> *Id.* at 26:56.

Officer A submitted a supplemental report on the same day to elaborate that the strike used on the passenger was one closed fist strike with their right fist to stop the force against them.<sup>11</sup> The passenger was booked into juvenile hall for 3<sup>rd</sup> degree assault, resisting, and obstructing.<sup>12</sup>

### Supervisor review

Officer C noted the following in arriving at their suggested finding of “In Compliance with Policy:”

- Due to the angle of their body cameras during the incident, neither the passenger grabbing Officer A’s arm or the subsequent closed fist strike are observed on the body camera video.<sup>13</sup>
- Officer B’s camera was on but they did not catch up until a few seconds after the force was applied.
- “I did talk to [Officer A] about the hazards of using Level 2 strikes of a ‘Hard on Hard’ target such as a closed fist strike to the head of a suspect. We discussed how an open hand palm strike would likely accomplish the same level of compliance but would have less of a chance of injury and blood transfer.”<sup>14</sup>
- The passenger fled and did grab Officer A’s arm and squeezed during the lawful arrest.
- The passenger swung their fist in a manner that caused Officer A to believe they were going to be struck.
- Based on these facts, Officer A’s reaction to use a closed fist strike was reasonable to protect themselves quickly and resolve the situation.

Officer D noted the following in arriving at their suggested finding of “In Compliance with Policy:”

- Officer A detailed their reasoning for the Level 2 strike and included the appropriate factors.<sup>15</sup>
- Officer C identified and addressed the hard to soft concept.

Officer E noted the following in arriving at their suggested finding of “In Policy:”

- Officer A was concluding a foot pursuit when they were presented with a suspect that swung a fist at them and grabbed their arm with enough force to cause injury.
- The passenger was apologetic to the officer as they were being taken into custody.
- During the incident, Officer A made verbal attempts to de-escalate the situation which were unsuccessful.
- Following the use of force, the Officer A quickly transitioned to cuffing and reasonable care for the subject.

Officer F noted the following:

- Officer F could not observe the force or the assault on Officer A.

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<sup>11</sup> Officer A, Supplemental Report, 5/20/24.

<sup>12</sup> Arrest Information Sheet 2024-20096962

<sup>13</sup> See *supra* note 20 at 1.

<sup>14</sup> *Id.*

<sup>15</sup> Officer D’s chain of command notes.

- Officers are discouraged from using hard vs. hard strikes due to the increased chance of injury.
- Officer A is a lateral officer. Officer F recently recommended in F24-019 that Officer A receive additional defensive tactics training. Training on hard vs. hard and hard vs. soft Level 2 strikes should occur during the same training recommended in F24-019.

### Use of Force Review Board

The Use of Force Review Board discussion of this case included a discussion on how reviewers' suggested findings concurred that the tactic used was out of policy but those same reviewers recommended the force was within policy. A defensive tactics expert said that the Defensive Tactics (DT) Manual is referenced but are not part of SPD policy. The same expert said they want to see the department move away from having a DT manual citing that the Basic Law Enforcement Academy is teaching a different philosophy that doesn't line up with the manual.

### Disputed Facts

#### *Whether the passenger was attempting to strike Officer A*

The use of force and the specific actions leading up to it was not visible on BWC. The best information on record is SPD Employee A's report and the passenger's statements. The sequence of events were recalled differently when comparing the passenger's statement to Officer A's statement and Officer C's reports after conducting the administrative interview on the use of force.

Officer A's report says that when the passenger turned toward them, Officer A ordered them to the ground as they got closer, but the passenger refused.<sup>16</sup> Officer A grabbed the passenger's left shoulder with their right hand and grabbed a handful of the passenger's sweatshirt on their chest area. That's when the passenger "balled [their] right hand and swung at me with [their] right arm as we fell to the ground."<sup>17</sup> They landed on the ground with the passenger on their back side facing up and Officer A on top of them. That's when the passenger "grabbed my left arm with [their] right hand and dug [their] nails into me causing a burning pain where [their] nails dug into my bicep. [They] did this as pulling me down onto [them]."<sup>18</sup> Officer A yelled at the passenger twice to let go of them. However, Officer A says that since the passenger "had already tried to strike me and I felt [them] pulling me closer, I recognize[d] that [the passenger] possibly had training in martial arts that was above average. I used [their] momentum pulling me down and [struck] [them] one time in the face. This immediately stopped [the passenger] from pulling me

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<sup>16</sup> See *supra* note 20 at 1.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

closer into [them] and [they] immediately let go.”<sup>19</sup> Officer A immediately recognized the passenger was done fighting, gave the passenger commands, they complied, and was handcuffed with the assistance of Officer B. Officer A also wrote in their report that they terminated force immediately when the passenger was compliant.

The supervisor review summarized this portion of the incident as: the passenger grabbed Officer A’s arm, dug their nails, and pulled them to the ground.<sup>20</sup> Officer A used one Level 2 strike on the passenger, a closed fist strike to their left cheek. The passenger immediately complied and was taken into custody without further incident.

The passenger was clear and adamant in their statement to Officer C that they did not use or attempt to use force on Officer A. The passenger was also clear in delineating between what Officer A said happened versus how they recalled events. The passenger said they were falling backwards and grabbed onto Officer A. Then Officer A punched them as they were on the ground.

## Recommendations

### Recommendations to Policy and/or Training

#### Exceptional techniques and the application of the Defensive Tactics Manual

Applicable policies and procedures:

**1. SPD Policy 308: Control Devices and Techniques**

- a. **308.1 PURPOSE AND SCOPE.** This Policy provides guidelines for the use and maintenance of control techniques and devices that are described in this policy.
- b. **308.2 POLICY.** In order to control subjects who are violent or who demonstrate the intent to be violent, the Spokane Police Department authorizes officers to use control techniques and devices in accordance with the guidelines in this policy and the Use of Force Policy (301).
- c. **308.3 CONTROL TECHNIQUES**
  - i. **308.3.1 APPLICATION OF CONTROL TECHNIQUES.** Officers may only use those control techniques for which they have successfully completed department-approved training. Officers utilizing any control technique should consider:
    1. The degree to which the application of the technique may be controlled given the level of resistance.
    2. Whether the person can comply with the direction or orders of the officer.
    3. Whether the person has been given sufficient opportunity to comply.

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<sup>19</sup> *Id.*

<sup>20</sup> Officer C, Use of Force Supervisor Review, 6/17/24.

- ii. “Control techniques” refer to all listed techniques described in the Spokane Police Department Defensive Tactics Manual. Those not listed or modified variations of listed techniques shall be deemed as exceptional techniques.
- 2. Defensive Tactics Manual
  - a. Introduction ¶2
    - i. Any use of force technique and fundamentals that are applied or deployed by an officer of the Spokane Police Department which is not described in this manual will be deemed as exceptional techniques. The reasonableness of exceptional techniques will be judged from the perspective of a reasonable officer on the scene at the time of the incident. Any evaluation of reasonableness must allow for the fact that officers are often forced to make split-second decisions about the amount of force that reasonably appears in a particular situation, with limited information and in current circumstances that are tense, uncertain, and rapidly evolving.
    - ii. All exceptional techniques must be documented in great detail due to the fact that they cannot be referred to in this manual.
  - B. LEVEL II STRIKE TECHNIQUES (ACTIVE COUNTER MEASURES) – ASSAULTIVE
    - i. Hard to Soft / Soft to Hard Principle
      - 1. An officer using a “soft” striking technique should apply the technique to a “hard” target, inversely when an officer is using a “hard” striking technique they should apply the technique to a “soft” target.
      - 2. Hard striking techniques are areas of the body that are very boney, such as a closed fist, an elbow, or a knee.
      - 3. Soft striking techniques are areas of the body without much surface bones, such as the palm of the hand.
    - ii. OPEN HAND HEEL / PALM TECHNIQUES – ASSAULTIVE
      - 1. SAFETY CONCERNS ¶2. Closed fist techniques to the head area of a subject are likely to cause injury to the officer’s hands. This will be considered an exceptional technique. This could cause officer disablement, as well as, expose the subject and officer to biohazards.
- 3. Use of Force and Deadly Force Administrative Review
  - a. 302.1 POLICY. This policy establishes a process for the Spokane Police Department to provide an administrative review of incidents involving use of force and deadly force by its employees...The Use of Force Review Board is designated to review applications of non-deadly force.
  - b. 302.4 UOFRB REVIEW. While reviewing use of force incidents, the UOFRB will consider the totality of the circumstances which may include the following:
    - i. Officers involved and their current assignments during those force incidents
    - ii. The training, experience, and ability of the involved officers

- iii. The physical ability and potential impairment of the subject
- iv. Incident threat factors
- v. Level of resistance by the subject
- vi. Any attempt by the subject to evade by flight
- vii. Severity of the crime or community caretaking function
- viii. Tense, uncertain, rapidly evolving situations
- ix. Split-second decision making
- x. Involved weapons and proximity to potential weapons
- xi. Environmental considerations
- xii. The time of day that incidents took place and geographic locations of incidents
- xiii. The considered and/or considered tactics of the involved officers and the results of the considered and/or chosen tactics
- xiv. Injuries to officers and/or involved subjects
- xv. Number of officers and subjects present during the incident
- xvi. Availability of other force options during the incident, etc.
- xvii. Prior knowledge and/or contacts with the subject
- xviii. Quality of supervision
- xix. Early Intervention System (EIS) alerts
- xx. Training considerations
- xxi. Police radio considerations
- xxii. Tactical considerations
- xxiii. Patrol procedures considerations
- xxiv. Equipment considerations
- xxv. Documentation considerations
- xxvi. Policy considerations
- xxvii. Other relevant observations and recommendations

*Whether the Defensive Tactics Manual is part of the SPD Policy*

When discussing how a technique that goes against the DT Manual and be suggested to be within policy can be reconciled, a member of the Use of Force Review Board raised the issue that the DT Manual is not part of SPD's Policy, it is only referenced. Not following the tactics provided in the DT Manual is not a violation of policy. The member even questioned why we needed a DT manual at all. In this case, Safety Concerns ¶2 of the DT Manual provides that a closed fist technique to the head area is an exceptional technique which is included as part of SPD Policy 308.3, "Control Techniques."

**Recommendation 24-17:** The OPO recommends SPD safeguard the reputation of the Use of Force Review Board by only placing individuals who have a working knowledge of SPD policies and procedures on boards. Additionally, members of the review board should be individuals who are willing to critically analyze the different factors listed in SPD Policy 302.4.

*Proper classification of a closed fist strike to the face as an exceptional technique*

This case was reviewed for a Level II tactic, a closed-fist strike to the face. However, the DT Manual provides that a closed fist technique to the head area of a subject will be considered an exceptional technique. Furthermore, when an exceptional technique is used, it must be documented in great detail because it is not referenced in the DT Manual. Here, a tactic that the DT Manual explicitly calls an exceptional technique was not categorized or reviewed as such. The question of what additional justification that warranted the use of an exceptional technique was not answered due to a lack of investigation of this issue.

The OPO notes that SPD's use of "exceptional techniques" will be changing. As of October 24, 2024, SPD has sent out a notice to command staff that the department will be moving away from the use of the exceptional technique. However, it is too early to assess the substantive changes that will be made. Regardless of the direction SPD is moving, the department must uphold the highest standards on uses of force.

**Recommendation 24-18:** The OPO recommends supervisors should clearly indicate in their reviews when a use of force is outside of policy and there should be considered exceptional. Exceptional techniques should be carefully reviewed to determine their necessity and appropriateness. Special care should be given to alternative and appropriate force options that were available at the time, if any.

De-escalation

1. SPD Policy 300.2. De-escalation defined – "De-escalation tactics" refer to actions used by a peace officer that are intended to minimize the likelihood of the need to use force during an incident. Depending on the circumstances, "de-escalation tactics" may include, but are not limited to: Using clear instructions and verbal persuasion; attempting to slow down or stabilize the situation so that more time, options, and resources are available to resolve the incident; creating physical distance by employing tactical repositioning to maintain the benefit of time, distance, and cover; when there are multiple officers, designating one officer to communicate in order to avoid competing commands; requesting and using available support and resources, such as a crisis intervention team, a designated crisis responder or other behavioral health professional, or back-up officers. (RCW 10.120.010.)
2. SPD Policy 300.3 DE-ESCALATION. Officers shall, when possible, use all de-escalation tactics that are available and appropriate under the circumstances before using any physical force. De-escalation tactics are used in an effort to reduce the need for, or degree of, force necessary to safely resolve a situation. It is recognized that every situation is unique and fact-specific; not all tactics are appropriate in every circumstance. It is not required that officers use every technique below during every

incident. The over-arching objective of de-escalation is to make a situation less dangerous for the public, the officers, and the subject involved. The subject's actions, type of weapon(s), presence of hostages, and overall risk to the general public and the involved officers will be important considerations in determining which tactics are appropriate in a particular scenario.

3. SPD Policy 300.3(B)(1)-(3) The following are considered de-escalation tactics:
  - i. Allow subjects the opportunity to submit to arrest before force is used.
  - ii. Attempt to isolate and contain the subject. When it is safe and reasonable to do so, officers should make advantageous use of:
    1. Positioning, distance, concealment, and cover by isolating and containing a subject.
    2. Continuously evaluating the officer's positioning, subject's actions, and available force options.
    3. Placing barriers between an uncooperative subject and an officer.
  - iii. Create time and distance from the subject by creating a buffer zone (reactionary gap) and utilize cover.
    1. In order to use time as a tactic, a zone of safety should be established for the security of responding members and the public.
    2. Using time as a tactic may:
      - a. Permit the de-escalation of the subject's behavior and create a window of opportunity to use a lower level of force to resolve the situation.
      - b. Allow for continued communication with the subject and adjustment of the verbal control techniques employed by members.
- b. SPD Policy 300.3(B)(6) – Avoidance of physical confrontation, unless necessary.
- c. SPD Policy 300.3(B)(8) – Any other tactics and approaches that attempt to achieve law enforcement objectives by gaining the compliance of the subject.

#### *Clearly defining what is de-escalation*

There is no evidence-based definition of de-escalation in criminal justice.<sup>21</sup> Researchers conducted a survey of academic studies on de-escalation over a 40-year period, from 1976-2016, and have not been able to identify evaluations of de-escalation in criminal justice or policing.<sup>22</sup> However, more research is now being conducted. In 2018, Abanonu said “An opportunity to de-escalate a conflict exists between the moment when the use of force is justified and the moment when lack of an alternative solution makes the use of force necessary.”<sup>23</sup> In 2019, researchers Todak and White defined de-escalation as “Bringing a situation or citizen in crisis back to a calm

<sup>21</sup> Wash. St. Ofc. Of the Att’y Gen., Model Use of Force Policy (2022), [https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/UOF%20Model%20Policies\\_070122\\_FINAL\\_0.pdf](https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Another/UOF%20Model%20Policies_070122_FINAL_0.pdf) (the model policy only discusses de-escalation techniques, it does not define it)

<sup>22</sup> *Id.*

<sup>23</sup> Rachel Abanonu, *De-escalating Police-Citizen Encounters*, 27 Review of Law and Social Justice, 239-269(2018).



state, using the least amount of force possible.”<sup>24</sup> This definition was developed through focus groups and interviews with police officers. Todak and White offer five tactics that appear to be effective at de-escalating: showing humanity, listening, empowering, being honest, and making compromises.<sup>25</sup> In addition, they listed traits of officers that make them better de-escalators: being empathetic, having communication skills, and the ability to stay calm during a crisis.<sup>26</sup>

Though de-escalation has diffused widely and rapidly in law enforcement, there is no agreed upon definition of the term or tactics.<sup>27</sup> Without a clear definition of de-escalation, there has been a variance in training and tactical approaches across different police agencies. For example, the Phoenix Police Department’s de-escalation policy includes using of force and states that it is acceptable and prudent to use elevated tones and intense language as a tactic to enhance the de-escalation process.<sup>28</sup>

The Department of Justice’s (DOJ) investigation into the City of Phoenix and Phoenix PD found that the police engaged in a pattern and practice of excessive force and violated its citizens’ civil rights. The findings report found that Phoenix PD has trained its officers that all force—even deadly force—is de-escalation.<sup>29</sup> This attitude runs contrary to the basic principles of de-escalation, which offers strategies, such as time, distance, cover, and verbal persuasion, to help a person voluntarily comply with officers without the need to use force or to lessen the force needed.<sup>30</sup> Phoenix PD officers have been trained to “use escalation to de-escalate the situation” as quickly as possible.<sup>31</sup> Officers use unreasonable force to rapidly dominate encounters, often within the first few moments of an encounter.<sup>32</sup> Officers fail to employ basic strategies to avoid force, like verbal de-escalation or using time or distance to slow things down.<sup>33</sup> The DOJ found that this practice translates to quickly using unreasonable force, often without considering whether any force is necessary at all.

In this case, Officer A engaged in a foot pursuit of the passenger of a stolen vehicle. The duration of the pursuit lasted less than 40 seconds. Officer A yelled different commands that ranged from “stop” to “you’re gonna get tased” to “on the ground” to the passenger as they pursued. The

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<sup>24</sup> Gabrielle T. Isaza, *Examining the Impact of De-escalation Training on Police Officer Attitudes: A Pilot Evaluation* (Oct. 28, 2020)(Ph.D. dissertation, University of Cincinnati)(quoting Natalie Todak and Michael D. White, *Expert Officer Perceptions of De-escalating in Policing*, 42 *Policing*, 832-846 (2019)).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> Michael D. White, Ph.D., et al., *Testing the Impact of De-escalation Training on Officer Behavior: The Tempe (AZ) Smart Policing Initiative, Final Report* (2021).

<sup>28</sup> Phx. Pol. Dept., *Operations Order §1.5(H) Response to Resistance: De-escalation/Escalation Strategies* (Rev. Oct. 25, 2023) available at <https://public.powerdms.com/PhoenixPD/documents/1549220>.

<sup>29</sup> U.S. Dep’t. of Justice, Civil Rights Division, *Investigation of the City of Phoenix and the Phoenix Police Department* (2024) available at <https://www.justice.gov/crt/media/1355866/dl?inline>.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

passenger stopped running, turned and had their hands up as Officer A approached. Officer A documented in their report under the de-escalation section:

I gave numerous commands to [the passenger] to stop while we were in foot pursuit. Even after [they] stopped, I ordered [them] to the ground and [they] refused. I used as much time as I felt comfortable with before I felt [they] were going to run from me again after [they] stopped before grabbing [them]. If [the passenger] showed any sign of de-escalating or any amount of compliance, I would have continued verbally speaking with [them] and would not have taken [them] to the ground.<sup>34</sup>

According to the IACP, giving verbal commands is a type of force.<sup>35</sup> On the contrary, those same verbal commands during the foot pursuit could be considered warnings allowing the subject the opportunity to comply and the takedown was necessary to gain compliance under the SPD policy referenced above. The passenger's compliance should continue to be evaluated until the moment force was used.

Spokane PD's de-escalation policy conforms to the Washington State Attorney General Model Policy on Use of Force, which provides a list of examples of what can be considered de-escalation. This had led to a wide interpretation of what de-escalation is. To create a clear expectation of how officers should approach de-escalation, it should be clearly and properly defined in policy.

**Recommendation 24-19: SPD should amend its policy to evaluate the types of communication strategies that are more likely to emphasize that the subject hears the order, understands it, and has enough time to respond prior to force being used.**

### *Training on de-escalation*

#### *1. Seattle Police Department*

Several types of training have been implemented and studied on de-escalation. In 2015, the Seattle Police Department developed a Tactical De-escalation Training Plan. The Seattle police monitor said in a filing to the federal judge that the public has long suggested officers receive de-escalation training to reduce the potential need to use force. However, "In many instances the concept of 'de-escalation' has tended to be imprecisely defined and served as a kind of 'catch-all' term or approach used to refer to anything that might defuse police encounters. Clear and

<sup>34</sup> See *supra* note 3 at 6.

<sup>35</sup> Gabrielle T. Isaza, *Examining the Impact of De-escalation Training on Police Officer Attitudes: A Pilot Evaluation* (Oct. 28, 2020)(Ph.D. dissertation, University of Cincinnati) (explaining that the IACP developed a working definition of use of force that better applies to law enforcement, "the amount of force required by police to compel compliance by an unwilling subject," which can range from verbal commands to the use of weapons to compel compliance).

precise training on what de-escalation means in Seattle began in earnest last year [2014].”<sup>36</sup> Seattle PD’s training consists of a four-hour block that builds on previous de-escalation training. Officers are taught modified active listening, effective de-escalating communication, and appropriate recognition and reaction to body language.<sup>37</sup> This is taught in conjunction with Individual Firearms Training to provide officers de-escalation experience under stressful scenarios and to emphasize the array of strategies, tactics, and tools that officers may use to safely resolve a dynamic and fast-moving situation. Officers must evaluate an unknown threat, determine whether or how to give verbal commands and use other de-escalation techniques, and make decisions about whether using force is necessary. See Appendix A for more information.

## 2. Tempe Police Department

In Tempe, Arizona, the police department worked with researchers from Arizona State University through funding from the Bureau of Justice Assistance (BJA) Smart Policing Initiative (SPI) to design, deliver, and evaluate a customized de-escalation training program. The project had three phases: (1) design of the de-escalation curriculum; (2) delivery of the training via squad-based randomized controlled trials; and (3) the evaluation of training impact.<sup>38</sup> The evaluation compares officers who went through the training and those who did not with pre- and post-training assessment of:

- Officer perceptions surveys;
- Administrative data on use of force;
- Citizen perception surveys (post-training only);
- Random review of BWC footage;
- Review of BWC footage of use of force incidents.

The Tempe curriculum was grounded in the Los Angeles Police Department’s PATROL model: Planning, Assessment, Time, Redeploy, Other Resources, Lines of Communication. The PATROL model emphasizes constant re-evaluation of circumstances, adaptability, slowing down the encounter, and using time and distance to the officer’s favor. The curriculum is comprehensive with strong elements of officer health and wellness. It is grounded in four guiding pillars:<sup>39</sup>

- Officer pre-care: personal life, work/life balance, sleep, proactive care, coping mechanisms, resources;
- Officer self-management: education and training, seeking additional skills, knowing when you are having a bad day, mental health;

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<sup>36</sup> Memo. Submitting 2015 Tactical De-escalation and Individual Firearms Training p.2, *U.S. v. City of Seattle*, No. C12-1282-JLR (Dist. Ct. W.D. Wash., Seattle) available at <https://clearinghouse-umich-production.s3.amazonaws.com/media/doc/81076.pdf>.

<sup>37</sup> *Id.*

<sup>38</sup> *See supra* note 29 at 8.

<sup>39</sup> *Id.* at 22.

- Managing resources: Relieving a colleague when needed (tapping out), awareness of resources, communication (with citizens, dispatch, and fellow officers), setting the tone and energy;
- Resiliency: Post-incident debrief, time to decompress, culture change, peer support.

The de-escalation training consists of:

- Defining de-escalation
- Pre-care and self-management
- Sources of stress and trauma
- Effective coping mechanisms and critical incident stress management
- Active listening
- Emotional intelligence
- Planning (including pre-planning), creativity, improvisation, and adaptability affect police work
- PATROL model scenarios
- PATROL debriefing

The study found compelling results: the Tempe de-escalation training fundamentally altered – for the better – the way in which officers handle encounters with citizens.<sup>40</sup> The officer surveys showed that trained officers place greater emphasis on compromise and self-reported greater use of certain tactics (compromise, knowing when to walk away, maintaining officer safety).<sup>41</sup> The phone surveys of citizens identified 16 statistically significant differences between the officers who took the training and the officers who did not, all favoring the positive impact of the training.<sup>42</sup> The differences among the officers who took the training include features of procedural justice (e.g., fair treatment, honesty, listening), key de-escalation tactics (e.g., patience, compromise, empathy, doing things to keep the citizen calm), and increased satisfaction with how the citizen was treated and how the encounter was resolved.<sup>43</sup> Figure 1 is a post-training survey from officers and Figure 2 is a survey on citizens' perceptions of officers. Both demonstrate the qualities desired in de-escalation.

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<sup>40</sup> *Id.* at 56.

<sup>41</sup> *Id.* at 55.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

Figure 1: Police Post-Training Evaluation

<i>Outcome (Importance of De-Escalation Tactics)</i>	Mean Trained	Mean Not Trained	Difference
Patience	2.7	2.8	-0.1
Communication	2.8	2.9	-0.1
Listening	2.8	2.9	-0.1
Compromise	2.0	1.3	0.7*
Non-threatening body language	2.2	1.8	0.4
Staying calm	2.7	2.8	-0.1
Empathy	2.4	2.1	0.3
Knowing when to request back-up	2.7	2.6	0.1
Knowing when to call a supervisor	2.2	2.0	0.1
Knowing when to use force	2.9	2.8	0.0
Knowing when not to use force	2.9	2.9	0.0
Using proper tactics	2.9	2.7	0.2
Maintaining officer safety	2.9	2.7	0.2
Knowing when to walk away	2.7	2.6	0.0
Using appropriate wording and language	2.5	2.2	0.3
Speaking in a calm manner	2.4	2.3	0.0
Keeping appropriate personal space	2.4	2.1	0.3
Maintaining eye contact	2.0	2.0	0.0
<i>Outcome (Frequency of Use)</i>			
Patience	3.9	3.5	0.4
Communication	4.0	3.7	0.3
Listening	4.0	3.7	0.3
Compromise	3.5	2.5	0.9*
Non-threatening body language	3.7	3.2	0.5
Staying calm	3.9	3.6	0.3
Empathy	3.6	3.3	0.3
Knowing when to request back-up	3.4	2.3	1.1
Knowing when to call a supervisor	2.6	2.1	0.5
Knowing when to use force	3.2	2.7	0.5
Knowing when not to use force	3.3	2.8	0.5
Using proper tactics	3.9	3.3	0.7
Maintaining officer safety	4.0	3.2	0.9*
Knowing when to walk away	3.5	2.4	1.0*
Using appropriate wording and language	3.8	3.3	0.5
Speaking in a calm manner	3.9	3.5	0.4
Keeping appropriate personal space	3.8	3.0	0.8
Maintaining eye contact	3.5	3.0	0.6
Note: *p<.05, **p<.01, ***p<.001			

Figure 2: Citizen Post-Training Perception

Variable	Overall Mean (n = 282)	Tx (n = 151)	Control (n = 131)
<i>Satisfaction with police</i>			
Ofc treated you with respect	2.61	2.66	2.56
Ofc treated you fairly	2.56	2.65*	2.46
Ofc was honest with you	2.57	2.65 <sup>a</sup>	2.48
Ofc listened carefully to you	2.52	2.61*	2.41
Ofc acted professionally	2.57	2.67*	2.47
Ofc cared about your well-being	2.43	2.53	2.33
Ofc threatened to use force against you	0.17	0.17	0.15
Ofc used force against you	0.14	0.14	0.12
You are satisfied with how you were treated	2.44	2.56*	2.33
You are satisfied with how your situation was resolved	2.05	2.21*	1.89
<i>De-escalation tactics</i>			
Ofc had a calm tone	2.45	2.60**	2.28
Ofc explained their decision-making process	2.37	2.44	2.29
Ofc used appropriate language with you	2.63	2.70*	2.57
Ofc encouraged you that a positive outcome could be reached	2.26	2.37*	2.14
Ofc gave you enough physical space	2.57	2.61	2.53
Ofc maintained eye contact	2.45	2.50	2.38
Ofc took a calm, peaceful approach to resolve the situation	2.54	2.62	2.46
Ofc remained neutral throughout encounter	2.53	2.61*	2.43
Ofc's body language was neutral or welcoming	2.43	2.46	2.40
Ofc took necessary steps to ensure your safety at the scene	2.52	2.57	2.48
Ofc was patient with you	2.55	2.63*	2.46
You were upset/angry with the officer	0.54	0.44*	0.65
Ofc was upset/angry with you	0.38	0.33	0.44
Ofc was actively listening to you	2.50	2.57*	2.40
Ofc was in a rush to get the encounter over with	0.68	0.58	0.78
Ofc compromised with you	2.26	2.38 <sup>a</sup>	2.14
Ofc showed empathy	2.36	2.47*	2.23
Ofc did or said things to calm you down	2.27	2.40*	2.10

Note: ANOVAs were conducted for a sensitivity analysis

\*p < .05, \*\*p < .01, \*\*\*p < .001

<sup>a</sup>ANOVA sensitivity analysis indicates a statistically significant difference between Tx and Control (p < .05)

### 3. ICAT

The Integrating Communications, Assessment, and Tactics (ICAT) training program was released in 2016 as a de-escalation training program developed by the Police Executive Research Forum (PERF). ICAT combines critical thinking, crisis intervention, communications, and tactics into an integrated approach to training.<sup>44</sup> ICAT is anchored by a Critical Decision-Making Model that

<sup>44</sup> See <https://www.policeforum.org/trainingguide>.

helps officers assess situations, make safe and effective decisions, and document and learn from their actions.<sup>45</sup> This is designed to enhance the safety of both officers and those they meet by providing officers with more tools, skills, and options for handling different types of critical incidents, especially those in behavioral health crisis or mental illness and are unarmed.<sup>46</sup> This training relies on tactics and skills to de-escalate potentially volatile officer-citizen interactions. One drawback of this model is that it is primarily focused on behavioral health crisis or mental illness.

#### 4. T3 Training

Polis' Tact, Tactics, and Trust is an evidence-based policing training system that combines essential officer safety, communication, and trust building skills into a unified curriculum. The T3 training program is based on the "Good Stranger" program to improve the social interaction skills of U.S. soldiers in Iraq and Afghanistan. This training attempts to teach police officers three core tenets of social interaction:<sup>47</sup>

- Tact – procedural fairness, rapport building, self-control, and empathy;
- Tactics – delaying physical contact and limiting the reliance on force; and
- Trust – the need to create a lasting positive impact on the citizens they contact.

The T3 training is build around seven core principles:<sup>48</sup>

- Positive Effects
- Never Humiliate
- Be Balanced
- Be Real
- Self-Control
- Be Smooth
- Be Empathetic

The training program begins with "tactical decision exercises" where officers are introduced to concepts through examples and videos in a classroom setting. Then the program moves into the central emphasis, which is active engagement. In this stage, officers are asked to observe videos of actual officer-citizen interactions with set decision points built in. The video shows a portion of an interaction and then pauses. Officers are given a limited amount of time to write down their priorities during the interaction at that moment. Then, officers are given about five minutes to discuss their views of the interaction with the group. T3 is a low-intensity, high repetition training.

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<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> See <https://crimesolutions.ojp.gov/ratedprograms/tact-tactics-and-trust-t3-training-program#2-0>.

<sup>48</sup> *Id.*

Researchers found that officers who participated in T3 training assigned greater priority to procedurally fair communication compared to those who did not participate in the training.<sup>49</sup> But there was no statistically significant impact on maintaining self-control, officers' prioritization of physical control, and use of force incidents.<sup>50</sup> Overall, the preponderance of the evidence suggests the training did not have the intended effects on officers.<sup>51</sup>

**Recommendation 24-20: SPD should consider a comprehensive de-escalation training program that is evidence-based with measurable outcomes to determine the effectiveness of the tactics and training taught.**

### Lack of thorough investigation

Some reviewers in chain of command review placed emphasis on how the passenger was apologetic when they were being escorted to the police vehicle. However, Officer C interviewed the passenger and did not capture the most serious allegations the passenger made in their use of force review. The passenger said they were punched in the face for running from Officer A. A synopsis was only mentioned in Officer C's Field Case Supplement report. However, Officer C was also the author of the Use of Force Supervisor Review and there was no mention of the allegations made by the passenger. None of the others in the chain of command mentioned or considered the passenger's allegations or side of the story. Neither was this allegation referred to Internal Affairs.

Officer C's Field Case Supplement Report included a couple of quotes from the passenger but not enough to capture the allegations the passenger made despite the entire interaction being recorded on BWC. Officer C's report includes excerpts from their conversation with the passenger, 'I ran from [them] because I was scared and I guess [they] said I gripped [their] shirt while I was falling, so [they] punched my face.' [They] described as if [they] had stopped and put [their] hands up looking to stop running and the [o]fficer slammed [them] to the ground, 'like when you grab something while you're falling.' [The passenger] said they were already on the ground when the officer 'socked' [them] in the face. [They] said the [o]fficer punched [them] once time and [the passenger] did not use any force on the [o]fficer.<sup>52</sup> Officer C observed the passenger's left cheek was swollen consistent with being struck. Officer C also observed the passenger was speaking clearly and not complaining of any pain or broken bones. The passenger said they were dizzy, officers confirmed what they meant by "dizzy" and they gave them water. The passenger did not require any medical treatment.

All the other reviews use the same facts mentioned in Officer A's report. Officers C and E mentioned in their review that the passenger swung at Officer A and grabbed their arm which

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

<sup>52</sup> *See supra* note 20 at 1.



was not viewable on BWC. No reviewer attempted to analyze Officer A's video such as the positioning of the passenger and Officer A compared to the different accounts each provided. It appears that the entire chain of command disregarded the passenger's statements and took Officer A's report as an undisputed fact, even though the officer was never questioned regarding the allegations.

**Recommendation 24-21: Questions regarding uses of force should be investigated rather than reviewed. This is especially true in uses of force where an officer and the subject have conflicting recollections of the incident that create disputed facts that go to the heart of whether force was justified.**

DRAFT

## Summary of Recommendations

1. **Recommendation 24-17**: The OPO recommends SPD safeguard the reputation of the Use of Force Review Board by only placing individuals who have a working knowledge of SPD policies and procedures on boards. Additionally, members of the review board should be individuals who are willing to critically analyze the different factors listed in SPD Policy 302.4.
2. **Recommendation 24-18**: The OPO recommends supervisors should clearly indicate in their reviews when a use of force is outside of policy and there should be considered exceptional. Exceptional techniques should be carefully reviewed to determine their necessity and appropriateness. Special care should be given to alternative and appropriate force options that were available at the time, if any.
3. **Recommendation 24-19**: SPD should amend its policy to evaluate the types of communication strategies that are more likely emphasize that the subject hears the order, understands it, and has enough time to respond prior to force being used.
4. **Recommendation 24-20**: SPD should consider a comprehensive de-escalation training program that is evidence-based with measurable outcomes to determine the effectiveness of the tactics and training taught.
5. **Recommendation 24-21**: Questions regarding uses of force should be investigated rather than reviewed. This is especially true in uses of force where an officer and the subject have conflicting recollections of the incident that create disputed facts that go to the heart of whether force was justified.