

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

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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.

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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.

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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).

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.¹

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

¹ 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, 2024.²

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

² 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.³ 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."⁴ 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."⁵ They also believed that they got punched in the face because they ran.⁶ The passenger said twice that Officer A punched them when they were already on the ground.⁷ 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."⁸ 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."⁹ 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."¹⁰

³ See *supra* note 3 at 4.

⁴ Officer C's BWC at 25:43.

⁵ *Id.* at 25:52.

⁶ *Id.*

⁷ *Id.* at 26:12 and 26:19.

⁸ *Id.* at 26:25.

⁹ *Id.* at 26:39.

¹⁰ *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.¹¹ The passenger was booked into juvenile hall for 3rd degree assault, resisting, and obstructing.¹²

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.¹³
- 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.”¹⁴
- 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.¹⁵
- 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.

¹¹ Officer A, Supplemental Report, 5/20/24.

¹² Arrest Information Sheet 2024-20096962

¹³ See *supra* note 20 at 1.

¹⁴ *Id.*

¹⁵ 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.¹⁶ 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."¹⁷ 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]."¹⁸ 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

¹⁶ See *supra* note 20 at 1.

¹⁷ *Id.*

¹⁸ *Id.*

closer into [them] and [they] immediately let go.”¹⁹ 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.²⁰ 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.

¹⁹ *Id.*

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

- 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 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.²¹ 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.²² 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.”²³ In 2019, researchers Todak and White defined de-escalation as “Bringing a situation or citizen in crisis back to a calm

²¹ 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 (the model policy only discusses de-escalation techniques, it does not define it)

²² *Id.*

²³ 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.”²⁴ 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.²⁵ 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.²⁶

Though de-escalation has diffused widely and rapidly in law enforcement, there is no agreed upon definition of the term or tactics.²⁷ 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.²⁸

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.²⁹ 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.³⁰ Phoenix PD officers have been trained to “use escalation to de-escalate the situation” as quickly as possible.³¹ Officers use unreasonable force to rapidly dominate encounters, often within the first few moments of an encounter.³² Officers fail to employ basic strategies to avoid force, like verbal de-escalation or using time or distance to slow things down.³³ 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

²⁴ 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)).

²⁵ *Id.*

²⁶ *Id.*

²⁷ 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).

²⁸ 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>.

²⁹ 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>.

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

³³ *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.³⁴

According to the IACP, giving verbal commands is a type of force.³⁵ 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

³⁴ See *supra* note 3 at 6.

³⁵ 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].”³⁶ 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.³⁷ 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.³⁸ 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:³⁹

- 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;

³⁶ 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>.

³⁷ *Id.*

³⁸ *See supra* note 29 at 8.

³⁹ *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.⁴⁰ 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).⁴¹ 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.⁴² 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.⁴³ 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.

⁴⁰ *Id.* at 56.

⁴¹ *Id.* at 55.

⁴² *Id.*

⁴³ *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 ^a	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 ^a	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

^aANOVA 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.⁴⁴ ICAT is anchored by a Critical Decision-Making Model that

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

helps officers assess situations, make safe and effective decisions, and document and learn from their actions.⁴⁵ 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.⁴⁶ 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:⁴⁷

- 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:⁴⁸

- 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.

⁴⁵ *Id.*

⁴⁶ *Id.*

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

⁴⁸ *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.⁴⁹ But there was no statistically significant impact on maintaining self-control, officers' prioritization of physical control, and use of force incidents.⁵⁰ Overall, the preponderance of the evidence suggests the training did not have the intended effects on officers.⁵¹

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.⁵² 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

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *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.

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 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.