

**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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**Table of Contents**

**Staff Information** ..... 3

**Mission, Authority, and Purpose** ..... 5

**Required Disclosures** ..... 5

**Summary**..... 7

    Procedural History..... 7

    OPO Summary of Facts ..... 7

**Policy Recommendations** ..... 9

    Recommendations to Policy and/or Training..... 9

**Summary of Recommendations**..... 14

## 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).

## 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 of the BWC, 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

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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.

BWC. At 8:32, 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 is 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 interviewing the subject.**

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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.