

Issued Date: NOVEMBER 6, 2023

From: Director Gino Betts, Office of Police Accountability 

Case Number: 2023OPA-0256

Allegations of Misconduct & Director's Findings

Named Employee #1

1. Allegation #1: 5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion

a. **Finding:** Sustained

- **Proposed Discipline:** Written Reprimand to 9 Hours (1 Day) Suspension
 - **Imposed Discipline:** Written Reprimand

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

Administrative Note on Proposed Findings

When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

Executive Summary:

The Complainant—an SPD Supervisor—alleged Named Employee #1 (NE#1) used unreasonable discretion by using a knife to deflate all four tires of a suspect vehicle.

Administrative Note:

On October 6, 2023, the Office of Inspector General certified this case as thorough, timely, and objective.

Summary of the Investigation:

After conducting an intake, OPA opened an investigation. During the investigation, OPA reviewed the internal “Blue Team” complaint, computer aided dispatch (CAD) call report, incident report and supplements, body-worn video (BWV), in-car video (ICV), email correspondence, and NE#1’s training records. OPA also interviewed NE#1.

a. Complaint

The Complainant submitted an internal complaint to OPA through the Blue Team system that documented the following. The Complainant wrote that, on May 19, 2023, NE#1 and Witness Officer #1 (WO#1) were working as partners while augmenting patrol. At about 3:50 PM, several callers reported that a running vehicle was stopped in a lane of travel with an unresponsive male in the driver seat. The Complainant noted that the vehicle’s windows were heavily tinted, which prevented a clear view of the driver. The Complainant documented that the suspect vehicle was a 2018 Ford F150 that returned as stolen and with a caution of “pocketknives and bear mace within the vehicle.” The primary officer (Witness Officer #2 or WO#2) drove by the suspect vehicle and confirmed there was a driver inside who appears to be passed out. WO#2 parked behind the suspect vehicle and awaited backup.

The Complainant wrote that NE#1 and WO#1 arrived on scene and parked “nose to nose” with the suspect vehicle, although there was a gap of several feet between the vehicles. NE#1 exited his SPD vehicle with a knife and proceeded to “run around the stolen vehicle and stab all four of the stolen vehicle’s tires, which quickly deflated them.” NE#1 reported over radio that the vehicle was “disabled.”

The Complainant wrote that NE#1, WO#1, and WO#2 then conducted a “pseudo” high-risk vehicle stop (HRVS) and hailed the driver for less than a minute. Afterwards, NE#1 “devised a plan to break out a window in order to contact the driver.” NE#1 succeeded at breaking the driver-side window after striking it “approximately 30 times.” NE#1 then unlocked the door, removed the driver, and arrested the driver without further incident.

The Complainant documented consulting with the Advanced Training Unit and NE#1’s chain of command. The Complainant documented her belief that, “the puncturing of all four vehicle tires prior to conducting a HRVS was not only a gross deviation from trained tactics but potential serious misconduct, requiring OPA review.”

OPA contacted the Complainant by email to request additional detail on her complaint. The Complainant responded:

Patrol Officers are trained to utilize high risk vehicle tactics to contact stolen vehicles. At the patrol level, immobilizing/disabling a stationary vehicle by pre-emptively deflating tires has never been trained. I recommend reaching out to the advanced training unit if you are

looking for a more detailed description of how officers are trained to contact stolen vehicles.

b. BWV & ICV

OPA reviewed BWV and ICV from the officers on scene. The following facts are summarized from BWV or ICV.

WO#2 arrived on scene and parked his SPD vehicle behind a gray Ford F150. NE#1 and WO#1 drove together in the same SPD vehicle to the scene. On the way to the scene, NE#1 and WO#1 discussed a tactical plan. NE#1 noted, “ it’s a DUI driver. Like we have to . . . that’s, that’s the delicacy of this. Like we have to do the high risk stop, but we also have to prevent a DUI driver from fleeing. And so, umm.” WO#1 responded, “Oh, so you want to block him in?” NE#1 replied, “yes.” As NE#1 and WO#1 continued driving to the scene, NE#1 used the radio to speak directly to WO#2. NE#1 stated, in part, “I’m gonna block it in and then, um, we’re going to . . . I’m gonna disable the vehicle, um, by popping the tires and then I’m gonna move back to you and then we’re gonna treat it as a high risk stop.”

NE#1 and WO#1 arrived on scene. NE#1 was driving and pulled the SPD vehicle nose-to-nose with the suspect vehicle, coming within several feet of the truck. NE#1 and WO#1 exited their vehicle. NE#1 then ran up to and around the suspect vehicle, puncturing its tires with a knife.



Example image of NE#1 using a knife to puncture a tire.

NE#1, WO#1, and WO#2 then gathered at WO#2's vehicle. WO#2 used his public address system to attempt to hail the driver of the suspect vehicle without success. NE#1 then stated his intent to use a "window breaker"—a small hand-held tool designed to shatter vehicle windows—once traffic was stopped by other backing officers. NE#1 provided a tactical plan to WO#1 and WO#2. Generally, NE#1 stated he would break the window while WO#1 provided "letha coverage" and then, after the window was broken, the officers would retreat to cover.

About two minutes and fifteen seconds after WO#2 first attempted to hail the suspect driver, NE#1 ran up to the suspect vehicle and struck the driver-side front window with a tool several times. The window broke but did not shatter. NE#1 cut himself in the process. When the window did not break, NE#1 returned to WO#2 to ask for a baton, which WO#2 provided. NE#1 returned to the suspect vehicle's window and struck the window multiple times with the expandable baton before using the baton to pry the broken window open. After NE#1 created a gap in the window, NE#1 ordered the driver, "Let me see your hands. Let me see your fucking hands. Hands up on the ceiling, right now." NE#1 drew his firearm and pointed it at the driver.



Red arrow indicates expandable baton in NE#1's left hand. Green arrow indicated firearm in NE#1's right hand. NE#1's tattoos obscured by black circle at left.

NE#1 resumed using the baton to strike the window. NE#1 was then able to reach inside the vehicle, open the door, and pull the suspect driver out of the vehicle. NE#1 brought the suspect to the ground. NE#1 and WO#1 arrested the suspect without further incident, and the Seattle Fire Department arrived to medically evaluate the suspect.

NE#1 screened the incident afterwards with a sergeant. The sergeant asked, “did you guys do the tire deflation too?” NE#1 responded, “I did, yeah.” The sergeant replied, “Nice. What did you use.” NE#1 answered, “Uhhh, little knifey knife.” The sergeant responded, “Nice.” NE#1 replied, “Yeah, so we rolled up, slashed tires. Backed up. Tried to, tried to hail him out. No response because he was down. We, at that point, we’re trying to mitigate like, okay, is he capable of coming out or not? And so, at that point, I go up, start smashing the window with my window break. . .”

Later, NE#1 made a comment, “Sucks about their tires, but I wasn’t gonna let, about to let a DUI driver drive away like that so.”

c. CAD Call Report, Incident Report, and Supplements

OPA reviewed the CAD call report as well as the incident report and supplements.

The CAD call report showed that NE#1, WO#1, WO#2, and about five other officers were dispatched to a call for a vehicle stopped in a travel lane. The call noted the vehicle was still running, had its brake lights on, and was blocking traffic. Remarks to the CAD call report showed that the vehicle’s windows were “too tinted” to see the driver. Other remarks noted that community members were observed knocking on the windows with no response and that community members were directing traffic around the truck. Later remarks noted that officers were “starting to hail” the driver and would “approach, break window and reach inside.”

OPA reviewed the incident report, which was written by NE#1, as well as supplemental statements written by WO#1 and WO#2.

The incident report was consistent with the BWV and ICV. NE#1 noted, “By puncturing the truck’s tires, I successfully reduced the ability of the driver to effectively flee if they chose to do so.” NE#1 also documented that a search of the vehicle yielded suspected methamphetamine, fentanyl, and 8 rounds of .45 caliber ammunition. The suspect was arrested for possession of a stolen motor vehicle, DUI, and narcotics-related offenses.

WO#1’s statement was similarly consistent with video evidence. WO#1 noted that NE#1, “disabled the vehicle by popping the vehicle’s tires. I provided lethal cover while [NE#1] broke the front drivers side door in order to get the suspect out of the vehicle.” WO#1 noted the suspect appeared unconscious.

WO#2’s statement also appeared consistent with video evidence. WO#2 wrote that NE#1 “tactically stabbed” the sidewalls of all four vehicle tires.

d. SPD Training Information

OPA reviewed NE#1's training transcripts and corresponded with members of the Training Unit concerning the use of an improvised tool to puncture tires during a motor vehicle stop.

NE#1's training records showed he would have received training on high-risk vehicle stops at the Washington State Criminal Justice Training Center Basic Law Enforcement Academy (BLEA) as well as during SPD's post-BLEA training program. NE#1 also completed a three-day patrol tactics course in April of 2023—about one month prior to this incident—that included training on high-risk vehicle stops.

OPA emailed a member of the Training Unit concerning this matter. The member of the Training Unit affirmed the Complainant's understanding, noting, "We teach high-risk vehicle tactics, none of which includes rushing up on cars, deflating tires without department approved tire deflation devices, or physically removing drivers from vehicles."

e. OPA Interview – NE#1

OPA interviewed NE#1 on August 10, 2023. NE#1 stated he was hired by SPD as a police officer in April of 2019 and had no previous law enforcement experience.

NE#1 recalled augmenting patrol in another precinct on the day of the incident. NE#1 stated he was partnered with WO#1. NE#1 stated the call originally was dispatched as a "blocking traffic" call but, when he heard the vehicle was reported as an unverified stolen vehicle, he and WO#1 went to provide backup to WO#2. NE#1 stated it was a "significant code run" and he possibly drove for ten minutes with lights and sirens. NE#1 noted passing "bumper to bumper traffic" that included school buses and people on bicycles.

NE#1 described speaking with his partner about the stolen vehicle and possible DUI situation as they approached the scene. NE#1 stated that his training and experience with DUI investigations indicated this driver was likely impaired or intoxicated. NE#1 also described forming a tactical plan with WO#1 because he, "wanted to prevent this vehicle from leaving, because it was a stolen vehicle and DUI driver and I didn't want him crashing into people, trying to flee." NE#1 stated he spoke with WO#2 on the precinct tactical radio channel and provided his plan to deflate the tires then perform a high-risk vehicle stop. NE#1 noted that "everyone was on board with the plan."

NE#1 described using his knife to puncture all four truck tires as soon as he parked his SPD vehicle. NE#1 said he and the other officers then backed up and attempted to hail the driver without success. NE#1 noted he could see the vehicle's brake lights were illuminated, indicating the driver had his foot on the brake. NE#1 also described discussing with the other officers that the vehicle's windows were heavily tinted, so they could not see inside. NE#1 said that, after

receiving no response from the driver, he used a tool to brake the window and, then, remove the driver.

NE#1 described his safety concerns with the incident, noting that the driver was likely impaired, unconscious in a stolen vehicle in the middle of rush hour traffic. NE#1 also discussed that SPD has a very strict pursuit policy, which criminals are aware of. NE#1 stated, “very often when you contact a stolen vehicle, if the driver becomes aware, they will immediately try to flee because they know that if they can evade you or even just start driving, that we are not allowed to pursue them when they start driving outside of the traffic pattern.” NE#1 described his concern that the suspect driver would wake up and attempt to flee. NE#1 also described the size, weight, and high performance capabilities of the F150 truck that the suspect driver was in. NE#1 also noted that the scene of the incident was busy and that he had observed school buses in the area. NE#1 described this as motivating his decision to get, “the vehicle disabled as much as I could.”

NE#1 stated he used his knife to puncture the truck’s tires because he, “didn’t have any other means to restrict the vehicle’s ability to effectively leave.” NE#1 noted the large size of the F150 and stated his opinion on its capability to push the SPD patrol vehicles out of the way. NE#1 stated his intent was to deny the truck an opportunity to gain speed or power, limiting the truck’s ability to flee or push the SPD vehicles out of the way. NE#1 described his, “intent by deflating the tires was to keep everyone safe.” NE#1 noted the only deflation device he has ever been certified with is “stop sticks,” but NE#1 stated their use was prohibited on the date of incident. SPD revised its policies to allow the use of stop sticks effective on the date of this incident, May 19, 2023. NE#1 stated this would have been an appropriate situation to deploy stop sticks, but he did not believe any were available. NE#1 stated he has not received training in the use of a stationary tire deflation device.

NE#1 explained his understanding of the discretion policy as, “the Department asking us to be reasonable humans and make decisions that are reasonable to achieve your law enforcement purpose.” NE#1 stated he believed he complied with this policy. NE#1 cited the SPD mission to “prevent crime, enforce the law, and support quality public safety.” NE#1 emphasized that the person driving the stolen vehicle committed a felony and was driving under the influence. NE#1 also noted his belief that officers did not have effective ways of containing suspects in these circumstances. NE#1 expressed his belief that he would have been derelict in his duty if he had not taken an “improvised way of achieving my law enforcement objective to keep this person on scene.” NE#1 admitted that what he did was “not trained,” but emphasized he was not provided with any tools or training to handle this sort of situation. Finally, NE#1 noted the SPD Manual’s preface, which provides that deviation from written standards may be acceptable on a case-by-case basis given the totality of the circumstances, so long as the actions are reasonable and consistent with the Department’s mission and priorities.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion

The Complainant alleged NE#1 used unreasonable discretion by deflating the suspect vehicle's tires with a knife.

As indicated in SPD Policy 5.001-POL-6, "[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment." This policy further states that "[d]iscretion is proportional to the severity of the crime or public safety issue being addressed." SPD Policy 5.001-POL-6.

NE#1's use of a knife to deflate the suspect vehicle's tires—however well intentioned—was unsafe and unreasonable. OPA credits NE#1's explanations for his actions as sincere and recognizes that he was motivated by his desire to promote public safety and apprehend a suspect. But SPD training and policy counseled against his course of action.

SPD's Training Unit does not train officers to use knives as tire deflation devices during high-risk vehicle stops. Officers are required to "use training to assist in following policy." SPD Policy 5.001-POL-3. While failing to follow training, in itself, is not a policy violation, officers are instructed they, "may need to explain, and possibly document, a substantial deviation from training." Id. While not dispositive, the fact SPD does not train officers that a knife could be used to deflate tires during a high-risk vehicle stop is persuasive evidence for OPA that NE#1 did not act reasonably. Knives are extremely common tools, and it is obvious a knife physically could be used to deflate a tire. The fact this is not trained suggests its unreasonableness in this common situation, not that NE#1 exercised reasonable discretion in a novel situation.

Also, SPD Policy 8.300-POL-5(1) provides that, "only officers trained in the use of . . . stationary tire deflation devices are permitted to use them." Where the Department has specified a tool for a specific purpose—and limited that tool's use to officers with specific training—it is generally less reasonable for an officer without that training to use an improvised tool to achieve the same result.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**