



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 19, 2023

FROM: DEPUTY DIRECTOR BONNIE GLENN, ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0237

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	Interim Policy 8.300 - Use of Force Tools 8.300-POL-6 Vehicle-Related Tactics 5. Vehicle-Related Tactics c. Vehicle Deflection (Rev. Eff. Date 12/01/2023)	Not Sustained - Training Referral

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.

EXECUTIVE SUMMARY:

The Complainant—an SPD sergeant—alleged Named Employee #1 (NE#1) used impermissible vehicle tactics to apprehend Community Member #1 (CM#1), the suspect in a stolen vehicle investigation.

ADMINISTRATIVE NOTE:

On October 7, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant filed an internal Blue Team complaint with OPA. OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, incident report, use of force documents, and in-car video (ICV). OPA also interviewed NE#1. These showed the following.

On May 26, 2024, NE#1 and his partner, Witness Officer #1 (WO#1), observed a suspicious vehicle (Camaro) in a shopping mall parking lot. NE#1 and WO#1 saw CM#1 standing next to the Camaro.



View from NE#1's in-car video showing CM#1 and Camaro circled in red.

As the officers drove into the parking lot, CM#1 got into the Camaro's driver seat. NE#1 positioned his police vehicle (PIU) at an angle in front of the Camaro and told WO#1 that he was going to "redirect it."



NE#1 stops his PIU (blue arrow) at an angle in front of Camaro (red arrow).

WO#1, who had exited the PIU, then ordered CM#1 out of the Camaro. The Camaro backed up but was stopped by a concrete stopper on the ground.

As CM#1 was pulling the Camaro backward, NE#1 pulled his PIU forward, making positive contact with the front of the Camaro. NE#1's in-car video (ICV) recorded a bumping sound when the PIU connected with the Camaro.¹

¹ In his Use of Force Report, NE#1 wrote of this contact: "I drove forward closing the distance created by the suspect vehicle. My front push bars made contact with the Camaro at a low speed, less than 5mph."



ICV recorded the sound of tires squealing and NE#1 requesting a “fast back.”² NE#1 backed the PIU up slightly. CM#1 backed the Camaro up further, over the concrete stopper.



Camaro damage is circled in red. Concrete stopper is indicated by green arrow.

² A “fast back” is a request for an expedited response from backing officers.



CM#1 pulled the Camaro forward. NE#1 pulled the PIU forward, making positive contact with the front driver-side quadrant of the Camaro.



As CM#1 appeared to accelerate the Camaro forward, NE#1 used his PIU to push the Camaro backwards.³



³ Describing this interaction in his Use of Force Report, NE#1 wrote: “[CM#1] placed the Camaro into gear and attempted to turn around my patrol vehicle on my passenger side. Again, I closed the distance he created with my patrol vehicle, and I made contact with the Camaro’s driver’s side fender at a low speed, less than 5mph. I kept positive pressure while [CM#1] high centered the rear end of the Camaro on a curb.”



CM#1 accelerated the Camaro with enough force for the tires to smoke. CM#1 also rolled down his window.⁴



Smoke indicated by green circle.

NE#1 accelerated forward, using his PIU to push the front driver-side of the Camaro back.



NE#1 and WO#1 performed a high-risk vehicle stop and removed CM#1 from the Camaro. The Camaro was verified as stolen and was, in fact, the same stolen vehicle NE#1 and WO#1 took a report on the previous day.

OPA interviewed NE#1. NE#1 stated he has worked for SPD for approximately nine years and has been assigned to patrol the entire time. NE#1 described taking a report for a stolen orange Camaro the day prior to this incident. NE#1 said that, on the incident date, he observed the orange Camaro in a parking lot. NE#1 said he was suspicious

⁴ In his OPA interview, NE#1 stated that, at this point, the Camaro became stuck ("high centered") on the concrete stopper.



because the Camaro had no front license plate and was backed into a spot away from other vehicles. NE#1 described this behavior as indicative of a potential stolen vehicle. NE#1 also said he believed the Camaro was the same one he took a report on the previous day. NE#1 also said he saw CM#1 walking towards the car. NE#1 said he knows CM#1 and has had multiple interactions with him. NE#1 said CM#1 is a known car thief who had eluded officers about one or two weeks before this incident.

NE#1 said he turned into the parking lot and approached the Camaro. NE#1 described remaining in his vehicle to perform a “vehicle deflection technique” if needed. NE#1 elaborated on the vehicle deflection technique:

It's not a pinning of a vehicle. It's to deflect the vehicle and kind of direct it where we want it to go. And I noted in my report that it was Memorial weekend. It's a busy strip mall, about two blocks away from the [another mall], and I did notice pedestrians in the parking lot. And [the Camaro] a very powerful vehicle, and it could cause extreme harm to the public.

OPA asked NE#1 where he wanted to deflect the Camaro. NE#1 responded:

Well, it's kind of a tactic that's on the fly. So, I don't really know what I was like...where I was going to deflect it. It's based on their behaviors and how they maneuvered the vehicle. ... So when I saw it backing up, creating distance, I went to close the distance so that it wouldn't be able to get around me and fly through that parking lot at a high rate of speed.

OPA and NE#1 then had this exchange:

OPA: Okay. So, SPD policy describes ramming as, “the intentional use of a vehicle to strike another vehicle for the purpose of interrupting or incapacitating the vehicle.” Was your purpose in striking the stolen vehicle to prevent it from fleeing the scene?

NE#1: Yes, it was from fleeing the scene.

OPA: Okay. And so would you say you were trying to interrupt its path of travel?

NE#1: Yes, I was. ... Because it created a great risk to the public.

When asked to describe the exigency of the circumstances, NE#1 stated, “With my training and experience I know that car thieves will attempt to elude with total disregard to public safety. They’re known to ram police vehicles, other vehicles, and pedestrians. And knowing that he eluded prior recently from police would make me believe that he would do it again.” NE#1 also described the presence of other vehicles and pedestrians in and around the parking lot as a potential danger.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

Interim Policy 8.300 - Use of Force Tools 8.300-POL-6 Vehicle-Related Tactics 5. Vehicle-Related Tactics c. Vehicle Deflection (Revised Effective Date 12/01/2023)

The Complainant alleged that NE#1 used an impermissible vehicle tactic to stop CM#1.

On the incident date, SPD policy previously defined “vehicle deflection” as a separate vehicle-related tactic. *See* SPD Interim Policy 8.300-POL-6(5)(c).⁵ A vehicle deflection was defined as the “intentional slow-moving (approximately 10 mph or less) contact between a police vehicle and a slow-moving or stationary suspect vehicle, designed to guide, or prevent movement, where there is not significant impact (not ramming), and the tactic is reasonably unlikely to cause injury.” *Id.* Vehicle deflection was prohibited except in exigent circumstances where: (1) a subject posed a public safety threat because of observed extreme and unsafe driving behavior, or (2) there is a reasonable suspicion that the suspect vehicle posed an imminent threat of death or serious physical injury to another. *Id.*

OPA finds that NE#1 potentially violated policy but, under the totality of the circumstances, any violation was not willful and did not rise to the level of misconduct. Instead, NE#1 was trying to balance important needs of enforcing the law in the safest manner for CM#1, fellow officers, and the community at large. *See* SPD Policy Manual, Mission Statement and Priorities (mission of SPD includes enforcing the law and supporting public safety). These decisions were complicated by confusing distinctions between different vehicle-related tactics which have since been clarified. *See* SPD Policy 8.300-POL-6 (Vehicle-Related Tactics) (Revised Effective Date 09/01/2024). OPA is issuing a training referral on the current vehicle-related tactics policy, which was substantially revised shortly after this incident.

Here, NE#1 had—at minimum—strong reasonable suspicion that CM#1 was in possession of a stolen vehicle. NE#1 and WO#1 took the report for the stolen Camaro—itsself a distinct make, model, and color—the day prior to the incident. NE#1 observed the Camaro about forty blocks from where it had been reported stolen. Moreover, NE#1 observed the Camaro, without a front license plate, parked in such a way as to obscure any rear license plate. NE#1 also saw CM#1—who he knew to be an automobile thief—getting in the Camaro. NE#1 also knew that the Camaro was stolen about one block away from CM#1’s residence. It was both appropriate and expected for NE#1 to take enforcement action.

OPA credits NE#1’s concern that CM#1 was likely to flee when confronted. NE#1 was aware CM#1 had done so in the past, and CM#1 did not initially comply with officer instructions to get out of the car. NE#1 told WO#1 that he would “redirect” the Camaro. In his reports and OPA interview, NE#1 also described using a “vehicle deflection” technique to prevent CM#1 from fleeing. OPA questions whether NE#1’s used an improper pinning technique, a vehicle deflection, or ramming. Regardless, assuming this was a vehicle deflection, it was likely impermissible here.

⁵ Vehicle deflection was removed in the new permanent policy. *See* SPD Policy 8.300-POL-6 (Vehicle-Related Tactics) (Revised Effective Date 09/01/2024).



As previously defined, the distinction between vehicle pinning, deflection, and ramming could be somewhat blurry in practice, especially in the dynamic situations where these tactics are typically used. In this case, it was not clear whether NE#1 was using an impermissible pinning technique versus deflecting or ramming CM#1. NE#1 would have been prohibited from “pinning”⁶ because the Camaro was not stationary and—due to CM#1’s attempts to flee—there were “gaps” between the PIU and the Camaro. Moreover, vehicle pinning was previously prohibited to officers assigned to patrol. But, at such low speeds, it was not clear what the distinction would have been between a vehicle deflection (designed to “guide or prevent movement” without significant impact) and ramming (intentionally striking another vehicle for the purpose of “interrupting or incapacitating”). The distinction between these two techniques was further blurred because the permissible circumstances for both significantly overlapped (exigency and an imminent threat of serious physical injury or death) and both required the same level of force reporting.

Regardless, a deflection was not permissible here. First, policy did not define what sort of “exigent” circumstances allowed patrol officers to use a deflection, so OPA cannot evaluate whether this situation was contemplated. Second, even if NE#1 correctly assumed CM#1 would attempt to flee, that did not mean CM#1 posed a sufficient risk to justify a deflection under SPD policy. OPA does not believe CM#1’s initial attempt to flee constituted “*observed* extreme and unsafe driving behavior.” See SPD Interim Policy 8.300-POL-6(5)(c) (emphasis added). Nor did NE#1’s speculation that CM#1 could drive away at a high rate of speed, potentially injuring some unidentified other individuals, constitute an *imminent threat* of death or serious physical injury to another. See *id.*

OPA recognizes that SPD has significantly clarified its vehicle-related tactics policy since this incident—importantly, by removing “vehicle deflection” as a defined tactic. Based on the totality of the circumstances, OPA finds that there was not a willful violation given the ambiguity of its vehicle-related tactics at that time and the circumstances presented. Therefore, OPA finds the most appropriate disposition in this case is to issue a training referral for NE#1 concerning the new vehicle related tactics policies.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 13.030-POL-6 (rev. eff. date 09/01/2024) with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented in Blue Team.

Recommended Finding: **Not Sustained – Training Referral**

⁶ “Vehicle pinning,” as previously defined, was “a trained tactic when an officer uses a police vehicle, or vehicles, to keep a stationary vehicle in a specified position and from leaving the scene, where there is constant forward pressure (not ramming) applied by the vehicle(s) to the stationary vehicle, and there are no gaps between the vehicle.” SPD Policy 8.300-POL-6(5)(d) (rev. eff. date 12/1/2023).