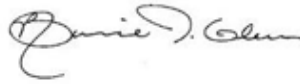

Issued Date: FEBRUARY 25, 2025

From: Interim Director Bonnie Glenn
Office of Police Accountability



Case Number: 2024OPA-0350

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force (Effective April 24, 2023)

Finding: Not Sustained - Training Referral

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

Executive Summary:

Named Employee #1 (NE#1), a canine handler, responded to a no-contact order (NCO) violation involving Community Member #1 (CM#1), who was armed with a knife and prohibited from contacting her mother, Community Member #2 (CM#2). Multiple officers surrounded CM#2's home that CM#1 reportedly burglarized. The Complainant, a sergeant, alleged that NE#1 failed to de-escalate by entering the basement, sacrificing time, distance, and shielding.

Administrative Note:

On January 23, 2025, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

A. OPA Complaint

On September 2, 2024, the Complainant submitted an OPA complaint, providing the following details. Officers responded to an NCO violation at CM#2's home, where CM#1 reportedly entered, grabbed a knife, and went to the basement. Communication was established with CM#1, who remained out of sight. Following NE#1's encouragement, NE#1, his canine, and other officers entered the basement. CM#1 emerged and subsequently placed her hand in her pocket, prompting Witness Officer #1 (WO#1) to fire a 40mm less lethal (LL) munition at her. Afterward, NE#1 deployed his canine when CM#1 entered an adjacent room. The Complainant opined that

this incident involved a barricaded subject, suggesting that the officers did not have life safety concerns that justified their entry. The Complainant alleged that NE#1 failed to de-escalate by entering the basement, sacrificing time, distance, and shielding.

OPA investigated the OPA complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident report, and use-of-force reports. OPA also interviewed the Complainant and NE#1.

B. Computer-Aided Dispatch (CAD) Call Report

On August 29, 2024, at 9:20 AM, CAD call remarks noted, "6 INCH STEAK KNIFE. [REPORTING PARTY'S] DAUGHTER WALKED INTO HOME, [REPORTING PARTY] HAS A [NO-CONTACT ORDER] AGAINST HER UNK[NOWN] IF IT IS STILL ACTIVE, SUSP[ECT] TOOK KNIFE FROM KITCHEN AND WALKED DOWNSTAIRS, APPEARS HIGH INTOX[ICATED], NO [WEAPONS] SEEN."

OPA observed that the CAD call remarks regarding the absence of visible weapons appeared inconsistent with the remarks regarding the reporting party's daughter, who had taken a six-inch knife from the kitchen and walked downstairs. The CAD call remarks could have been referring to the absence of any weapons other than the steak knife being observed.

C. Body-Worn Video (BWV)

BWV captured the following:

Multiple officers, including NE#1, responded to CM#2's home and directed the residents to exit. Witness Officer #2 (WO#2) used a public address (PA) system to order CM#1 to exit the home, but there was no reply. NE#1 requested additional officers via radio. NE#1 approached WO#1, who stood beside the home near an open basement door. WO#1 told NE#1 that CM#1 was last seen in that area. NE#1 stood at the entryway, peered into the basement, and said he could not see clearly due to the sun's glare.

Barking dog sounds were audible. NE#1 said he wanted his canine to search the home to avoid a situation where officers might confront an armed suspect and use lethal force but expressed concerns about the loose dogs inside. NE#1 inspected the exterior of the home and told backing officers his belief that CM#1 was downstairs. NE#1 said this situation did not constitute a barricaded subject because CM#1 was not responding to WO#2's commands. NE#1 returned to his patrol car and told Witness Supervisor #1 (WS#1), an on-scene sergeant, his intent to deploy the canine to contain CM#1.

NE#1 retrieved his canine and returned to the basement's entryway, where WO#1, WO#2, and WS#1 gathered. NE#1 ordered CM#1 to exit, warning that the canine would be deployed if she did not comply. Out of sight, CM#1 said she could not leave, had nowhere to go, and was injured. NE#1 offered her aid if she exited. NE#1 ordered his canine to bark, which it did several times. NE#1 told the officers, "Let's just push in a little bit," before entering the basement with his canine. The other officers followed and positioned themselves as depicted below.



WO#1 warned CM#1 that she risked being bitten or shot with the 40mm munition if officers were required to retrieve her. WO#1 told CM#1 she was under arrest and instructed her to exit with her hands raised and emptied. CM#1 continued to speak, although her responses were not fully discernible. WO#1 said her door was open and urged her to push it further open. WO#1 insisted that the police sought a safe resolution. WO#2 asked about how the officers could assist her and offered her a place to stay if she exited. CM#1 requested the officers to leave, but WO#1 refused, saying she was under arrest. CM#1 repeated that she had nowhere to go. WO#1 again ordered CM#1 to exit.

CM#1 emerged and approached the officers without a knife in hand. WO#1 and WO#2 ordered CM#1 to raise her hands. CM#1 complied but continually pointed to the pink door on the right with her right hand.



CM#1 lowered her right hand and placed it into her right pocket, prompting WO#1 to fire a 40mm munition.



CM#1 shouted, “Ow!” The officers ordered CM#1 to lie on the ground with her hands raised, but she replied, “No” and placed her hand on the doorknob to her right. The officers repeated their commands, but CM#1 opened the door and entered the room. NE#1 shouted, “Take her! Take her!” The canine followed CM#1 into the room, with the officers trailing behind. NE#1’s use-of-force statement indicated that, based on BWV review, the canine appeared to have bitten CM#1 in the right upper chest, right forearm, and right hand, but the Seattle Fire Department was unable to find any injuries consistent with a bite. The canine was beside CM#1 as WO#1 and WO#2 approached from behind to grab and handcuff her. NE#1 kept his canine restrained away from CM#1. The officers then escorted CM#1 out of the home.

D. Use-of-Force Reports

Named Employee #1

NE#1’s type II use-of-force statement described the following de-escalation tactics:

- Requesting additional officers to the scene for containment and to search the home.
- Using the PA system to issue commands and warnings aimed at achieving voluntary compliance.
- Conducting a perimeter assessment of the home to determine officer positioning.
- Engaging in a nearly 30-minute wait to facilitate dialogue with CM#1 before approaching the basement’s entryway with the canine.
- Instructing the canine to bark at the entryway to show CM#1 that a canine was prepared for deployment. NE#1 noted that, based on his experience as a canine handler, the sounds of a barking canine served as an effective de-escalation tactic, as suspects often surrendered out of fear of bites or injuries.

- Communicating with CM#1 to secure compliance by telling her of her arrest, offering a resolution to her housing issue, and warning her about being bitten or shot with the 40mm munition.
- Issuing a final warning that CM#1 would be bitten if she tried to enter the adjacent room.

Type II is force that causes, or is reasonably expected to cause, physical injury greater than transitory pain but less than great or substantial bodily harm. SPD Interim Policy 8.050 (effective May 19, 2023). Type II force includes, among other things, a canine physical contact. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).

NE#1 wrote that WO#1's 40mm munition deployment did not achieve the desired outcome of prompting CM#1 to surrender. NE#1 believed that CM#1 remained armed and thought the situation could escalate to lethal force should CM#1 enter the room or confront the officers, so he decided to deploy his canine for a direct apprehension.

Complainant

The Complainant's use-of-force report stated that this incident involved a barricaded subject that may have escalated when the officers entered the home, sacrificing time, distance and shielding. The Complainant wrote that any action taken by CM#1 could be perceived as "imminent" due to the confined space and the officer's proximity to her. The Complainant believed that NE#1's decision to enter lacked adequate planning.

Watch Lieutenant

The watch lieutenant's (Witness Supervisor #2 or WS#2) use-of-force report identified several issues with NE#1's tactical decisions. First, NE#1 sacrificed time by entering the basement about 30 seconds after instructing his canine to bark, forcing the other officers to follow. Since CM#1 was contained and there were no other victims present, NE#1 should have slowed down the situation. Second, the officers sacrificed distance by positioning themselves in a confined space, which allowed CM#1 to approach WO#1 within mere feet, leaving the officers with insufficient time to react if CM#1 were to draw a knife and advance toward them. Third, NE#1 sacrificed shielding by failing to utilize the protection offered by the entryway door and surrounding walls. WS#2 believed that NE#1 lacked a tactical plan before entering the home, addressing CM#1, or executing her arrest.

WS#2 also believed that NE#1 should not have deployed his canine when CM#1 retreated into the room. He noted that CM#1 was contained and unlikely to escape, dispelling the need for a canine to locate her or prevent her from fleeing. He also noted that the officers were concerned about CM#1 being armed with a knife and had entered a room about which they had no information, particularly regarding the potential existence of other weapons. He wrote that NE#1's actions put his canine and the officers at risk. He wrote that he consulted with a canine trainer, who opined that NE#1's canine deployment was tactically unsound. He concluded that the officers, particularly WS#1, should have recognized the situation as involving a barricaded subject armed with a deadly weapon, who was unwilling to leave the home and did not have access to a victim. He wrote that the situation warranted de-escalation, which should have

included contacting Special Weapons And Tactics (SWAT) or the Hostage Negotiation Team (HNT). He wrote that he consulted with a SWAT commander, who opined that the officers should have refrained from entering the home and instead coordinated with SWAT or HNT.

E. OPA Interviews

Complainant

On December 11, 2024, OPA interviewed the Complainant, a Canine Unit sergeant. His statements were consistent with his OPA complaint and WS#2's use-of-force report. He acknowledged that the officers de-escalated by communicating with CM#1 for several minutes while in the basement but maintained that NE#1 ultimately failed to de-escalate by entering the basement, which sacrificed time, distance, and shielding.

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On December 27, 2024, OPA interviewed NE#1, a Canine Unit officer. He said he inspected the exterior of the home before retrieving his canine, although CM#1's location remained unknown. He said visibility into the home from the basement's entryway was poor due to sunlight. He did not believe the situation warranted a SWAT callout, as CM#1's location was still unknown, and he did not believe she barricaded herself. He said CM#1 had not issued any threats or exhibited behavior consistent with that of a barricaded subject. He said his plan was to search the home alongside his canine and patrol officers, treating the situation as a burglary in progress. He said he instructed his canine to bark, after which he heard CM#1 say she could not exit due to an injury.

NE#1 said he decided to enter the basement due to visibility concerns caused by the sun and to prevent CM#1 from ascending the stairs, as he was uncertain whether all residents had evacuated and believed those who had left did so from the upper level. He said the officers attempted de-escalation by communicating with CM#1. He said he was aware that CM#1 had a knife but was unsure whether she harmed herself with it when she indicated her injury. He felt a responsibility to ensure her safety, so retreating was not an option unless she explicitly refused to exit peacefully. He said CM#1 emerged with her hands raised, but he refrained from deploying his canine at that moment because the officers tried to reason with her and offer aid. He said he decided to deploy his canine when CM#1 entered the adjacent room because the officers had no prior knowledge of it. His summarized de-escalation tactics were consistent with those detailed in his use-of-force statement.

NE#1 also mentioned a conversation he had with the Complainant. He said the Complainant indicated that he should not have entered the basement, an opinion with which NE#1 disagreed. He said he told the Complainant that he did not coordinate the incident with SWAT because that duty fell to WS#1, not him. He expressed confusion about a complaint being filed against him for not de-escalating, especially since WS#1 was present and expressed no concerns about their tactical decisions.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics to Reduce the Need for Force (Effective April 24, 2023)

The Complainant alleged that NE#1 failed to de-escalate by entering the basement, sacrificing time, distance, and shielding.

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force. SPD Interim Policy 8.100-POL-1 (effective April 24, 2023). Officers are encouraged to use team approaches to consider whether any officer has successfully established a rapport with the subject. *Id.* The totality of the circumstances should guide de-escalation options. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

A preponderance of the evidence established NE#1 adequately using de-escalation tactics upon his arrival and before entering the basement. Communication between NE#1 and CM#1 was facilitated through WO#2, who utilized the PA system to encourage voluntary compliance. WO#2's messages included advisements and warnings. NE#1 utilized time by inspecting the perimeter of the home and coordinating a strategy with the other officers. NE#1 also requested additional officers to the scene. About 23 minutes passed before NE#1 entered the basement. NE#1 maintained his distance by remaining outside the home and positioning officers around the perimeter to secure containment. NE#1 and the officers benefited from the protection offered by the walls of the home as they remained outside. NE#1 effectively de-escalated before his entry.

NE#1's entry into the basement presents a more complex scenario characterized by mixed evidence. Throughout the incident, NE#1 and the officers maintained communication with CM#1, attempted to gain voluntary compliance, provided advisements and warnings, used verbal techniques such as Listen and Explain with Equity and Dignity, and offered her aid for her housing and medical concerns. However, NE#1 did not appear to utilize time by entering the basement about 30 seconds after positioning his canine at the entryway. As WS#2 noted, entry was unnecessary since CM#1 was already contained and no other victims were present, which should have prompted NE#1 to stabilize the situation. WS#2 also expressed concerns about NE#1's lack of a tactical plan before entry. Conversely, NE#1 articulated a tactical plan that involved searching the home with his canine and patrol officers, treating the situation as a burglary in progress. NE#1 also articulated concerns that influenced his decision to enter, including visibility issues due to sunlight and the possibility of CM#1 ascending the stairs where other residents might be located. NE#1 was uncertain whether all residents had evacuated the home. Moreover, even after CM#1 emerged about three minutes following the officers' entry, NE#1 refrained from deploying his canine and instead opted to extend the time to gain voluntary compliance from CM#1. Thus, the time factor remains inconclusive based on the available evidence.

Nevertheless, the distance and shielding factors are not in credible dispute, as WS#2 noted. By entering the basement, NE#1 and the officers reduced their distance from CM#1 in a confined space. CM#1 was only a few feet away from WO#1 upon her emergence, which significantly

reduced their reaction time in the event of an unexpected act from CM#1. By entering the basement, NE#1 and the officers failed to utilize the entryway door and surrounding walls as barriers against a potential assault from CM#1. NE#1 countered that he could not retreat due to his obligation to assist CM#1, who reported an injury. However, NE#1 could have been positioned outside as he asked about CM#1's injuries and requested her to exit for medical treatment. NE#1 also noted that WS#1 did not voice opposition to their entry and even participated himself, implying approval of that entry.

Overall, the totality of the evidence reflected adequate de-escalation when NE#1 was outside but inadequate de-escalation with respect to distance and shielding after NE#1 entered the basement. Ultimately, OPA cannot conclude, based on a preponderance of the evidence, that NE#1's decision to enter the basement amounted to misconduct. When considering his conduct within the context of his overall police response, the evidence showed that NE#1 employed several de-escalation tactics, and his entry was based on articulable grounds that he perceived to be reasonable and authorized by WS#1. The appropriate remedy is to provide retraining and counseling on tactical considerations to further enhance de-escalation in similar circumstances.

Separately, OPA appreciated the discussion regarding whether the circumstances amounted to a barricaded subject incident. The Complainant and WS#2 believed it did, arguing that CM#1 was confined to a room, armed with a deadly weapon, unwilling to leave the home, and had no access to a victim. NE#1 disagreed, arguing that CM#1 did not respond to WO#2's warnings, CM#1's location was unknown, CM#1 was not confined to a room, and CM#1 did not issue threats or exhibit behavior consistent with that of a barricaded subject. OPA finds that the evidence supported both interpretations, as SPD policy does not define a barricaded subject. Instead, it describes three conditions under which a barricaded subject incident is "appropriate for a SWAT response." See SPD Policy 15.080-POL-1(2) (requiring (1) probable cause to believe the person committed or is committing a violent felony crime; (2) a reasonable possibility that the person is armed with a deadly weapon; and (3) the person be located within a structure and noncompliant).

Here, de-escalation was arguably tethered to whether the circumstances amounted to a barricaded subject incident. If so, the provisions of SPD Policy 15.080-POL-1(2) may have applied, requiring NE#1 to retreat and WS#1 to contact SWAT. However, NE#1 did not perceive the situation as a barricaded subject incident, and his interpretation was reasonable based on his observations at the scene. Given the reasonable yet differing interpretations regarding the criteria for a barricaded subject, OPA will separately issue a Management Action, recommending SPD to define a barricaded subject in policy. This clarification should guide officers in responding to incidents deemed to involve barricaded subjects.

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

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with him, review SPD Policy 8.100- POL-1 with him, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

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