



## CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 18, 2024

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

CASE NUMBER: 2024OPA-0386

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)	Not Sustained - Lawful and Proper
# 2	8 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)	Not Sustained - Unfounded

*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:

Seattle Police Department (SPD) officers, including Named Employee #1 (NE#1), drove to a gas station and parked behind two vehicles reportedly involved in a street racing event. Upon SPD's arrival, the Complainant entered his vehicle and refused to exit. NE#1 shattered the driver's side window and extracted the Complainant. The Complainant alleged that NE#1 assaulted him. It was also alleged that NE#1 failed to de-escalate before using force.

### ADMINISTRATIVE NOTE:

On November 20, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

### SUMMARY OF INVESTIGATION:

#### A. OPA Complaint

On September 25, 2024, the Office of City Finance forwarded to OPA the Complainant's "Claim for Damages" against the City of Seattle. The Complainant alleged that an SPD officer assaulted him, resulting in "cuts all over [his] body."

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



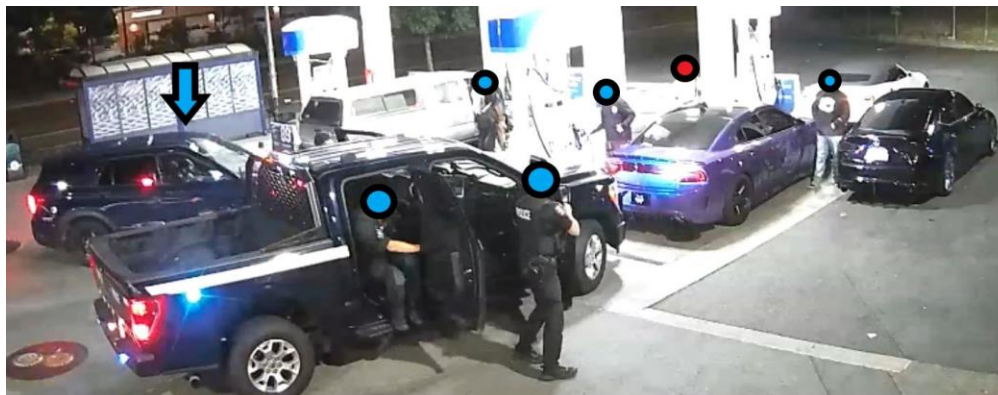
## B. Incident Report

NE#1's incident report stated that he was briefed about an organized street racing event occurring on June 23, 2024. NE#1 wrote that over the past few years, "ongoing violence," including shootings and homicides, occurred at these events, which typically attracted 70 to 100 attendees. NE#1 wrote that there were around 100 vehicles at the event, but many did not have license plates, which NE#1 knew was "common with people who utilize their anonymity to commit crimes." NE#1 wrote that he responded to another location in south Seattle where a large group of modified vehicles raced at high speeds, and the crowd lit fireworks in the middle of the street.<sup>1</sup> NE#1 wrote that he attempted to stop several "erratic" vehicles but did not engage in a vehicular pursuit when the drivers fled at high speed. NE#1 wrote that an officer radioed seeing two vehicles involved in the event at a gas station.<sup>2</sup>

## C. Gas Station Video and Body-Worn Video (BWV)

Gas station video and BWV captured the following:

The Complainant's white vehicle was parked in front of a purple vehicle. SPD officers, including NE#1, drove to the gas station with their lights activated and parked behind the purple vehicle.



*The Complainant (red circle) stood near the front of the purple vehicle as NE#1 (blue arrow) parked. WS#1 was NE#1's passenger.*

NE#1 exited his patrol vehicle and began approaching the Complainant. The Complainant walked toward the driver's side of his vehicle and opened the door. NE#1 shouted, "Hey! Hey!" The Complainant entered his vehicle and looked at NE#1 while reaching for the door.

<sup>1</sup> Witness Supervisor #1 (WS#1)—a sergeant—also noted in his use-of-force report that multiple people were reportedly shot from gunfire, and the suspect remained at large.

<sup>2</sup> WS#1's use-of-force report also noted that officers observed the occupants of these vehicles driving recklessly.



*The above image depicted the Complainant looking at NE#1 while reaching for the door. The Complainant's vehicle did not have a rear license plate. Its rear lights were illuminated.*

NE#1 told the Complainant, "Get out of the car." The Complainant closed the door. NE#1 shouted, "Get out of the car!" NE#1 approached the driver's side window, drew a magazine, and again ordered, "Get out of the car." NE#1 tried to open the door using the handle, but it was locked.



*As depicted above, window tint obstructed visibility into the vehicle.*

NE#1 struck the window using the magazine, creating a hole. Shards of glass fell outside the vehicle. WS#1 applied a stationary tire deflation device against the front driver's side tire.



NE#1 repeatedly pressed his left hand against the window and shouted, "Get out of the car!" The Complainant opened the door. The glass shattered and fell near the Complainant's left hand as he extended his left arm toward the door.



The Complainant said, "Sorry, damn! Jesus Christ! What did I do?" NE#1 grabbed the Complainant's left arm and pulled him out of the vehicle. NE#1 replied, "I told you to get out of the car." The Complainant said, "You can't break my window." The Complainant expressed back pain and then handed his identification to NE#1 after NE#1 asked for it. NE#1's left hand bled. The Complainant identified himself as an emergency medical technician. When NE#1 asked why he went to his car, he stated he, "kind of ... went to his car to call his mother, because that's what he was taught." NE#1 told the Complainant he was detained because he did not have a rear license plate and then defied police commands. NE#1 said he did not know the Complainant and could not see through the window. NE#1 also mentioned that people were out racing with guns and "acting wild." The Complainant denied knowing anything about a shooting.



The Seattle Fire Department (SFD) arrived and evaluated the Complainant for small lacerations on his left pinky and ring finger. The Complainant was later permitted to leave.<sup>3</sup>

#### **D. Use-of-Force Reports**

NE#1's type II<sup>4</sup> use-of-force statement indicated that de-escalation was unfeasible due to the Complainant's noncompliance. NE#1 wrote that he used a magazine to break the window before the Complainant could use his vehicle as a weapon or operate it with wanton disregard for the public.

A watch lieutenant and captain reviewed and approved NE#1's use of force in this incident.

#### **E. OPA Interviews**

On November 7, 2024, OPA interviewed the Complainant. He believed NE#1 lacked probable cause for a missing rear license plate or obstruction and thought NE#1's breaking the window constituted assault. He said the broken glass cut his legs and entered his shoes, causing lacerations to his feet. He thought NE#1 could not see a missing rear license plate since a vehicle was parked behind him. He said he did not know that he was seized because several people were at the gas station, he did not recall seeing patrol vehicles' lights illuminated, and he did not know NE#1 was speaking to him.

On November 7, 2024, OPA interviewed NE#1. NE#1 said his chain of command mandated targeted enforcement against street racing events due to the violence associated with them. NE#1 said the number of shootings at these events increased. NE#1 said vehicles were used as weapons, and people often got struck or run over by them. NE#1 said de-escalation was unfeasible due to the fast-paced nature of his contact with the Complainant. Specifically, NE#1 noted the speed at which the Complainant disobeyed police commands, quickly entered his vehicle, and intentionally locked his door. NE#1 also noted the uncomfortable position he was in when he could not see the Complainant in the vehicle due to the window tint. NE#1 said he had a short timeframe to react to the Complainant's conduct. NE#1 said further commands and waiting were unfeasible because the Complainant could have fled or reached for a weapon. NE#1 believed he verbalized sufficient commands before breaking the window. NE#1 said the way he broke the window—using a special tool attached to the magazine to strike the lower part of the window—was consistent with his training. NE#1 said he exercised discretion by releasing the Complainant, despite having probable cause to arrest him for obstruction, because NE#1 preferred to educate him.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 – Allegation #1**

##### ***8.200 – Using Force, 8.200-POL-1. Use of Force: When Authorized (Effective April 24, 2023)***

The Complainant alleged that NE#1 used unauthorized force by breaking his window, causing lacerations.

<sup>3</sup> NE#1's incident report stated that he had probable cause to arrest the Complainant for obstruction but released him instead.

<sup>4</sup> 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 laceration. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).





Officers will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all persons. SPD Interim Policy 8.200(1) (effective April 24, 2023). Reasonability must consider that officers are often forced to make split-second decisions about the force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the officers' actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the officer or others. SPD Interim Policy 8.050 (effective May 19, 2023). Proportional force must reflect the totality of circumstances of the situation, including the nature and immediacy of any threats posed to officers and others. *Id.* Officers must rely on training, experience, and circumstances to decide an appropriate level of force. *Id.*

NE#1's use of force was objectively reasonable based on the potential threat he faced from a noncompliant Complainant. Understandably, NE#1 was on heightened alert due to a recent shooting at a street racing event. After being spotted at a gas station, the Complainant was not free to leave because NE#1 had at least reasonable suspicion for reckless driving and a missing rear license plate. However, the Complainant disobeyed NE#1 and appeared intent on fleeing. Since the Complainant was detained and suspected of fleeing from the police at high speeds, NE#1 used objectively reasonable force to separate the Complainant from his vehicle. NE#1's use of force was necessary to gain compliance and protect against the threat the Complainant posed to the officers and the public. The Complainant's disobedience, purported association with a street racing event, and concealed actions inside his tinted vehicle heightened concerns that he would have driven away or reached for a weapon. The Complainant would have posed a threat to the public if he had driven away unsafely. Therefore, NE#1's use of force was necessary to neutralize these threats. Finally, NE#1 used proportional force to minimize injury to the Complainant by striking the lower part of the window, consistent with his training. Notably, the Complainant complied after NE#1 shattered the window. NE#1 then modulated his force after extracting the Complainant from his vehicle. Overall, a preponderance of the evidence showed that NE#1's use of force was objectively reasonable, necessary, and proportional under the circumstances.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained – Lawful and Proper**

#### **Named Employee #1 – Allegation #2**

***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)***

It was alleged that NE#1 failed to de-escalate before using force.

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.*



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De-escalation was unfeasible under the circumstances. Here, the Complainant was noncompliant and engaged in potentially threatening conduct. He immediately walked away from NE#1, disobeyed orders to stay out of his vehicle, and locked the door. The Complainant was not free to leave, yet his actions suggested an intent to flee. Any further delay before using force posed a risk to NE#1 and WS#1, given their proximity to the Complainant's vehicle. NE#1 also had valid concerns that the Complainant—who was not visible due to the tinted window—could have reached for a weapon. Even if NE#1 gave the Complainant more time to comply with orders to exit the vehicle, there was no evidence suggesting he would, given his disobedience. NE#1 could not feasibly de-escalate any further before using force.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**