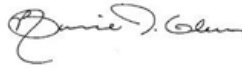

Issued Date: JANUARY 13, 2025

From: Interim Director Bonnie Glenn
Office of Police Accountability



Case Number: 2024OPA-0422

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 6.185 - Search Warrants, 6.185-TSK-7 Filing the Search Warrant (Seattle Municipal Court)
Finding: Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

1. **Allegation #1:** 8.200 - Using force, 8.200-POL 1. Use of force
Finding: Not Sustained - Lawful and Proper (Expedited)

Named Employee #3

1. **Allegation #1:** 8.200 - Using force, 8.200-POL 1. Use of force
Finding: Not Sustained - Lawful and Proper (Expedited)

Named Employee #4

1. **Allegation #1:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing
Finding: Not Sustained - Unfounded (Expedited)

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:

On July 3, 2024, SPD SWAT served a search warrant at the Complainant's residence. SWAT had a \$250,000 warrant for stalking and no contact order (NCO) violations by the Complainant,

who had 83 NCO violations and access to firearms. The Search Warrant Affidavit was submitted by Named Employee #1 (NE#1). The Complainant alleged the warrant violated his 4th Amendment rights because it was a “general” warrant and described it as “invalid.”

During the response SWAT officers deployed Noise Flash Diversionary Devices (NFDDs), utilized 40mm less-lethal launchers to deploy crushable foam rounds on multiple occasions, utilized OC ferret rounds on multiple occasions, and pointed a firearm at the Complainant on one occasion. These were all Type I and II uses of force. Named Employee #2 (NE#2) was the SWAT Commander for the response and screened/approved all tactical responses to the incident. Named Employee #3 (NE#3) was the Incident Commander and either approved or denied all tactical responses. The Complainant alleges this response, particularly the use of OC, constituted excessive force.

The Complainant further alleged the response by unknown officers was motivated by bias.

Administrative Note:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General’s (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees. As such, OPA did not interview the named employees in this case.

On December 10, 2024, OIG certified OPA’s investigation as thorough, timely, and objective.

Summary of Investigation:

OPA investigated the complaint by reviewing all documentation and BWV relevant to the allegations made by the Complainant. Among other things, OPA reviewed the complaint’s voicemail allegations, computer-aided dispatch call report for this incident, the incident report and supplements, use of force investigation and review documentation, a copy of the judicially executed search warrant, and body-worn video (BWV). OPA also reviewed case law cited by the Complainant.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

6.185 - Search Warrants, 6.185-TSK-7 Filing the Search Warrant (Seattle Municipal Court)

The Complainant alleged NE#1 obtained an invalid, “general” search warrant.

SPD Policy 6.185-TSK-7 discusses requirements for filing a search warrant in Seattle Municipal Court.

OPA reviewed case law cited by the Complainant, specifically *Groh v. Ramirez*, 540 U.S. 551 (2004). The Complainant alleged the warrant obtained by NE#1 was invalid because it was “general.” The Complainant cited to *Groh*, in which a search warrant was found to be invalid because it only listed a residence and a description of items to be seized. The instant case is

easily distinguishable, as the warrant and warrant affidavit list items to be seized including evidence of crimes listed in detail, contraband, weapons, as well as information supporting probable cause to arrest the Complainant. The warrant was properly obtained and signed by a King County Judge.

Because NE#1 did obtain a search warrant for the Complainant, and the warrant appeared to be valid, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

Named Employee #2 – Allegation #1

8.200 - Using force, 8.200-POL 1. Use of force

The Complainant alleged that NE#2 and NE#3 approved excessive force against him.

SPD Policy 8.200-POL-1 requires that force used by officers be “objectively reasonable, necessary, and proportional to the threat or urgency of the situation, to achieve a law enforcement objective while protecting the life and safety of all persons.” Whether force is objectively reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, considering the circumstances surrounding the event.” SPD Policy 8.050. Reasonableness must be judged from perspective of a reasonable officer at the scene, *id.*, and allow for the fact that officers are often forced to make “split-second decisions” in tense, dynamic circumstances. SPD Policy 8.200-POL-1. The policy also lists a number of factors that should be weighed when evaluating reasonableness. *See id.* Force is necessary where no reasonably effective alternative to the use of force appeared to exist and “the type and amount” of force used was reasonable and proportional to effect the lawful purpose intended or to protect against the threat. SPD Policy 8.050. Lastly, the force used must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id.*

With respect to force, the Complainant’s attorney did not grant OPA permission to interview him, as such OPA was not able to gather more details regarding the complaint. As such, OPA examined force from a tactical standpoint. The incident lasted over five hours.

NE#2 and NE#3 screened and approved the tactical response. The response began with NFDD deployment, followed by 40mm deployment of crushable foam rounds to break the windows of the residence. These are both Type I uses of force. This was followed by numerous deployments of OC ferret rounds (a Type II use of force), with 2-to-11-minute intervals between each deployment. None of these methods were successful in getting a response from the Complainant. Officers subsequently used robots and drones to locate the Complainant and were able to take him into custody without any incident or injury. Given the Complainant’s history and potential possession of firearms, OPA does not find that any excessive force occurred.

Because NE#2 and NE#3 did authorize and approve certain uses of force against the Complainant, but these were all objectively reasonable, necessary, and proportional, based on

the evidence in review of the totality of the circumstances. OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

Named Employee #3 – Allegation #1

8.200 - Using force, 8.200-POL 1. Use of force

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

Named Employee #4 – Allegation #1

5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that unknown officers were motivated by “bias” against him.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL.

Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

The Complainant did not provide any specificity as to his bias allegation and as previously noted, the Complainant’s attorney did not grant OPA permission to interview him. OPA did not observe any indication of bias against the Complainant.

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

Recommended Finding: **Not Sustained – Unfounded (Expedited)**