



CLOSED CASE SUMMARY

ISSUED DATE: MAY 28, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0753

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	SPD Policy 8.400 – Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, will Verbally Notify a Supervisor Following Any Use of Reportable Force, as soon as Feasible.	Not Sustained - Management Action
# 2	SPD Policy 13.010 – Collisions Involving Department Vehicles 3. Employees Will Notify a Sergeant of Department Vehicle Collisions	Not Sustained - Management Action

Named Employee #2

Allegation(s):		Director's Findings
# 1	SPD Policy 8.400 – Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, will Verbally Notify a Supervisor Following Any Use of Reportable Force, as soon as Feasible.	Not Sustained - Management Action
# 2	SPD Policy 13.010 – Collisions Involving Department Vehicles 4. Officers Shall Document All Collisions Involving Department Vehicles	Not Sustained - Management Action
# 3	SPD Policy 13.010 – Collisions Involving Department Vehicles 3. Employees Will Notify a Sergeant of Department Vehicle Collisions	Not Sustained - Management Action

Named Employee #3

Allegation(s):		Director's Findings
# 1	SPD Policy 8.400 – Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following: Classify the investigation as Handcuff Discomfort, Type I or Type II as appropriate.	Not Sustained - Management Action

Named Employee #4

Allegation(s):		Director's Findings
# 1	SPD Policy 6.180 – Searches-General 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies.	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:

The Complainant alleged that the Named Employees executed an illegal search warrant at their residence. OPA further alleged that during the course of the search, the Named Employees may have failed to properly report a collision involving a department vehicle.

SUMMARY OF INVESTIGATION:

In December, 2020, Named Employees executed a search warrant for illegal drugs, namely Methamphetamine, at a specified address. The warrant was approved by a judge and executed within the allowable time.

The Complainant alleged that in the process of executing the warrant, that Named Employees pushed open her door and wrongfully “raided” her residence. The Complainant that the warrant was not signed by a judge and did not believe that it was valid. The Complainant stated that she informed Named Employees that her child’s father was outside in the car, a White Cadillac, and that he did not live there anymore.

During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report In Car Video (ICV) and Body Worn Video (BWV). OPA also interviewed the Complainant and Named Employees. The Named Employee’s entire response to, and investigation of, this incident was recorded on his BWV. As such, these underlying facts are not in credible dispute.

BWV shows Named Employees serving a search warrant at the residence. The Named Employees approached the residence, knocked and announced, “Seattle Police with a search warrant. Open the door.” The door remained closed. An unknown officer was heard shouting, “Breach” and the door was subsequently forced open. The Named Employees entered the property. The Complainant was located upstairs in her bedroom. The Complainant told the Named Employees that her child’s father, the male suspect, was outside the house in a white Cadillac car.

A plan was made by the Named Employees to pin the white Cadillac vehicle to prevent the potential escape of the suspect. Named Employee #3 (NE#3), the supervising Sergeant at the scene, ordered Named Employee #2 (NE#2) to use a patrol vehicle to block the white Cadillac from leaving. Named Employee #1 (NE#1) was standing beside the Cadillac, guiding NE#2 as he positioned his vehicle. NE#2 drove the front of his vehicle into the rear of the parked Cadillac. NE#2 positioned his SPD vehicle directly behind the white Cadillac. In the process of doing so, NE#2 made vehicle-to-vehicle contact with the back of the Cadillac. The male suspect was in the white Cadillac at the time. After the arrest of the suspect, BWV depicted NE#1 And Named Employee #3 (NE#3) discussing the contact made between the two vehicles a “bumper flexing.” No injuries were reported, and no use of force investigation was completed.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

SPD Policy 8.400 – Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, will Verbally Notify a Supervisor Following Any Use of Reportable Force, as soon as Feasible.



SPD Policy 8.400-POL-3 required all officers to verbally notify a supervisor following any use of reportable force. The policy also specifies a number of specific circumstances in which officers must report certain types of incidents. SPD Policy 8.400-POL-3(a)-(f).

NE#1 was standing beside the White Cadillac guiding NE#2 as he attempted to pin the vehicle with the SPD vehicle to prevent its possible escape. When interviewed, NE#1 stated that NE#2 was driving at less than 1 mile per hour as he went to pin the vehicle in. NE#1 stated that, "I think he (NE#2) went just a little bit...tiny bit faster. But it was under, you know, under 1 mile an hour is what it seemed like. It was pretty slow." NE#2 stated that he wanted to ensure the vehicles were touching in order place pressure on the Cadillac and reduce its ability to move or accelerate.

BWV depicted NE#1 stating, "It definitely made his bumper flex..." regarding the vehicle-to-vehicle contact. NE#1 stated that he did not recall noticing any damage because it was "too long ago to remember." When shown the BWV, however, NE#1 recalled talking about the vehicle-to-vehicle contact and the flexing of the bumpers. NE#1 and NE#2 were observed discussing the cars touching off each other. NE#2 stated that, "I feel like I barely even touched it and I got out and I was like, (on noting the bumper damage) oh....okay." NE#1 responded, "It definitely made his bumper flex when you (moved the car)."

SPD Policy 8.050 Use of Force Definitions notes that Vehicle Tactics, specifically Vehicle-to-Vehicle Contact is defined as "Contact between vehicles designed to guide or prevent movement of a vehicle, but without significant impact (ramming) and reasonably unlikely to cause injury." In addition to this, SPD Policy 8.300-POL-5 #4 notes that using a police vehicle for containment is *not* reported as a use of force.

NE#1 reasonably did not believe that this was a use of force because it did not fall within the parameters of the definition with respect to any injuries sustained. NE#1 stated that the vehicles just barely touched, and the SPD vehicle put pressure on the suspect's bumper and that it was not likely at all to cause any injury. NE#1 stated that he did not report or screen the matter to his Sergeant, NE#3, as NE#3 was standing and had observed the contact himself. BWV comports with this.

In light of the vehicle-to-vehicle nature of the contact, as well as the incredibly minor level of contact, OPA does not believe that this was a reportable use of force as defined by policy. However, there is ambiguity in the SPD policy surrounding such a circumstance and the relevant parameters of what distinguishes a vehicle-to-vehicle collision versus a use of force. As such, OPA recommends that this allegation be Not Sustained – Management Action.

- **Management Action:** SPD should consider reconciling sections of SPD Manual Title 13 and 8 to eliminate ambiguity in the vehicle-to-vehicle context of what constitutes a reportable collision as opposed to a use of force, specifically with respect to *de minimis* contact during approved containment.

Recommended Finding: **Not Sustained - Management Action**

Named Employee #1 - Allegation #2

SPD Policy 13.010 – Collisions Involving Department Vehicles 3. Employees Will Notify a Sergeant of Department Vehicle Collisions

SPD Policy requires employees to notify a sergeant of Department vehicle collisions. SPD Policy 13.010-POL-3.



As an initial matter, NE#3—the supervising sergeant—was present and observed when vehicle to vehicle contact was made. Moreover, NE#1 did not consider this a collision and regarded it as vehicle-to-vehicle contact. As such, NE#1 did not believe that he had to notify the Sergeant as he did not believe that a collision occurred.

While OPA does not disagree with NE#1’s reasoning, there appears to be a policy gap when officers should be required to report damage to vehicles which fall between the use of force polices and collisions. As such, OPA recommends that this allegation be Not Sustained – Management Action.

- **Management Action:** SPD should consider reconciling sections of SPD Manual Title 13 and 8 to eliminate ambiguity in the vehicle-to-vehicle context of what constitutes a reportable collision as opposed to a use of force, specifically with respect to *de minimis* contact during approved containment.

Recommended Finding: **Not Sustained - Management Action**

Named Employee #2 - Allegation #1

SPD Policy 8.400 – Use of Force Reporting and Investigation 3. Officers, Including Witness Officers, will Verbally Notify a Supervisor Following Any Use of Reportable Force, as soon as Feasible

NE#2 was ordered by the supervisory Sergeant to pin the White Cadillac with an SPD vehicle. NE#2 stated that he slowly moved his vehicle to the rear of the suspect vehicle. Using his rubber push bars on the front of the vehicle, he stated that he slowly edged into the suspect vehicle until he contacted the vehicle. In the process of doing so, NE#2 made vehicle to vehicle contact. NE#2 stated that he drove at “One to two miles an hour. I was barely moving at all.” BWV would support this perception.

NE#2 stated that he recalled the suspect vehicle was older and that it had some darker spiderweb looking fissures from the brittle paint from where the pressure was on the bumper. NE#2 stated that after contact was made, “there were no cracks to the bumper, there was no plastic that was broken. There were no indentations in the bumper or anything like that. The only thing I remember observing was some superficial paint. It looked a little different in that spot, the paint did. But no body damage.”

NE#2 believed that he made vehicle-to-vehicle contact and as such did not have to report a use of force to his Sergeant. Moreover, as already noted, the supervising sergeant was also on scene and observed the collision himself. OPA does not believe that this was a reportable use of force as defined by policy.

However, for the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Management Action.

- **Management Action:** SPD should consider reconciling sections of SPD Manual Title 13 and 8 to eliminate ambiguity in the vehicle-to-vehicle context of what constitutes a reportable collision as opposed to a use of force, specifically with respect to *de minimis* contact during approved containment.

Recommended Finding: **Not Sustained - Management Action**



Named Employee #2 - Allegation #2

SPD Policy 13.010 – Collisions Involving Department Vehicles 4. Officers Shall Document All Collisions Involving Department Vehicles

NE#2 did not believe that this was a collision as defined by policy. OPA notes that NE#2 has received training in vehicle pinning. SPD Policy states that department vehicle collisions should be documented, in any one of the following circumstances: Damages appears to be less than a \$1000 or; Location of collision is restricted to police employees only or; At a facility not open to the public, and damages appears to be less than \$1000.

NE#2 stated that he did not consider this maneuver to be a collision, nor did he note *any* damage to the vehicle which would require him to document it. NE#1, the SPD officer who guided the SPD vehicle into place, and NE#2 were observed discussing the contact on BWV. NE# 1 stated “It definitely made his bumper flex when you (made contact).” NE#2 responded “Yeah, I mean it cracked.” However, after the subject had been removed from the Cadillac, BWV depicted NE#2 discussing the contact of the car with the owner of the SPD vehicle to the effect of, “Sorry about the rubber on your push bar.. but ahhh...Sarge says pin the car...you gotta pin the car... It will pop back on.” The SPD owner stated, “Yeah, sure....I think I took it off.” OPA was unable to determine from available footage whether a crack had actually occurred or not or whether this crack was the flex in question.

Similar to the analysis of NE#1 allegation #2, there appears to be a policy gap with when officers should be required to report damage to vehicles which fall between the use of force polices and reportable collisions. As such, OPA recommends that this allegation be Not Sustained – Management Action.

- **Management Action:** SPD should consider reconciling sections of SPD Manual Title 13 and 8 to eliminate ambiguity in the vehicle-to-vehicle context of what constitutes a reportable collision as opposed to a use of force, specifically with respect to *de minimis* contact during approved containment.

Recommended Finding: **Not Sustained - Management Action**

Named Employee #2 - Allegation #3

SPD Policy 13.010 – Collisions Involving Department Vehicles 3. Employees Will Notify a Sergeant of Department Vehicle Collisions

Similar to the analysis of NE#1 allegation #2, there appears to be a policy gap with when officers should be required to report damage to vehicles which fall between the use of force polices and reportable collisions. As such, OPA recommends that this allegation be Not Sustained – Management Action.

- **Management Action:** SPD should consider reconciling sections of SPD Manual Title 13 and 8 to eliminate ambiguity in the vehicle-to-vehicle context of what constitutes a reportable collision as opposed to a use of force, specifically with respect to *de minimis* contact during approved containment.

Recommended Finding: **Not Sustained - Management Action**



Named Employee #3 - Allegation #1

SPD Policy 8.400 – Use of Force Reporting and Investigation 4. The Sergeant Will Review the Incident and Do One of the Following: Classify the investigation as Handcuff Discomfort, Type I or Type II as appropriate.

SPD Policy required sergeants to review use of force incidents and take appropriate action. See SPD Policy 8.400-POL-4.

N#3 was the on-scene supervisor and ordered officers to use a vehicle tactic. NE#3 stated that he wanted the vehicle moved for containment to keep the subject in the car. NE#3 stated that he did not want to wake the person up who was passed out and/or sleeping in the vehicle, and that they did not want to do damage.

NE#3 stated that there were no injuries or damage reported which would require him to classify the tactic as a use of force. NE#3 did not consider the tactic as a reportable use of force nor as a collision. NE#3 offered by way of explanation, “we move vehicles off the road all the time using our push bars and we don't do a collision report for that.” While there is some ambiguity in this situation considering that there was a person inside the car that was contact, there is no dispute in this case that the vehicle-to-vehicle contact here was slight and occurred at a very low rate of speed. OPA does not believe that this maneuver was a reportable use of force as defined by police. Accordingly, OPA recommends that this allegation be classified as Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #4 - Allegation #1

SPD Policy 6.180 – Searches-General 1. Officers May Only Make Searches Pursuant to a Search Warrant, Unless a Specific Exception Applies.

SPD Policy requires that officers only make searches pursuant to a warrant, unless a specific exception applied. SPD Policy 6.180-POL-1.

The Complainant alleged that the warrant was not signed by a judge and believed that it is not valid. OPA confirmed the existence and validity of a search warrant. The premise was accurately described in the warrant. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**