




## CLOSED CASE SUMMARY

ISSUED DATE: JULY 2, 2024

FROM: DIRECTOR GINO BETTS, JR.   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0012

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	6.290 - Juvenile Investigations and Arrests 3. Sworn Employees Will Use the Juvenile Miranda Language	Sustained
# 2	13.031-POL-2 When Sworn Employees May Pursue and Supervisor Responsibilities 5. Sworn Employees Must Notify Communications of Pursuits	Sustained
# 3	13.031-POL-2 When Sworn Employees May Pursue and Supervisor Responsibilities 1. Sworn Employees May Not Pursue Unless the Following Requirements Have Been Met	Sustained
# 4	8.300-POL-6 Vehicle-Related Tactics 2. Officers Will Consider Secondary Risks to the Subject and Other Persons When Determining Whether to Deploy Vehicle-Related Force Tactics	Not Sustained - Inconclusive
# 5	13.030 - Emergency Vehicle Operations, 13.030-POL 5. Officers Are Responsible for the Safe Operation of Their Police Vehicle	Sustained
# 6	5.001 - Standards and Duties; 15. Employees Obey any Lawful Order Issued by a Superior Officer	Sustained
# 7	15.180 Primary investigations Section 5. All reports must be complete, thorough, and accurate	Not Sustained - Inconclusive
# 8	5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Inconclusive

**Proposed Discipline**

Sixty-Three (7 Days) to Ninety (10 Days) Hours Suspension

**Imposed Discipline**

135 Hours (15 Days) Suspension

***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.***

**ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee’s chain of command and the department’s human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*

**EXECUTIVE SUMMARY:**



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An anonymous complainant alleged that the named employee (NE) engaged in an unauthorized vehicle pursuit and caused a collision.

**ADMINISTRATIVE NOTE:**

On June 25, 2024, the Office of Inspector General certified this investigation as thorough, timely, and objective.

**SUMMARY OF INVESTIGATION:**

OPA received an anonymous complaint dated December 30, 2023, alleging that NE “[pursued a] suspect vehicle when he was instructed not to” and “appeared to push the [suspect] vehicle into the water [,] and there was someone still inside.” The complaint identified NE by name and badge number. OPA investigated the matter, reviewing the computer-aided dispatch report, incident report, and body-worn and in-car videos. OPA also interviewed NE and a witness employee (WE), NE’s partner.

*Computer-Aided Dispatch (CAD) Report*

On December 29, 2023, at 12:45 PM, a 9-1-1 caller, an eyewitness, reported: “[A SUSPECT] PULLED OUT AN AK-47 AT [A] STOPLIGHT, TOOK [SOMEONE’S] CAR... [THE VICTIM WAS CARJACKED] AT GUNPOINT[.]”

NE, driving, and WE immediately responded, arriving at the incident location (the intersection of 17<sup>th</sup> Avenue S and S College Street, Seattle, WA.) at 12:51 PM. The 9-1-1 caller described the suspect as a heavy Black man around 5’8” tall and the stolen car as a blue Chevrolet Malibu missing a front license plate and a broken passenger side headlight and brake light.

*Incident Report*

NE’s incident report stated that he and WE arrived and spoke with the victim at the incident location. The victim stated that he was cut off by a light blue car in traffic before that car’s driver exited, aimed an AK-47 at the victim, and demanded his car. The victim asked to retrieve his cell phone inside the car, but the offender refused before entering the driver’s side of the victim’s car and speeding off. The officers also spoke with a witness who reportedly saw the victim exit his car with hands raised. That witness also stated that the offender had an Asian female passenger who followed the offender in the light blue car after the carjacking. The witness also video-recorded a portion of the incident.

The victim told the officers that his car had OnStar, which tracked it at 22307 Dock Avenue S, Des Moines, WA. NE wrote that he coordinated with the Des Moines Police Department (DMPD) “to conduct a takedown of the vehicle.” NE noted that he planned to give “visual confirmation of the stolen vehicle so OnStar could disable it while [DMPD] moved in for the arrest.” However, NE wrote that the stolen car drove toward him as he approached the provided coordinates. NE stated he activated his emergency lights and “pulled in front to cut it off.” NE wrote that the stolen car’s driver reversed, turned around, and sped off. NE followed, reportedly seeing the stolen car drive onto a curb, through a wooden post, onto grass, towards the creek and a pedestrian bridge. NE stated that pedestrians on the bridge and at the creek’s edge fled as he approached with activated lights and sirens.

NE stated that the stolen car hit a park bench and another wooden post and almost hit pedestrians when it tried to drive onto the footbridge. NE wrote that the stolen car collided with the bridge, “breaking the thick metal retaining wires and wooden beams” and causing it “to go over the bridge and teeter on a piece of the [undercarriage] until [it] finally slipped off and fell into the shallow water below landing on [its] passenger side.” NE indicated that, as the car hung from the bridge, the driver jumped from the driver’s side window and fled on foot. NE chased and apprehended



the driver without further incident. NE also stated that DMPD arrested a female occupant of the stolen car and placed her inside NE's patrol car.

NE stated that the female subject indicated that DMPD *Mirandized* her, and she gave him an identification card that showed she was 16 years old. NE noted that he "began to ask her questions about the incident and told her I knew [she drove the light blue car involved in the carjacking.] NE wrote that it then "dawned on me that because she was a juvenile, I could not ask her any questions and immediately terminated my questioning," limiting further questions to acquiring her parents' contact information. NE noted that a loaded AK-47, three cell phones, a "meth pipe," and other items were found inside the stolen car. NE wrote that the driver had a 2nd-degree unlawful possession of a firearm conviction and later, during an interrogation, admitted his involvement in the carjacking.

#### *Body-Worn and In-Car Videos*

While en route to the incident location, NE and WE discussed how they would respond if they located the stolen car. WE said, "If we see them, fucking light them up, head on, and we will go guns out on them." NE agreed, "Yup." WE added, "And, if they want to crash into us, they can, but we won't stop." NE replied, "Mmm-hmm." After speaking with the victim and witnesses, the officers briefed their sergeant, who authorized a pursuit if they located the stolen car. Body-worn videos (BWV) captured NE receiving OnStar updates to track the stolen car. OnStar provided the location of the stolen car, which NE broadcasted.

NE told the victim he would "obtain permission from [his] supervisor to leave the Seattle city limits." NE spoke with his sergeant, who permitted coordination with DMPD but revoked permission to pursue the stolen car. NE told WE, "Sarge kind of gave us the standdown, so hold on a second. I'm going to pitch it to him like this: We'll stay hands off." BWV captured NE calling and speaking with his sergeant on speaker phone, but the contents of that conversation were not captured. NE then contacted DMPD, saying, "You guys take tactical decisions primary, and we will be there to deal with the arrest and recovery of the vehicle. We have [probable cause] for armed carjacking." He also told DMPD, "You guys can come into the area however you want tactically. Once I'm there and can get eyes on it, [OnStar] can shut the vehicle down and hopefully prevent a pursuit." OnStar indicated that the stolen car drove around various shopping plazas "under 10 miles per hour." OnStar stated it would not disable the car until a law enforcement officer confirmed having eyes on it. WE said, "They're moving again. They just pulled into a plaza. They're trying to fucking jack someone." NE notified DMPD that the stolen car was on Des Moines Creek Trail, which "[looked] like it dead ends." NE accelerated and activated his emergency equipment. NE then updated DMPD that the stolen car stopped and said, "To get eyes on it, I will take point. They can come behind me, and I will give OnStar the go-ahead to shut it down. Then, if he runs, which he shouldn't be able to, you guys can take primary and pursue." NE and WE had the following exchange:

- WE: So, we're going to go first. As soon as we light it up, [DMPD will] go in front of us?
- NE: Oh, you want them to go in front of us?
- WE: I don't...
- NE interjected: It's only for the pursuit aspect.
- WE: Disregard. You keep going.
- NE: Okay. Based on everything we have, we should not be getting into a pursuit..."

WE stated that a map showed a "footpath" near the stolen car, and NE asked whether DMPD had an available K-9 unit, but they did not. NE also asked whether DMPD could spot the stolen car with a drone, which would "be enough to [have OnStar] shut it down." However, DMPD indicated that their drone was inoperable.



NE stopped to discuss his plan with a DMPD officer, saying, “We're gonna go in. Once I see it, I'll call out..., ‘Hey, that's the car.’ We'll let OnStar know. They'll shut it down, and then you guys will...So, basically, our supervisor just doesn't want us getting in a pursuit.” OnStar indicated that the stolen car was driving on an access road. While driving, NE radioed DMPD, directing them where to stage and saying, “So, we’re going to move in. We’ll take point. [We’ll] get eyes on it, and OnStar will shut it down. When you see me light it up, we’ll do a high-risk stop.”

Locating the stolen car, NE stopped his patrol car, and WE exited, aiming his firearm while repeatedly yelling, “Hands up!” The stolen car sped off, and NE left WE behind to pursue it through a parking lot and a grassy pathway leading to the bridge. When NE’s patrol car reached the bridge, the stolen car was hanging from it.



BWV captured NE’s patrol car, stopping where the stolen car had dangled before falling into the water below.



The stolen car fell into the water.



NE exited and chased the driver on foot. NE aimed his firearm at the driver and yelled, "Get down on the ground right now, or you're going to get shot!" The driver stopped and was arrested. DMPD recovered the female passenger from the crashed stolen car and handcuffed her.



NE collected and ran the driver's identifying information in law enforcement databases. He also called his sergeant to explain what happened. NE said, "We found him. We had to be the first car in because OnStar wouldn't shut the car down without us seeing it...[The stolen car] came towards me. [It] backed up. [I] lit him up. He drove through the grass and smashed into [a] pedestrian bridge and went over it. Um, I had a little collision with a park bench because the grass is very wet." NE also said, "Other than the collision and the pursuit, I do not believe I have any use of force." After the call, NE told a DMPD officer, "So, in retrospect, we probably should have pulled over once I saw [the stolen car] and let you guys pass me." WE told NE that their sergeant was en route and "He's going to chew your ass for this one." NE replied, "Yeah, probably...what I probably should have done was pull over and let the guy behind me go," and, "It could have been bad though, man...It's definitely gonna be some training points on learning from this one, so we'll see what happens."

Both arrestees were placed in the back of NE's patrol car. WE suggested keeping them together "So they can chip away and incriminate themselves further," but NE suggested separating them "so they can't get their story straight." The arrestees were separated, with the female arrestee remaining in NE's patrol car. With a notepad, NE asked for her identifying information, which she provided, including her date of birth. She indicated that she was Mirandized



and understood her rights. NE asked, "How old are you? Sixteen? You don't look sixteen." She replied, "I get that a lot." NE continued questioning, including:

- Repeatedly asking how she knew the driver.
- "What does a 16-year-old do with friends like that?"
- "How do you get to know a friend like that?"
- "How were you with him in the first place?"
- "How do you get to know and ride around with [someone] like that and be the driver of a getaway car?"

She looked bewildered, and NE stated, "Oh yeah. We have everything. We know exactly what happened today...Here's what I know happened: you guys arrived in a light blue [car]. He got out of the driver's seat, went up to [the victim's car], put a gun in the guy's face, told him [to] get out of the car, [and] wouldn't even let him take his phone. You hopped over into the driver's seat of [the light blue car], and then you guys took off together. All right? Then you dumped the phone a [of] couple blocks away...Am I tracking?" She denied dumping the victim's phone. NE retorted, "But you drove [the light blue car] away, correct?" followed by, "Actually, you're a juvenile. Never mind. Stop talking," before closing the patrol car door and walking off.

The stolen car was craned onto level ground. Officers searched it. A firearm and other evidence were collected.



NE's sergeant arrived, and NE told him, concerning the stolen car falling into the creek, "To my knowledge, I did not push him. He did that himself." A DMPD officer concurred, saying, "He did do that himself. It took me running over the bridge...to realize there was no longer a car there." The sergeant told NE, "Before you tell me what's going on, I need to tell you what the issues are...How are you controlling this? [You] were ordered not to pursue or use any force. [You were] there to be eyes on. To have OnStar shut it down... Clearly, that is not what happened." The sergeant further questioned why NE elected "to be point" in Des Moines when DMPD was "on the scene." NE indicated that OnStar required him to have "eyes on [the stolen car]" before they would shut it down. The sergeant asked, "Once you were nose to nose [with the stolen car], why did you activate [emergency equipment]?" NE replied, "That was my error, and I will own it from that point [on]." The sergeant explained, "It's a pursuit outside the city, which I can't [...] authorize. A lieutenant would have to...We should have just backed off, and if it got away, it got away. We had



tracking.” NE suggested that his patrol car was “sliding” as he tried to stop at the pedestrian bridge. He also said, “I try to hold myself to [a] high standard of good police work, and I failed today.”

*Instagram Post*

OPA reviewed an Instagram video post<sup>1</sup> capturing NE’s patrol car approaching the pedestrian bridge where the stolen car hung. NE’s patrol car appeared to strike the rear of the suspended stolen car before it fell into the creek.



*Photos*

Police photos show paint stripped from NE’s patrol car’s driver-side front bumper.



The remains of a park bench NE ran over near the bridge were also captured.

<sup>1</sup> The posted video was later removed before it was preserved.



The stolen car's rear passenger side was damaged.



#### *OPA Interviews*

OPA interviewed NE on May 24, 2024. He said he was partnered with WE on the incident. NE was the driver. After securing a supervisor's permission, he said they tracked a suspected carjacker into Des Moines. NE said the plan was to coordinate with DMPD, having them make tactical decisions leading to the suspects' apprehension. He said that after briefing his sergeant about the carjacking with an AK-47, they were allowed to coordinate with DMPD but "Not to engage in a pursuit or use of force." NE said his sergeant further instructed him that DMPD should "take tactical lead" and SPD should only act as an "information liaison." He said OnStar led them to the park, where NE led contacting the stolen car. There, NE said the stolen car approached, and NE tried blocking it with his patrol car. He said WE jumped out with his firearm drawn and ordered the driver to stop. Instead, the stolen car reversed and sped off. NE pursue it. Near the bridge, NE said wet grass caused his patrol car to hit a park bench. He said the stolen car tried crossing a pedestrian bridge but crashed and dangled over a ravine. NE did not recall hitting the stolen car or causing it to fall into the water.

NE said, in hindsight, his "taking point" was unnecessary. He also acknowledged that after he spotted the stolen car, he did not ask OnStar to shut it down. Regarding questioning the female arrestee, NE said he initially did not believe





she was a minor because she looked older. He said his questions stopped when “it dawned on [him]” that she was a minor. NE acknowledged that he did not issue *Miranda* or juvenile warnings before questioning. NE described his line of questions as “community caretaking.”

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***6.290 - Juvenile Investigations and Arrests 3. Sworn Employees Will Use the Juvenile Miranda Language***

The Complainant alleged that NE#1 conducted an out-of-policy juvenile interrogation.

For investigations or arrests involving juveniles, in addition to *Miranda* advisements, officers must include the following warning: “If you are under the age of 18, anything you say can be used against you in a juvenile court prosecution for a juvenile offense and can also be used against you in an adult court criminal prosecution if you are to be tried as an adult.” SPD Policy 6.290-POL-3 and SPD Policy 6.150-POL-10. Officers must also record *Miranda* warnings issued to juveniles. SPD Policy 6.150-POL-9 citing RCW 10.122.030. Officers may not question a juvenile without providing access to legal counsel. SPD Policy 6.150-POL-11.

Following the female subject’s arrest, NE asked whether DMPD *Mirandized* her and whether she understood her rights. She responded affirmatively to both questions. After that, NE collected her personal identifying information, including her date of birth, which indicated she was 16 years old. Rather than re-issuing *Miranda* and the additional juvenile warnings, NE inquired about her relationship with the male arrestee and involvement in a carjacking. Moreover, she appeared incoherent after a significant car crash and apparent drug use.<sup>2</sup> While NE described his questions as “community caretaking,” they were accusatory<sup>3</sup> and centered on her involvement in the earlier carjacking. NE did not ask for her parents’ contact information until after he confronted her about the carjacking: “Oh yeah. We have everything. We know exactly what happened today.”

Accordingly, OPA recommends a Sustained finding.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #2**

***13.031-POL-2 When Sworn Employees May Pursue and Supervisor Responsibilities 5. Sworn Employees Must Notify Communications of Pursuits***

The Complainant alleged that NE#1 failed to follow the vehicle pursuit protocol.

A pursuit is “an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle, and the operator of the moving vehicle appears to be willfully resisting or ignoring the

<sup>2</sup> Per NE’s incident report, she was later refused admittance at the Youth Service Center due to “abnormal vital signs from drug usage.”

<sup>3</sup> Specifically, NE accused her of being “the driver of a getaway car” and of ditching the victim’s phone after the carjacking.



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officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer (RCW 10.116.060)." SPD Interim Policy 13.031-POL-1 (effective May 19, 2023).

Sworn employees may not pursue unless the following requirements are met: (1) the pursuing sworn employee has completed an emergency vehicle operator's course (EVOC), has completed an updated EVOC within the previous two years, and has been certified in at least one pursuit ending option; (2) there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense or sex offense (RCW 9.94A.030); (3) the person poses a significant imminent threat of death or serious physical injury to others such that, under the circumstances, the public safety risks of failing to apprehend or identify the person are greater than the inherent risk of pursuit driving; (4) the pursuing sworn employee has received authorization to continue the pursuit from a supervisor; and (5) a supervisor is actively monitoring and supervising the pursuit. SPD Interim Policy 13.031-POL-2(1) (effective May 19, 2023). A vehicle pursuit may not be initiated if these requirements are unmet, and the pursuit must be terminated unless circumstances change. *Id.* Sworn employees are prohibited from pursuing for the sole crimes of eluding, escape, or DUI. *Id.* Sworn employees will terminate a pursuit when the risk to any person outweighs the need to stop the eluding vehicle. *Id.*

As explored below, OPA recommends a Sustained finding.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #3**

***13.031-POL-2 When Sworn Employees May Pursue and Supervisor Responsibilities 1. Sworn Employees May Not Pursue Unless the Following Requirements Have Been Met***

The Complainant alleged that NE #1 engaged in an unauthorized vehicle pursuit.

Controlling supervisors will approve and monitor all pursuits. SPD Interim Policy 13.031-POL-2(7) (effective May 19, 2023). The approving supervisor controls all aspects of the pursuit unless a higher-ranking supervisor takes control. *Id.* The controlling supervisor will immediately establish radio contact with the primary pursuing unit and will gather relevant information as soon as practicable. *Id.* The controlling supervisor will actively monitor the pursuit to provide ongoing assessment and supervisory control. *Id.* Supervisors will terminate a pursuit when the risk to any person outweighs the need to stop the eluding vehicle. *Id.* "Eluding" means an officer operating an authorized police vehicle issues by hand, voice, or emergency lights or siren a visual and/or audible signal to the driver of a vehicle to stop and, after a reasonable time to yield in response to the officer's signal, the driver increases speed, takes evasive actions, and/or refuses to stop. SPD Interim Policy 13.031-POL-1 (effective May 19, 2023).

As explored below, NE's vehicle pursuit was unapproved. His sergeant expressly forbade it.

Accordingly, OPA recommends a Sustained finding.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #4**



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**8.300-POL-6 Vehicle-Related Tactics 2. Officers Will Consider Secondary Risks to the Subject and Other Persons When Determining Whether to Deploy Vehicle-Related Force Tactics**

The Complainant alleged that NE#1 executed a vehicle-related force tactic despite the risks to others.

Vehicle-related force tactics are the intentional contact between vehicles that results in a reportable use of force. SPD Policy 8.300-POL-6. Vehicle-related force tactics are used to stop, disable, or prevent a suspect vehicle from moving. *Id.* Secondary risks to pedestrians and other vehicles include but are not limited to, the dangers presented by a spun-out vehicle, loose tires on the road, and airbag deployment. SPD Interim Policy 8.300-POL-6(2). When using a vehicle-related tactic, officers must consider the safety risk to officers, the public, and the vehicle's occupants. Interim SPD Policy 8.300-POL-6(2). When feasible, officers should attempt to gain approval before ramming a car. *Id.* Ramming is the intentional use of a vehicle to strike another vehicle to interrupt or incapacitate that vehicle. SPD Policy 8.050.

As outlined below, NE's patrol car struck the rear of the suspended stolen car, causing it to fall into a creek. However, the stolen car was incapacitated at that point, and there is insufficient evidence that NE intentionally collided with it.

Accordingly, OPA recommends a Not Sustained – Inconclusive finding.

Recommended Finding: **Not Sustained - Inconclusive**

**Named Employee #1 - Allegation #5**

**13.030 - Emergency Vehicle Operations, 13.030-POL 5. Officers Are Responsible for the Safe Operation of Their Police Vehicle**

The Complainant alleged that NE#1 operated his patrol car unsafely.

Officers must safely operate their patrol vehicles. SPD Policy 13.030-POL-5. "Officers are not relieved of the obligation to drive with due regard for the safety of all persons." *Id.*

NE told his sergeant and OPA that the pursuit was necessary to apprehend the stolen car, which recklessly endangered park pedestrians. However, the stolen car was stationary until NE tracked and engaged it. In defiance of their sergeant's orders, NE and WE's attempt to apprehend the stolen car preceded its attempted escape. NE said he pursued the stolen car through the park, onto grass, and a bridge because it endangered pedestrians, reportedly had an AK-47 inside it, and its driver was suspected of committing a violent crime. However, those factors, his sergeant's direct forbiddance, and NE describing the wet terrain as causing his patrol car to slide established reasons not to pursue it. NE's driving equally endangered pedestrians, himself, and the stolen car's occupants. Moreover, as later noted by the sergeant, since they could track the stolen car, there was no pressing reason to apprehend it at that time, notably when it demonstrated an intent to get away at any cost.

Accordingly, OPA recommends a Sustained finding.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #6**

**5.001 - Standards and Duties; 15. Employees Obey any Lawful Order Issued by a Superior Officer**



The Complainant alleged that NE#1 disobeyed his sergeant's order not to pursue the stolen car or use force.

Employees must obey any lawful order issued by a superior officer. SPD Policy 5.001-POL-15. Failure to do so constitutes insubordination. *Id.*

Without question, NE exceeded the scope of his sergeant's permission. After briefing his sergeant about the carjacking and OnStar's tracking updates, NE and WE were permitted to follow the stolen car into Des Moines. However, his sergeant limited his role to "information liaison" for DMPD, explicitly ordering NE not to pursue it or use force. Instead, NE led the charge in tracking the stolen car, assigning roles for engaging it, and ultimately pursuing it. While NE insisted he needed to put eyes on the stolen car first for OnStar to shut it down, after coming nose-to-nose with it, he failed to alert OnStar. Instead, as covered in Named Employee #1 - Allegation #5, he engaged in a high-speed pursuit through a park filled with pedestrians despite his sergeant's orders.

Accordingly, OPA recommends a Sustained finding.

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #7**

***15.180 Primary investigations Section 5. All reports must be complete, thorough, and accurate***

The Complainant alleged that NE#1's incident report was inaccurate.

Officers must document all primary investigations on a report. SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. *Id.*

As outlined above and in Named Employee #1 - Allegation #8, NE's incident report inaccurately indicated that the juvenile arrestee was *Mirandized* appropriately and that the stolen car independently fell into the water. While NE's incident report did indicate that "All were advised of their Miranda rights," it also acknowledged his out-of-policy juvenile interrogation:

*When I spoke [with the juvenile,] she told me that she was advised of her Miranda rights and understood them. She then provided me with her ID and said that she was 16 years old. **I began to ask her questions about the incident and told her that I knew her to be the driver of the [light blue car involved in the carjacking.]** During this investigation, it dawned on me that because she was a juvenile, I could not ask her any questions and immediately terminated my questioning [emphasis added.]*

Although it was inexact, given NE's self-documented missteps, there is not enough characterizing it as incomplete, unthorough, or wholly inaccurate.

Similarly, as explored in Named Employee #1—Allegation #8, there is insufficient evidence that NE knew he had caused the stolen car to fall into the water.

Accordingly, OPA recommends a Not Sustained – Inconclusive finding.



Recommended Finding: **Not Sustained - Inconclusive**

**Named Employee #1 - Allegation #8**

***5.001-POL 11. Employees Will Be Truthful and Complete in All Communication***

The Complainant alleged that NE#1 untruthfully reported his actions.

Employees must be truthful and complete in all communications. SPD Policy 5.001-POL-11. A sustained complaint involving dishonesty during an officer's official duties carries a "presumption of termination." The Seattle Police Officers' Guild's collective bargaining agreement, at § 3.1. For termination cases where the allegation is stigmatizing to a law enforcement officer, the standard of review is elevated (i.e., more than a preponderance of the evidence). *Id.*

NE's incident report indicated, "All were advised of their Miranda rights [, which] they acknowledged." However, as outlined in Named Employee #1—Allegation #1, that was not wholly true. The female arrestee required a recorded *Miranda* advisement, including the juvenile warnings and legal consultation, which she did not receive. Instead, NE relied on her representation that she was *Mirandized* by DMPD and understood her rights. Nevertheless, while there is no evidence that she was admonished consistent with state law and SPD policy, there is insufficient evidence that NE was intentionally untruthful. Given that NE did ask whether she received and understood her rights before questioning her, the evidence does not establish that NE intended to circumvent her rights and falsely indicate in his incident report that she was fully apprised of her rights. Similarly, NE consistently denied causing the stolen car to fall into the water. However, the evidence—including the damage to NE's patrol car, damage to the stolen car, and the Instagram video—overwhelmingly suggests he did. However, whether NE realized he collided with the stolen car is unclear. NE was engaged in an intense pursuit that ended with him leveling a park bench and almost flying off a bridge. Moreover, like NE, a DMPD officer also believed that the stolen car independently fell into the water. Even from NE's in-car video, the impact was less than obvious. The Instagram video was the only panoramic view capturing the collision. Overall, given the heated circumstances, NE's focus on apprehending the stolen car's driver, and that NE may have reasonably believed he only struck a park bench, there is insufficient evidence that NE knowingly lied about colliding with the stolen car.

Accordingly, OPA recommends a Not Sustained – Inconclusive finding.

Recommended Finding: **Not Sustained - Inconclusive**