




CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 17, 2023

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

CASE NUMBER: 2022OPA-0172

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	16.090 - In-Car and Body-Worn Video 16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Employees Record Activity	Not Sustained - Inconclusive
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL – 2 Conducting a Terry Stop 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional	Sustained
# 3	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Sustained
# 4	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5.002-POL 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Sustained
# 5	16.230 - Issuing Tickets and Traffic Warnings 16.230-POL 7. Officers Complete and Submit Tickets and Traffic Warnings by the End of Their Shift	Sustained
# 6	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Not Sustained - Inconclusive

Proposed Discipline

Two (2) to Four (4) Days Suspension

Imposed Discipline

Two (2) 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:



The Complainant alleged Named Employee #1 (NE#1) failed to adequately explain the basis for a traffic stop, identify himself, or assist the Complainant with filing a complaint. NE#1 also allegedly failed to activate his BWV and timely submit the traffic infraction. Finally, NE#1 allegedly retaliated against the Complainant by submitting the traffic infraction after NE#1 learned about the Complainant's OPA complaint.

SUMMARY OF INVESTIGATION:

A. Blue Team Complaint

The Complainant reported concerns to Witness Supervisor #1 (WS#1). WS#1 documented the following in a June 6, 2022, Blue Team Complaint to OPA:

On June 2, 2022, the Complainant called 911 and asked to speak with a SPD supervisor regarding a traffic stop. The Complainant spoke with WS#1. The Complainant told WS#1 he was stopped by NE#1.¹ The Complainant stated NE#1 reportedly stopped him for failing to signal a turn. The Complainant told NE#1 his insurance information was on his phone. NE#1 refused to answer the Complainant's questions about the stop. NE#1 continued to request the Complainant's insurance. The Complainant requested a sergeant. NE#1 did not call a sergeant. Instead, he continued to ask for the Complainant's insurance. The Complainant told NE#1 he planned to call 911 to request a supervisor. NE#1 responded he would get a ticket driving uninsured unless he produced proof of insurance. The Complainant showed NE#1 the app he needed to show proof of insurance was updating. The Complainant described NE#1 as "visibly pissed off." NE#1 returned the Complainant's license and registration and left.

On June 2, 2022, WS#1 searched for BWV of the stop but noticed NE#1 had not uploaded BWV since March 22, 2022. WS#1 also searched two computer systems (SECTOR and Mark43) for a record of the ticket but found none.

That day, WS#1 ordered NE#1 to upload his BWV footage. One of NE#1's BWVs displayed an error message and the other contained no videos.

On June 3, 2022, WS#1 sent NE#1's error messaged BWV to Information Technology (IT) to retrieve the corrupted footage. IT recovered BWV from March 23, 2022, but nothing thereafter. WS#1 again searched computer systems for the Complainant's traffic stop but could not find it.

B. Document Review

OPA confirmed NE#1 was logged-on the Computer-Aided Dispatch (CAD) system on June 1, 2022 but found no incident or citation number related to the Complainant's traffic stop.

However, OPA did find the Complainant's June 1, 2022, citation (the Citation) in the Washington State Statewide Electronic Collision & Ticket Online Records (SECTOR) system. The Citation was completed and signed on June 6, 2022—the same day OPA received the Blue Team Complaint. It listed three violations: (1) prohibited U-turn, (2) failing to signal turn in advance, and (3) driving without motor vehicle insurance. The Citation's narrative reads:

¹ The Complainant originally misidentified NE#1 to WS#1 by calling him a different name. However, the Complainant provided a physical description of the traffic officer. WS#1 found NE#1 was the only traffic officer matching that description.



The def was north on 1 av s, at Horton st made a u-turn. There are signs saying no left turns allowed, the def disregarded the signs and made the illegal u-turn.

The def then headed south on 1 ave s, making a right turn onto s Spokane st without signaling. The def also made a right to left lane change without signaling.

When stopped, the def provided his drivers license and registration but refused to give his proof of insurance.

The Citation also noted it was “referred to prosecutor.”

OPA also listened to the Complainant’s 911 call, where he described the traffic stop. The Complainant stated the officer requested his identification, registration, and insurance. The Complainant provided his license and registration but not his insurance. The Complainant asked the officer to call a supervisor, but the officer refused. The Complainant said, the officer’s refusal to call a supervisor led him to call 911. NE#1 was heard saying “Okay, here is your license and registration. You’ll be getting a citation in the mail.” The Complainant responded, “That’s fine, I have to update my thing.” The officer left. The Complainant said, “He hadn’t given me a citation. He didn’t hand me anything to sign. He literally just drove off.... He handed me my license and my registration and now he just sped away.”

OPA searched for BWV and ICV of the stop but found neither.

C. OPA Interview – Complainant

On June 15, 2022, OPA interviewed the Complainant. In summary, the Complainant said:

On June 1, 2022, NE#1 conducted a traffic stop on the Complainant. NE#1 approached the Complainant’s car, identified himself as a Seattle police officer, provided his name, and indicated the encounter was audio and video recorded. NE#1 did not state why he stopped the Complainant. Instead, he asked for the Complainant’s driver’s license, proof of insurance, and registration. The Complainant immediately provided his license and registration but was unable to quickly access proof of insurance. The Complainant’s proof of insurance was on a phone app, which required several minutes of updating before he could access it.

While the Complainant attempted to access his insurance information, NE#1 said something like, “You turned without signaling here, then again here, then again here. You were just driving all over not using turn signals at all.” The Complainant responded, “Wait, why are you pulling me over? Where did I do all these?” NE#1 replied, “You just need to show me your insurance.” The Complainant again asked NE#1 where he failed to signal.

The Complainant believed NE#1 replied, “You are not under a traffic stop. I need to see your insurance, show me your insurance.” After NE#1 repeatedly requested proof of insurance, the Complainant responded “Get a supervisor out here. Get a supervisor.” NE#1 responded, “No, I’m not going to.” They went “back and forth,” the Complainant



requesting a supervisor and NE#1 requesting proof of insurance. Finally, the Complainant stated, “Fine, I am going to call 9-1-1 and I’m going to get one myself.”

After the Complainant called 911, NE#1 “stormed off” but returned with his license and insurance. NE#1 told the Complainant to expect a citation in the mail.

The encounter was less than ten minutes. The Complainant’s proof of insurance was ready to display when NE#1 returned his license and registration. At the time of his OPA interview, the Complainant had not received a mailed citation.

D. OPA Interview – Witness Supervisor #1

On August 17, 2022, OPA interviewed WS#1. WS#1 served the Department for over twenty-eight years and was assigned to the Traffic Section Motorcycle Unit.

WS#1 described the Motorcycle Unit’s rules and common practices. WS#1 said all traffic stops must be logged, either over the radio or on their laptops. WS#1 stated common practice is for officers to use their laptop and mobile printer to issue citations during the traffic stop. WS#1 explained the mobile printers are “not always 100 percent reliable,” so officers may opt to have citations mailed. WS#1 stated policy requires officers to submit tickets by the end of their shift but acknowledged some situations where they are submitted “first thing in the morning.” WS#1 stated, if a community member requests a supervisor the officer must adhere to that request “at the soonest time when it’s safe and feasible.”

WS#1 recounted his June 2, 2022 conversation with the Complainant. WS#1’s recollection was consistent with his Blue Team Complaint.

WS#1 noted, following the complaint, he counseled NE#1 on the LEED Model (Listen and Explain with Equity and Dignity) for communicating with community members. WS#1 also told NE#1, “if community members want to continue to argue, you don’t have to continue that, but you should at least comport yourself in a professional manner. Explain exactly what it is that – that they had done, answer whatever que- -- reasonable questions they may have, and do so in a – I – I guess an understanding manner, not just trying to be – not just be abrupt and, you know, cut them off.”

E. OPA Interview – Named Employee #1

On August 18, 2022, OPA interviewed NE#1. NE#1 served the Department for twenty-four years, with four years in traffic. In summary, NE#1 stated:



He stopped the Complainant for an illegal U-turn. NE#1 activated BWV, introduced himself, and told the Complainant he was pulled over for an illegal U-turn. NE#1 also explained, “you also didn’t signal when you turned and when you made a lane change.” NE#1 asked the Complainant for his license, registration, and insurance.

The Complainant provided his license and registration but looked on his phone for proof of insurance. The Complainant asked, “When did I not signal?” NE#1 replied, “Right before I stopped you.” NE#1 described the Complainant as wanting to “argue.” NE#1 stated, “Well, if you did signal, then your signal lights don’t work.” The Complainant asked, “Well, where was that at?” NE#1 said, “And I – and I kept telling him, ‘You need to get – get your insurance information to me.’” The Complainant replied, “Well, I have a right to know why I’m being stopped.” NE#1 replied, “I already told you why you’re being stopped. You’re being stopped for an illegal U-Turn.”

NE#1 characterized their back-and-forth as follows:

And so it was just – he – he didn’t – he didn’t want to get his insurance information. I kept asking for it and I told him – I said, ‘If you don’t provide that, then you’ll get a citation for no insurance also.’ And he said, “Well, I’m going – I’m going to call 911 and talk to your sergeant,” or something like that. And so I said, “I’ll be right back with you.” So I went back and probably maybe 30 seconds to a minute, I scanned his information, went back, and gave it to him and went on the way from there.

NE#1 stated the traffic stop lasted about two minutes. NE#1’s mobile printer was not working, so he opted to have the ticket mailed to the Complainant. NE#1 did not give the Complainant a serial or incident number, which is generated when a call is created, prior to his departure. Further, NE#1 did not tell the Complainant when to expect the citation or how to respond once he received it.

NE#1 learned his BWV camera was not working the day after he stopped the Complainant. NE#1’s practice is to write tickets by the end of the workday. When asked why he submitted the Complainant’s June 1, 2022 ticket on June 6, 2022, NE#1 stated:

I don’t know particular in this case what – what happened, but quite commonly I’ll come in, log in into SECTOR see that’s there’s tickets or collisions in the queue and I don’t know – for whatever reason they – they get – fail to send or they get sent back or whatever the case is. But it looks like – I think this day was mid-week so – and it looks like I probably came in on Monday and saw that there were tickets in the queue that needed to be sent and sent it.

NE#1 said he mistakenly marked the ticket to be sent to the prosecutor. NE#1 found out about the Complainant’s complaint when he received an OPA notification later in June. NE#1 denied discussing the complaint with supervisors.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

16.090 - In-Car and Body-Worn Video 16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Employees Record Activity

NE#1 allegedly failed to record a traffic stop.

SPD Policy 16.090-POL-1(5)(b) states employees will record “Traffic and Terry stops” when safe and practical.

Here, OPA cannot conclude NE#1 intentionally failed to record the Complainant’s traffic stop. During their OPA interviews, NE#1 and the Complainant reported, upon approaching the Complainant’s car, NE#1 stated the encounter was audio and visually recorded.

Nevertheless, neither WS#1 nor OPA located NE#1’s BWV of the incident. While Evidence.com searches showed NE#1’s last successful BWV upload was March 22, 2022, the evidence suggests NE#1’s BWV equipment may have malfunctioned. That malfunction was corroborated where the Complainant and NE#1 recalled him stating on scene their encounter was recorded, NE#1 told WS#1 he uploaded the footage, and NE#1’s March 23, 2022 BWV showing an error message which IT was able to recover. IT was unable to recover footage after March 23, 2002, but it is unclear whether that was due to NE#1’s dereliction or a technical issue with his equipment.

While it is also unclear how NE#1 was unaware his BWV equipment improperly worked March 23, 2022 through June 3, 2022, OPA cannot determine a preponderance of the evidence shows NE#1 intentionally violated policy.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #2

6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL – 2 Conducting a Terry Stop 4. During all Terry Stops, Officers Will Take Reasonable Steps to Be Courteous and Professional

The Complainant alleged NE#1 failed to explain the reason for the traffic stop.

Traffic stops, although noncriminal, fall within the scope of Terry. See State v. Duncan, 146 Wn.2d 166 (2002) citing United States v. Hensley, 469 U.S. 221 (1985). During a Terry stop, officers will take reasonable steps to be courteous and professional. SPD Policy 6.220-POL-2(4). “When reasonable, as early in the contact as safety permits, officers will inform the suspect of the following: The officer’s name; The officer’s rank or title; The fact that the officer is a Seattle Police Officer; The reason for the stop; That the stop is being recorded, if applicable.” *Id.*

Here, although NE#1 offered terse explanations for the traffic stop (failure to signal and illegal U-Turn), his interaction with the Complainant was not “courteous and professional.” The Complainant asked for details about when and where he allegedly failed to signal, to which NE#1 replied, “Right before I stopped you.” NE#1 admitted to OPA, despite the



Complainant's repeated inquiry, he provided no specifics about where the infraction occurred. Instead, NE#1 continuously demanded the Complainant's proof of insurance.

NE#1's unnerved and fragmented responses to the Complainant's reasonable and relevant questions escalated a routine traffic stop, contrary to the LEED model officers are trained to use.² Where WS#1 counseled NE#1 on the LEED model prior to the Complainant's allegations and NE#1's history includes a training referral and four sustained findings for unprofessional acts, three issued in 2021, OPA finds NE#1 was more likely than not discourteous and intentionally withheld details about the stop.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

The Complainant alleged NE#1 was unprofessional.

SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. *Id.* Additionally, employees must "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.*

For the reasons set forth above at Allegation #2, OPA finds NE#1 was more likely than not unprofessional. Moreover, the Complainant's account of NE#1's unprofessionalism was corroborated by OPA's review of his 911 call during the traffic stop. In real time, the Complainant alleged NE#1 overtalked him, was unwilling to wait a reasonable time for the Complainant to show proof of insurance, got visibly "pissed off" about the Complainant's questions about the stop, and left while the Complainant requested a sergeant from a 911 call taker.

Overall, OPA finds this needlessly confrontational traffic stop likely undermined public trust in the Department and NE#1. Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #4

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5.002-POL 2. Employees Will Assist Any Person Who Wishes to File a Complaint

² See Justice Based Policing: Communication Skills for Officer Survival, available at <https://www.cjtc.wa.gov/training-education/vendor-courses/justice-based-policing-communication-skills-for-officer-survival#:~:text=The%20LEED%20model%20stands%20for,why%20you%20are%20taking%20action.>

"The LEED models stands for – Listen and Explain with Equity and Dignity. Listen - Allow people to give their side of the story; give them a voice and let them vent. Explain - Explain what you're doing, what they can do and what's going to happen. Equity - Tell them why you are taking action. The reason must be fair and free of bias, and show their input was taken into consideration. Dignity - Act with dignity and leave them with their dignity." *Id.*



The Complainant alleged NE#1 failed to assist with filing a complaint.

SPD Policy 5.002-POL-2 mandates, “employees will assist any person who wishes to file a complaint.” It further directs, “employees will assist the complainant by taking the complaint and passing it on to a supervisor and/or OPA.” *Id.*

Here, the Complainant repeatedly requested a supervisor and NE#1 ignored those requests. In response, the Complainant resorted to calling 911 for a supervisor. While the Complainant spoke to a 911 call taker, NE#1 chose to leave the scene.

NE#1 told OPA the Complainant never requested a supervisor, instead the Complainant told NE#1 he was calling 911 for a supervisor. However, OPA’s review of the Complainant’s recorded 911 call suggests NE#1 decided against helping the Complainant access a supervisor. During that call, the Complainant told the call taker, in real time, what transpired on scene. Particularly, the Complainant said he repeatedly asked NE#1 for a supervisor but was unaccommodated. He further noted, NE#1’s inaction caused the Complainant to call 911 for a supervisor. The call taker spent several minutes listening to the Complainant, explaining the complaint filing process, and documenting the Complainant’s concerns. Overall, NE#1’s unhelpfulness needlessly occupied the 911 call taker’s time and directly violated policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #5

16.230 - Issuing Tickets and Traffic Warnings 16.230-POL 7. Officers Complete and Submit Tickets and Traffic Warnings by the End of Their Shift

NE#1 allegedly failed to submit tickets by the end of his shift.

Officers must complete and submit tickets and traffic warnings by the end of their shift. See SPD Policy 16.230-POL-7.

Here, OPA’s review of SECTOR system data showed NE#1 signed and submitted tickets for the June 1, 2022 encounter with the Complainant on June 6, 2022—five days later. NE#1 told OPA his general practice is to write tickets by the end of a shift, but for some reason this ticket did not go through—a fact he noticed five days later. Even under unique circumstances, WS#1 stated tickets should be submitted no later than the following morning. Overall, NE#1 offered no justification for the untimely submission.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #6

5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited

NE#1 allegedly retaliated against the Complainant.



The Department precludes employees from engaging in retaliation. SPD Policy 5.001-POL-14. Specifically, employees are prohibited from retaliating against any person who “Files a complaint” or “who otherwise engages in lawful behavior.” *Id.* “Retaliation includes discouragement, intimidation, coercion, or adverse action against any person.” *Id.*

Here, there is insufficient evidence NE#1 retaliated against the Complainant. Although NE#1 wrote and signed the Complainant’s ticket on June 6, 2022 (the same day OPA received the Blue Team Complaint), NE#1 denied knowing about the OPA complaint at that time. NE#1 stated he learned about the complaint from his OPA notice—which he received on or about June 7, 2022. Further, while WS#1 learned about the complaint during his June 2, 2022 conversation with the Complainant, WS#1 and NE#1 denied discussing it prior to NE#1’s ticket submissions. While NE#1’s untimely ticket submissions violated policy (*see* Allegation #5) and their timing eerily coincidental, there is insufficient evidence to prove NE#1 retaliated against the Complainant.

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

Recommended Finding: **Not Sustained - Inconclusive**