



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 20, 2022

FROM: DIRECTOR GINO BETTS JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0198

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 2	Tickets and Traffic Contact Reports	Sustained
Imposed Discipline		
Oral Reprimand		

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 Named Employee #1 (NE#1) failed to write a complete, thorough, and accurate report for a traffic collision involving the Complainant. The Complainant also alleged NE#1 improperly cited her for the collision.

ADMINISTRATIVE NOTE:

The original Director's Certification Memo (DCM) was issued December 15, 2022. That DCM recommended Sustained findings for both allegations against NE#1. At a December 20, 2022 Disciplinary Review Committee meeting, the group discussed concerns with NE#1's investigation including inaccuracies and miscalculations. However, significantly swayed by NE#1's history of numerous commendations and no prior discipline, the group concluded the most appropriate disposition for NE#1's alleged reporting deficiencies is further training. Allegation #2 remains Sustained.

SUMMARY OF INVESTIGATION:

The Complainant emailed OPA outlining alleged inaccuracies in NE#1's Police Traffic Collision Report (PTCR). The Complainant further alleged NE#1's inaccurate PTCR drew erroneous conclusions, which resulted in NE#1 wrongfully citing the Complainant for the collision.

OPA opened this investigation. During its investigation, OPA reviewed the OPA complaint and attachments, Computer-Aided Dispatch (CAD) call report, PTCR, Body Worn Video (BWV), and photographs. OPA also interviewed NE#1. However, the Complainant declined to participate in an OPA interview.

a. OPA Complaint

The Complainant emailed OPA describing the crash and listing alleged inaccuracies in NE#1's PTCR.



The Complainant described the crash as follows:

Briefly, I was travelling north on West Viewmont Way in the Magnolia neighborhood in Seattle [area code] with a carload of small plants in the back. I was driving at the speed limit [in the vicinity of] my home. The crash occurred at the intersection of West Viewmont Way and Montavista Place West. West Viewmont Way is a major arterial in Magnolia without any stop signs. The driver of the other vehicle was headed east on Montavista Place West (i.e., was on my left side). I saw a blur in my peripheral vision on the left as I crossed the intersection with Montavista Place West and simultaneously was hit on the driver's side of my car. The impact pushed my vehicle to the right (east side of Viewmont) over the curb and parking strip onto private property, avoiding a lamppost, a fire hydrant, and a rock wall. The impact of the other vehicle hitting me was so great it caused the other vehicle to spin around 180 degrees and face west.

All front and rear airbags on the driver's side in my vehicle as well as the one in the steering wheel deployed. My vehicle was extensively damaged on the driver's side. Neither door on the driver's side could be opened so I crawled out the front passenger door. The other vehicle had extensive damage to the front end...

The Complainant described her view as unobstructed while driving north on West Viewmont Way. She also reported no traffic control devices along her route and a stop sign at the southwest corner of Montavista Place West and West Viewmont Way, where the at-fault driver emerged. She stated that stop sign was "back far enough that a driver must pull up to see the oncoming traffic on West Viewmont Way."

The Complainant also noted "at least nine inaccuracies" in the PTCR:

- 1) My address is listed for both ... my vehicle (unit 1) and the other vehicle (unit 2).
- 2) The officer is confused about the streets; he states that I had a stop sign and the other vehicle did not.
- 3) The report incorrectly states that I (unit 1) was travelling westbound. I was travelling northbound.
- 4) The report incorrectly states the other driver (unit 2) was travelling northbound. Unit 2 was travelling eastbound.
- 5) The report states unit 2 "paused by a stop sign but drove past it and into the intersection as she attempted to cross the intersection." Unit 1 driver was female, and unit 2 driver was male. Furthermore, "paused by a stop sign" must be based on unit 2's report to the officer as there are no witnesses to the accident. As noted above, the officer did not ask me (unit 1) driver how the accident occurred. From the location of the damage to the two vehicles, unit 1 ran the stop sign. Finally, why was the other driver not cited if he only paused at a stop sign?



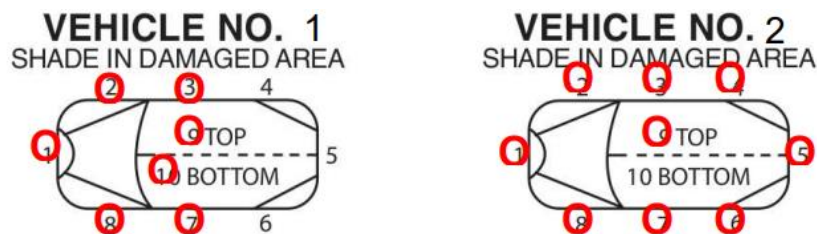
- 6) The box "Vehicle towed due to disabling damage" is marked "no" for both vehicles. However, both vehicles were towed while the police officer was present.
- 7) The diagram with shading to damaged area of the vehicles is incorrect for both vehicles. Unit 1 had damage to entire driver's side especially the front and unit 2 had extensive damage to the front.
- 8) The report states that unit 1 collided into unit 2. Note that if unit 1 had hit unit 2, the pattern of damage would be different and unit 1 would not have been launched east by 20 feet onto private property. Even the diagram prepared by [NE#1] does not align with the damage to the vehicles.
- 9) The report states the driver of unit 1 reported the driver of unit 2 was speeding. As noted above, I was never asked about how the crash occurred and, therefore, did not report that unit 2 was speeding.

The Complainant concluded, "the sloppiness, factual and procedural errors, and incorrect conclusions advanced in this police report, which resulted in an unwarranted citation, cannot go unregistered."

b. Police Traffic Collision Report

NE#1 completed a PTCR for the collision. In the PTCR, NE#1 listed the Complainant as "Unit 01" and the other driver as "Unit 02." NE#1 indicated neither vehicle was "towed due to disabling damage." NE#1 also listed part of the Complainant's address in the address box for Unit 2.

NE#1 charted the damage to both vehicles:



The PTCR's narrative stated:

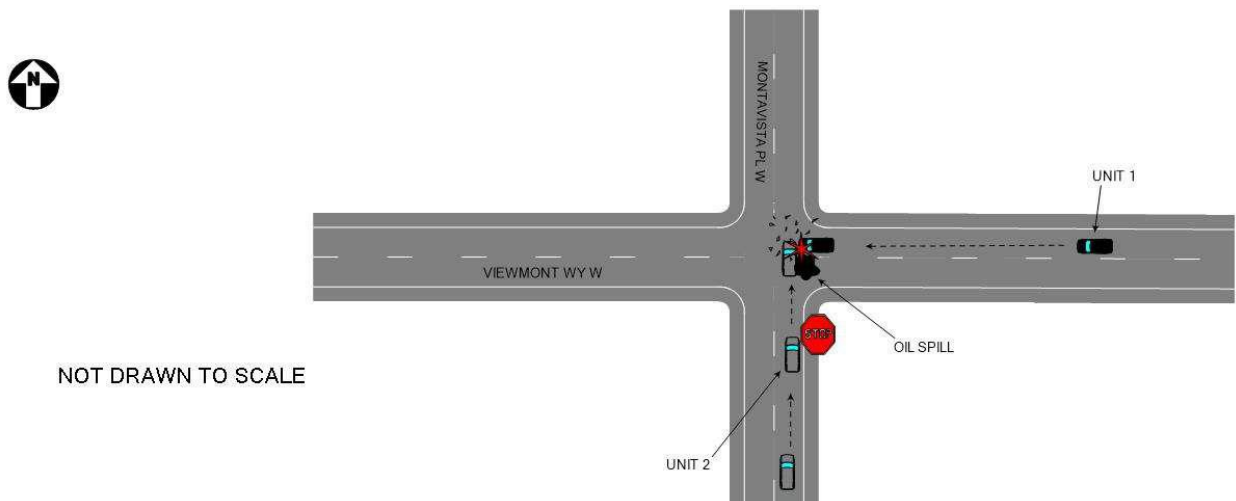
Unit 1 was heading westbound through the intersection of Viewmont Wy W & W Montavista Pl W whilst Unit 2 was heading northbound through the same intersection. Unit 2 paused by a Stop Sign but drove past it and into the intersection as she attempted [sic] to cross the intersection. Unit 2 was at this time halfway through the intersection when unit 1 collided into it.

Unit 1's actions caused a collision between both vehicles and resulted in extensive damages and multiple airbag deployments to both vehicles. SFD E#20 responded to the scene to render medical assistance to both drivers who did not show any signs of apparent injuries. Unit 1 noted that unit 2 was speeding on the roadway and had caused the collision as a result.



It was later observed that unit 2 had a paused at stop sign prior to proceeding through the intersection but unit 1 did not slow down for unit [2]. Unit 1 was later issued a citation for failure to yield the right of way to an oncoming vehicle, with the ticket sent to the court for mailing. Both drivers were issued business cards with the case numbers prior to both vehicles being privately towed from the scene.

The PTCR also included the following diagram:



c. Traffic Infraction

NE#1 cited the Complainant for Failure to Yield Right-of-Way at an Intersection. See Seattle Municipal Code 11.55.010.

The infraction included the following narrative:

Unit 1 [was] headed northbound through the intersection of Viewmont Wy W & W Montavista Pl W whilst Unit 2 was heading southbound through the same intersection. Unit 1 paused by a Stop Sign but drove past it and into the intersection soon afterwards. Unit 1 was at this time halfway through the intersection when unit 2 collided into it.

Unit 2's actions caused a collision between both vehicles and resulted in extensive damages and multiple airbag deployments to both vehicles. SFD E#20 responded to the scene to render medical assistance to both drivers who did not show any signs of apparent injuries. Unit 1 notes that unit 2 was speeding on the roadway and had caused the collision as a result.

It was later observed that unit 1 had pause at stop sign prior to proceeding through the intersection but unit 2 did not slow down for unit 1. Unit 2 was later issued a citation for failure to yield the right of way to an oncoming vehicle, with the ticket sent to the court for mailing.



Both drivers were issued business cards with the case numbers prior to both vehicles being privately towed from the scene.

d. Body Worn Video

NE#1's BWV showed the following:

NE#1 arrived on scene after SFD. The other driver's vehicle (Unit 2) was disabled in the intersection with extensive front-end damage. The Complainant's vehicle (Unit 1) landed beyond the sidewalk in a front yard, northeast of the intersection of West Viewmont Way and Montavista Place.

NE#1 spoke with a group of onlookers. All reported hearing, but not seeing, the collision. Onlooker #1 identified Unit 2's driver and motioned toward the Complainant's car stating, "and that's the car that hit him." Onlooker #2 interjected, "[the Complainant] claims that *she* got hit." Onlooker #1 replied, "Oh, really?" Onlooker #3 reportedly saw Unit 1 "leave the road and fly through the air."

Next, NE#1 spoke with Unit 2's driver. Unit 2's driver indicated he drove northeast on Montavista Place before stopping at a stop sign at Viewmont Way. Unit 2's driver stated, as he entered the intersection, Unit 1 drove at a "very high speed" northwest on Viewmont Way. Unit 2's driver said Unit 1 "could not control their speed" and crashed into him.

NE#1 spoke with a SFD firefighter and requested tow trucks for both disabled cars.

NE#1 then spoke with the Complainant. The Complainant stated she drove north on West Viewmont Way approaching Montavista Place. She estimated her speed was about 30 miles per hour. The Complainant stated Unit 2 faced east on Montavista Place, "presumably" waiting to turn north onto West Viewmont Way. She said, at the intersection of West Viewmont Way and Montavista Place, Unit 2 collided with her car causing all her airbags to deploy. The Complainant stated Unit 2 was "behind" her as she entered the intersection, which suggested she was unable to avoid the collision. The Complainant explained Unit 2 turned into the driver's side of her vehicle as she passed Montavista Place. She reported no interaction with Unit 2's driver after the collision.

NE#1 returned to Unit 2's driver, who reiterated his earlier statement regarding the collision. NE#1 approached the Complainant's vehicle. Her front driver's side tire and fender had significant damage. NE#1 photographed the scene and involved vehicles. Two tow trucks arrived to transport Units 1 and 2.

NE#1 spoke to several onlookers who denied observing the accident or having security video. NE#1 spoke to Onlooker #4, who was doing front yard work, heard the collision and saw "(Unit 1) leave the road and go flying through the sidewalk and hit the wall." Onlooker #4 stated she spoke to Unit 2's driver following the collision. Onlooker #4 reiterated Unit 2's driver's account of the accident. Onlooker #4 denied having security cameras but pointed out a nearby home potentially equipped with cameras. NE#1 relocated there but found no cameras.



NE#1 reapproached the Complainant and stated he may issue a citation to her or Unit 2's driver after he determined who had the right-of-way. The Complainant stated there was no way she could have hit Unit 2. She further noted "(Unit 2) has the stop sign and I don't."

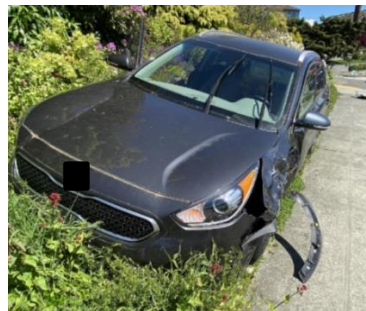
NE#1 reapproached Unit's 2 driver and indicated he may issue a citation to him or the Complainant. Unit's 2 driver reiterated the Complainant was speeding, the impact of the collision caused his car to spin, and the Complainant came to a stop further down the road. NE#1 responded, "at the same time, you had a stop sign." Unit 2's driver replied he stopped before entering the intersection.

NE#1 ended the encounter by providing business cards to the Complainant and Unit 2's driver.

e. Photographs

NE#1 took thirty-three photographs of the scene, Unit 1, and Unit 2. The photographs showed the Complainant's vehicle (Unit 1) with damage only to its front driver's side. The entire front of Unit 2 was significantly damaged, including a detached bumper and grill and a smashed passenger side headlight.

Unit 1



Unit 2



f. OPA Interview – Named Employee #1

On September 22, 2022, OPA interviewed NE#1.

NE#1 stated he responded to a two-vehicle collision. NE#1 stated he contacted both drivers and asked several witnesses to standby, because he did not want to enter the scene with preconceived notions.

NE#1 stated Unit 2's driver said he entered the intersection and was hit by the Complainant's speeding car. NE#1 stated the Complainant said she saw a "glimpse" before passing Unit 2, which hit her car. NE#1 described the Complainant as "flustered" and "out of sorts," which caused NE#1 concern for her safety.

NE#1 described the Complainant's story as inconsistent with the evidence. NE#1 stated, "I'm seeing damages on the -- on the passenger front side of [Unit 2] and then the entire front of [the Complainant's] vehicle." NE#1 stated he concluded Unit 2 "was already in the roadway" and the Complainant was "speeding through it," causing the collision. NE#1 noted he took pictures of the scene, relevant signage, and the vehicles. NE#1 also described unsuccessfully searching for eyewitnesses and security footage.

NE#1 stated he cited the Complainant because her account was inconsistent with the physical evidence. NE#1 stated, if the Complainant's account was true, her vehicle would have a "very mangled driver's side."



NE#1 denied knowing how a portion of the Complainant's address was written in the box for Unit 2's driver's address on the PTCR. NE#1 also explained the units listed on the PTCR and Traffic Infraction were inconsistent because he was later instructed to amend his PTCR, but was unable to amend the Traffic Infraction, which he issued the day of the collision. NE#1 explained he checked that neither vehicle was towed because both vehicles were towed by a private company. NE#1 believed the purpose of the box on the PTCR indicating a vehicle was towed was to document that a vehicle was impounded.

NE#1 acknowledged he made "a few clerical errors or mistakes." However, NE#1 stated he believed he issued the traffic infraction to the proper party. NE#1 stated, overall, the Complainant's version of events was vague and inconsistent with physical evidence, whereas Unit 2's driver's story was "simple," "right to the point," and "clear."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report

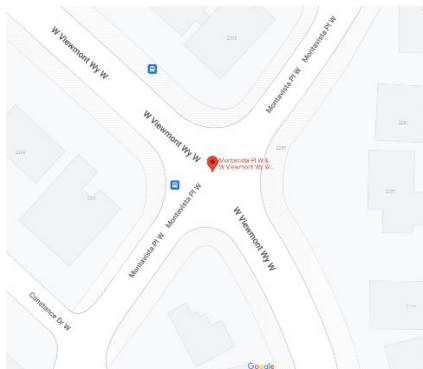
The Complainant alleged NE#1's report was not complete, thorough, and accurate.

SPD Policy 15.180-POL-5 requires officers document all primary investigations on a report. All reports must be complete, thorough, and accurate. See SPD Policy 15.180-POL-5.

Here, NE#1 conceded, and OPA concurs, he made several clerical errors on the PTCR and Traffic Infraction. Specifically, the PTCR indicated neither vehicle was towed when both were. See Police Traffic Collision Report Instruction Manual, Washington State Patrol Collision Records Section, Ch. 6, Section X ("Check the appropriate box to identify if the vehicle was towed from the collision scene due to damage suffered in the collision.") The PTCR and the related manual instructs officers to check the box to indicate the vehicle was towed, not impounded as NE#1 believed. Also, the PTCR's narrative was inconsistent with the Traffic Infraction's narrative:

- The PTCR indicated Unit 1 traveled westbound on Viewmont Way, while the Traffic Infraction stated Unit 1 traveled northbound on Viewmont Way.
- The PTCR indicated Unit 2 drove northbound on Montevista Place, while the Traffic Infraction stated Unit 2 headed southbound on Montevista Place.
- The PTCR apparently confused Units 1 and 2, where NE#1 referred to Unit 2's driver as female (Unit 1's driver/the Complainant was female and Unit 2's driver was male): "Unit 2 paused by a Stop Sign but drove past it and into the intersection as she attempted [sic] to cross the intersection." Conversely, the Traffic Infraction noted, "Unit 1 paused by a Stop Sign but drove past it and into the intersection soon afterwards."

NE#1 told OPA the inconsistencies were due to him amending the PTCR's descriptions of the vehicles' direction of travel to match the included diagram, after the Traffic Infraction was issued. However, the evidence suggests the PTCR and the Traffic Infraction inaccurately documented the vehicles' direction of travel, where West Viewmont Way diagonally runs Northwest/Southeast and Montevista Place diagonally runs Southwest/Northeast at their intersection:



Additionally, on the PTCR, a portion of the Complainant's address was entered in a box designated for Unit 2's driver's address.

Further, beyond clerical mistakes, OPA found NE#1 made two more errors that likely resulted in significant miscalculations and misguided conclusions. First, NE#1 cited the Complainant for violating SMC 11.55.010, which concerns the right-of-way rules for an uncontrolled intersection. However, NE#1 admitted to OPA, and all evidence suggests the intersection was controlled by a stop sign. Without question, the Complainant, who had no traffic control device, had the right-of-way at the intersection, not Unit 2. *See* SMC 11.50.320(B). Second, the PTCR inaccurately documented damage for both vehicles. Particularly, the PTCR's diagram indicated the front end and both front sides of the Complainant's car were damaged. However, BWV and photographs show the Complainant's driver's side fender and tire were the areas of impact. Similarly, the PTCR's diagram indicated damage to all areas of Unit 2. However, BWV and photographs show Unit 2's frontend was the area of impact. Mostly notably, Unit 2's passenger side's headlight was smashed and bumper completely detached, while the driver side of the bumper was still attached.

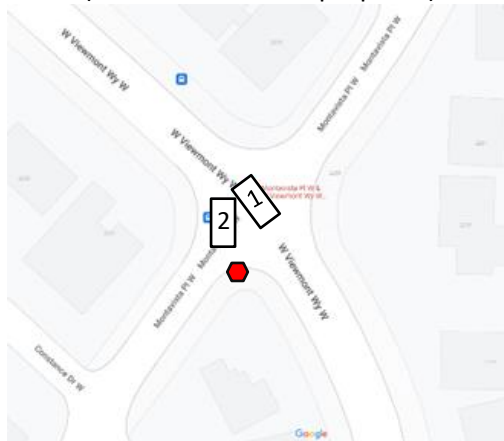
Unit 2



That physical evidence suggested, while turning left (northwest) onto West Viewmont Way, Unit 2's front passenger side collided with the Complainant's driver side, as the Complainant explained to NE#1 on scene:



(For demonstrative purposes)



Those errors—considered independently or alongside the clerical errors set forth above—appear to have meaningfully impacted NE#1’s investigation. Overall, NE#1’s errors exceeded minor clerical missteps and demonstrated a misapplication of the law and misinterpretation of the physical evidence.

Accordingly, while acknowledging NE#1 made several reporting errors, OPA recommends this allegation be Not Sustained- Training Referral:

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 15.180-POL 5 with NE#1 and provide any retraining and counseling it deems appropriate. All retraining and counseling conducted should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #2

16.230 - Issuing Tickets and Traffic Warnings 16.230-POL 1. Employees May Use Discretion When Issuing Tickets

The Complainant alleged NE#1 used unreasonable discretion by wrongfully issuing the Complainant a traffic infraction.

SPD Policy 16.230 POL 1 requires officers to use their discretion to appropriately warn, cite, or arrest traffic violators to both gain compliance with traffic laws and develop driver awareness.

Exercising appropriate discretion requires officers to understand the relevant laws and evidence governing the situation under investigation. As discussed above, NE#1 appears to have misunderstood the law and evidence in this situation. This is noteworthy because the Complainant specifically alerted NE#1 that Unit 2 was subjected to a stop sign and had an obligation to “yield the right-of-way to any vehicle . . . which is approaching on another roadway so closely as to constitute an immediate hazard.” SMD 11.50.320. Moreover, NE#1 was apparently swayed by Unit 2’s driver’s account even though the physical evidence failed to corroborate it. Not only were NE#1’s conclusions inconsistent with the visible damage to both vehicles, but he also ultimately ignored or undervalued the dispositive fact that Unit 2 faced a stop sign.

Although policy gives officers a great deal of discretion when issuing tickets, issuing a driver a citation for an offense they demonstrably did not commit is not a reasonable exercise of discretion.



Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**