



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 10, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0294

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Shall Strive to be Professional.	Not Sustained - Inconclusive
# 2	5.140 – Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing.	Not Sustained - Inconclusive
# 3	5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested.	Not Sustained - Inconclusive
# 4	16.090 – In-Car and Body-Worn Video 16.090-POL 2. Employees Who Have Been Trained and Have Been Issued ICV and BWV Equipment Must Carry it During Their Shift.	Not Sustained - Training Referral

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:

The Complainant also alleged Witness Employee #1 (WE#1) violated the Department's professionalism policies, specifically 5.001-POL-10 and 5.001-POL-7. OPA sent both allegations to WE#1's chain of command for supervisor action.

SUMMARY OF INVESTIGATION:

On September 13, 2022, the Complainant called 9-1-1 to report a collision. The Named Employee (NE#1), WE#1, and Witness Employee #2 (WE#2) responded to the scene. During that response, NE#1 allegedly refused to give the Complainant his name and badge number. NE#1 also allegedly used a homophobic slur. During its investigation, OPA reviewed an SPD incident report, a behavioral crisis report, computer-aided dispatch data, and body-worn videos. OPA also interviewed the Complainant, WE#2, and NE#1.

a. Computer-Aided Dispatch (CAD)

CAD data showed the Complainant called 9-1-1 on September 13, 2022, at 5:25 PM. It was categorized as a priority 1 call. The call was initially noted as a vehicle collision with injuries "(INCLUDES A HIT AND RUN)" but ultimately listed as a disturbance. It also showed WE#1 and WE#2, partners, were dispatched at 5:26 PM and NE#1 at 5:31 PM. All three officers' listed arrival was 5:36 PM. Before officers arrived, there were several updates, including:



- the Complainant was an armed security guard with a holstered gun.
- the Complainant rode a bicycle and was struck by a vehicle.
- the Complainant escalated during the call, yelling and cursing at the other party.

NE#1 cleared the call at 6:17 PM, and WE#1 and WE#2 cleared it at 7:31 PM. WE#2 was listed as the reporting officer, and the disposition was "REPORT WRITTEN (NO ARREST)."

b. Incident Report

WE#1 wrote the related incident report. In summary, it noted the details of the call continuously changed. Specifically, WE#1 documented the Complainant's initial report to the 9-1-1 call taker was that a car struck him at 6th Avenue and Pine Street. A few minutes later, that address was updated to 1525 3rd Avenue, and the report changed to the Complainant colliding with a bicyclist. Officers went to 1525 3rd Avenue but found neither party. Officers eventually found the parties on the 1500 block of 4th Avenue. WE#1 described the Complainant as "extremely agitated...wearing external body armor, and had a handgun in a holster on his hip." WE#1 described Community Member #1 (CM#1), the other party to the collision, as "calm" and cooperative. WE#1 also noted the Seattle Fire Department (SFD) arrived to offer medical assistance, but the Complainant appeared to decline.

WE#1 interviewed CM#1, who reportedly stated he and the Complainant were coworkers at a bank. CM#1 reportedly said the Complainant worked as armed security. CM#1 also described the collision, stating he rode a skateboard northbound in a bike lane when the Complainant suddenly rode an electric scooter into the bike lane, causing the crash. WE#1 wrote, "since [the Complainant] failed to yield to [CM#1], who was already legally traveling in the bike lane...I determined [the Complainant] was at fault." WE#1 wrote the Complainant "immediately became irate" about officers not arresting CM#1. WE#1 documented the Complainant "claimed [CM#1] ...came behind him on his skateboard and was traveling at a much faster speed than [the Complainant,] which resulted in the collision." WE#1 wrote the Complainant's account "was improbable as [the Complainant] was using an [electrically] powered bicycle and CM#1 was using a standard skateboard." WE#1 wrote the Complainant "no longer wished to converse with [WE#1 and WE#2]," so they left "to avoid escalating the situation." WE#2 gave the Complainant a business card with the corresponding case number before their departure. WE#1 wrote he later learned the Complainant had a 2017 crisis report, which stated, "he claimed he tried to kill himself by using meth and bath salts." WE#1 found the Complainant's behavior "consistent with a routine methamphetamine user." WE#1 also requested his report be forwarded to SPD's Crisis Response Unit due to the "substantial risk to the public" posed by the Complainant's reported drug history, on-scene behavior, and current armed security position.

c. Body-Worn Videos (BWV)

WE#1's and WE#2's BWV was activated during their response, but NE#1's was not.¹ BWV was generally consistent with WE#1's incident report. In summary, BWV showed as the Complainant gave his account to WE#2, NE#1

¹ OPA searched Evidence.com for NE#1's BWV but found none related to this incident. An SPD management systems analyst also emailed OPA confirming NE#1 had no BWV for the incident. However, OPA did confirm NE#1 made a CAD note that day at 5:49 PM stating he advised a sergeant he did not have BWV for the incident.



interjected, "I'm gonna stop you." The Complainant replied, "Can I finish my response?" NE#1 stated, "No, you can't. I'm talking to you." Referencing SFD, who was on the scene, NE#1 asked the Complainant, "Do you want their services or not?" The Complainant yelled at SFD, "Good night!" The Complainant asked WE#2 to speak alone, stating, "your partner was very mean to me for no good reason." WE#1 introduced himself to the Complainant and tried to explain why CM#1 was not arrested. The Complainant replied, "I don't want to talk to you." The Complainant also told WE#1 he would only speak with WE#2 because WE#1 and NE#1 "yelled at [him]" and "treated [him] like shit." The Complainant asked WE#2 for a card, and WE#2 complied.

d. OPA Interview – Complainant

On September 15, 2022, OPA interviewed the Complainant over the phone. He declined to record the interview.² The Complainant stated he was with SFD when NE#1 arrived. He stated NE#1 failed to display his name and refused to provide a business card. The Complainant further stated during their conversation, NE#1 said "fag" under his breath. The Complainant described NE#1 overall disposition as disrespectful and discourteous. Conversely, the Complainant described WE#2 as respectful and courteous.

e. OPA Interview – NE#1

On December 22, 2022, OPA interviewed NE#1. NE#1 stated on September 13, 2022, he worked first watch followed by a second watch shift. NE#1 stated his BWV battery ran low during his first watch shift. He said he charged it as the precinct because his car charger was "kind of slow." NE#1 said his battery was around 20% when he docked it. NE#1 said he left without thinking about his BWV equipment when dispatched for the call. He stated there was an update radioed to get to the scene "a little quicker" because the situation was escalating. NE#1 also said soon after the call, he notified sergeants about him not having BWV during the response.

f. OPA Interview – WE#2

On January 3, 2023, OPA interviewed WE#2. WE#2 stated she arrived at the scene shortly after NE#1 and WE#1. WE#1 directed WE#2 to interview the Complainant. WE#2 described the Complainant as "a little upset and agitated." WE#2 stated the Complainant seemed to calm with her but agitated by NE#1 and NE#2. WE#2 recalled the Complainant told NE#1 to back up and stated he only wanted to talk to WE#2. WE#2 stated NE#1 and WE#1 respected the Complainant's wishes and gave him space. WE#2 said she did not see NE#1 act rude, threatening, or aggressive. Similarly, WE#2 denied hearing NE#1 use a homophobic slur.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 Standards and Duties 10. Employees Shall Strive to be Professional.

NE#1 was allegedly rude, threatening, and aggressive with the Complainant.

² This summary is based on OPA's interview notes.



Regardless of duty status, employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers. SPD Policy 5.001-POL-10. Employees will avoid unnecessary escalation of events even if those events do not end in reportable uses of force. *Id.*

Here, BWV did not capture NE#1 behaving rudely, threateningly, or aggressively with the Complainant. The only stern interaction they had was when NE#1 interrupted the Complainant's interview with WE#2 to confirm whether the Complainant wanted SFD assistance:

- NE#1: I'm gonna stop you.
- Complainant: Can I finish my response?
- NE#1: No, you can't. I'm talking to you. Do you want [SFD's] services or not?
- Complainant yelled "Good night!" toward SFD.

Since the Complainant was already elevated by the collision, as noted by the 9-1-1 call taker and evidenced by BWV, NE#1's decidedly stern demeanor during that interaction was not the most effective de-escalation tactic. Particularly where the Complainant positively responded to WE#2's gentler approach. However, there is no evidence that the interaction crossed into unprofessionalism territory. NE#1's apparent intent was to release SFD if the Complainant declined its service. Nevertheless, because NE#1 failed to carry BWV for the call, OPA had to rely on portions of his interaction with the Complainant from WE#1's and WE#2's BWV. While all officers and CAD data suggested WE#1 and WE#2 arrived almost immediately after NE#1, OPA cannot conclude unprofessional behavior did not precede their arrival.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #2

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

NE#1 allegedly engaged in bias-based policing by using a homophobic slur with the Complainant.

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." SPD Policy 5.140-POL. It includes differential treatment based on a subject's race or gender. *See id.*

Here, BWV showed no evidence of differential treatment. NE#1 denied using a homophobic slur, and WE#1 and WE#2 denied hearing it. However, since NE#1 was the first officer on the scene, and he did not have BWV, OPA cannot dispel the allegation. Yet, given the Complainant's outspokenness, it is notable he did not mention the slur during his interactions with WE#1 and WE#2, who both had BWV.

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

Recommended Finding: **Not Sustained - Inconclusive**



Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested.

NE#1 allegedly failed to identify himself while engaging with the Complainant.

Employees will provide their name and Department serial number verbally, or in writing if requested. SPD Policy 5.001-POL-7. Employees may use a department-issued business card that contains their name and serial number to satisfy the request for the information. *Id.* Employees will also show their department identification card and badge (sworn) when specifically requested. *Id.* However, employees are not required to immediately identify themselves if an investigation is jeopardized, a police function is hindered, or there is a safety concern. *Id.*

Here, BWV showed NE#1 wore a name tag and badge during his interaction with the Complainant. While BWV showed the Complainant asking WE#2 for a card, it did not show him asking NE#1. However, since NE#1 was the first officer on the scene, and he did not have BWV, OPA cannot dispel the allegation.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #4

16.090 – In-Car and Body-Worn Video 16.090-POL 2. Employees Who Have Been Trained and Have Been Issued ICV and BWV Equipment Must Carry It During Their Shift.

NE#1 allegedly failed to carry BWV during a response.

Before employees deploy with BWV cameras, they will complete Department training on properly using the equipment and procedures for uploading recorded video. SPD Policy 16.090-POL 2. Once employees have completed BWV training and issued the equipment, employees will deploy for assignments with BWV cameras. *Id.* When required to record an event, BWV will be used. *Id.* Employees will wear the BWV camera on the upper torso. *Id.*

Here, NE#1's training records reflect he completed the requisite BWV training. Specifically, NE#1 had BWV training on October 27, 2021, and September 25, 2019. By mandating BWV activation, the Department aims to enhance public trust by providing greater transparency into officer actions. SPD Policy 16.090. "Recording law enforcement interactions between officers and members of the public provides valuable information for officer accountability and effective criminal investigations." *Id.* While it is clear NE#1 was obligated to carry BWV before responding to the call, several factors were at play that somewhat mitigated that failure. First, NE#1 battery was almost depleted when he docked it for charging. OPA's record review showed NE#1 battery was at 18% at that time. NE#1 stated he elected to charge it at the precinct because it was much faster than his car charger. NE#1 also said he worked 12 hours before he was dispatched for the call, and he did not believe the battery would last throughout the shift without a quick charge. Second, NE#1 stated that because the call was categorized as priority one and there was an update directing officers to "get there a little quicker," he left without thinking of grabbing his BWV off the charger. While neither factor exonerates NE#1 oversight, they suggest it was an unwillful failure best addressed by the chain of command.



Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- Required Training: NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 16.090-POL 2 with NE#1, and provide any retraining and counseling it deems appropriate. The retraining and counseling should be documented and maintained in a proper database.

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