

Issued Date: DECEMBER 20, 2023

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0234

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation:** 13.010 - Collisions Involving Department Vehicles-3. Employees Will Notify a Sergeant of Department Vehicle Collisions
 - a. **Finding:** Sustained
 2. **Allegation:** 5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy
 - a. **Finding:** 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:

It was alleged Named Employee #1 (NE#1) hit an unoccupied parked vehicle (Vehicle #1) with his Department patrol vehicle. It was also alleged NE#1 failed to notify a sergeant of the collision and neither notified the owner of Vehicle #1 nor left information with Vehicle #1.

Administrative Note:

On August 17, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

OPA received the complaint and opened an investigation. During its investigation, OPA reviewed the OPA Blue Team complaint, Police Traffic Collision Report (PTCR), collision review paperwork and officer statement, computer aided dispatch (CAD) GPS information, body-worn video (BWV),

in-car video (ICV), precinct video, and photographs. OPA also interviewed Witness Officer #1 (WO#1) and NE#1.

a. OPA Blue Team Complaint

An SPD sergeant filed an internal Blue Team complaint with OPA. The sergeant noted that, on May 12, 2023, a first watch officer, WO#1, observed “newer damage to the passenger side” of an SPD vehicle. The complaint noted that the SPD vehicle was most recently driven by NE#1. The SPD sergeant located the SPD vehicle and noted it was an “older vehicle” that was “covered with dents and dings.” The SPD sergeant noted “creasing to the passenger side front and rear doors,” which the sergeant stated “appeared to be newer damage.”

The sergeant wrote he contacted NE#1, who was not at work. The sergeant wrote NE#1 “did not seem to recall having been involved in any incident that would have caused damage to the patrol car.” The sergeant wrote NE#1 found the report “concerning” and “resolved to review ICV/BWV when he returned to work.” The sergeant wrote NE#1 located relevant video from his response to a domestic violence (DV) call. The sergeant wrote that NE#1 “driving slowly” while searching for a suspect, when he observed a possible suspect in a parked vehicle. The sergeant wrote that, as NE#1 pulled over to park, NE#1 appeared to strike Vehicle #1, which was parked. The sergeant wrote that NE#1 let out an “audible, indistinct sound as the ‘impact’ occurs.” The sergeant noted NE#1 then approached the possible suspect, engaged with him and his passenger, returned to his vehicle, and resumed searching for his suspect. The sergeant noted NE#1 did not report the collision or notify a supervisor and, instead, opined that, “it appears that it does not register to [NE#1] that he has struck a parked car with his patrol car as he is hyper-focused on the occupied Caprice and his task—searching for his DV suspect.”

The sergeant wrote that he responded to the scene of the collision on May 21, 2023, and located Vehicle #1. The sergeant noted “what appeared to be old damage to the front of [Vehicle #1].”

The sergeant opined that he did not believe NE#1 “recognized he had struck property with his car,” but instead was “hyper focused” on the call. The sergeant wrote NE#1 did not immediately recall the specific event. The sergeant concluded: “I do not believe the intent was to not report the collision.”

b. PTCR, Collision Review Paperwork, and Officer Statement

On May 22, 2023, the reporting sergeant completed a PTCR documenting the collision.

The collision was then reviewed by NE#1’s chain of command. The reporting sergeant’s report generally repeated the same information documented in the Blue Team complaint. The sergeant recommended the collision be determined “preventable.” NE#1’s lieutenant determined NE#1 did not timely report the collision, “due to the officer not recognizing he had been involved in a collision and [NE#1] not returning to work until 5/19/23 due to sick leave.” The lieutenant directed

the sergeant to complete a Performance Appraisal System (PAS) entry for NE#1 recommending emergency vehicle operation training among other things. The lieutenant found that the collision was preventable due to NE#1's "divided attention." The lieutenant did not find that the failure to report was intentional. NE#1's captain agreed the collision was preventable. The captain noted the video showed NE#1, "was aware of some sort of issue when he heard a noise that sounded like an impact. [H]e failed to investigate and[/]or report the issue at that time."

In connection with the collision review, NE#1 completed a statement. NE#1 documented his area check for a DV suspect, writing he was driving southbound when he observed a possible suspect in a vehicle on the east side of the road. NE#1 wrote he was "surprised" to observe the occupied vehicle. NE#1 wrote he was so surprised that he did not report his contact with the possible suspect over the radio. Instead, NE#1 wrote he determined the possible suspect was not, in fact, his suspect, and so NE#1 returned to his vehicle and resumed his search. NE#1 wrote he did not recall being involved in the collision but, on review of his BWV and ICV, he saw he, "had apparently struck the parked sedan." NE#1 finished, "Until I saw my video, I had no recollection of this occurring."

c. CAD GPS Information

CAD GPS showed NE#1 was in the area of the collision around 1:00 AM on May 9, 2023. NE#1 then appeared to return to his precinct building.

d. BWV and ICV

OPA reviewed both BWV and ICV from NE#1 for May 9, 2023.

BWV showed NE#1 driving and appeared to turn on his spotlight. NE#1 then turned his steering wheel hard to the right. A loud sound could be heard that sounded as if NE#1's vehicle collided with something. NE#1 stated immediately thereafter, "Ah...shit." It also appeared that NE#1's vehicle, Mobile Data Terminal, and BWV slightly shook or wiggled as the impact sound occurred. NE#1 then exited his vehicle and walked toward the black Caprice in which he observed a possible suspect. While walking to the black Caprice, NE#1's shadow was visualized, with the shadow of the brim of his hat apparently turned in the direction of Vehicle #1.



NE#1's shadow on ground in center frame. Vehicle #1 on left foreground. The black Caprice on right foreground.

NE#1's ICV was consistent with his BWV. NE#1's ICV depicted, about twenty minutes prior to the collision with Vehicle #1, NE#1 pulled onto a curb and a noise was heard. NE#1's ICV also depicted the impact sound, NE#1's vehicle appearing to slightly wiggle, and NE#1 stating, "Ah...shit" after the impact.

OPA located ICV from another officer that clearly depicted NE#1 pulling onto a curb twenty minutes prior to the collision, apparently while meeting with the other officer. Nothing was observed that would have damaged the passenger side of NE#1's vehicle. NE#1 appeared to drive over a flexible road marker.



NE#1 pulling up to curb, about twenty minutes prior to collision.

e. Precinct Video

OPA reviewed precinct video to determine whether NE#1 appeared to inspect his vehicle or report any damage following the collision. Although NE#1 and his vehicle were observed on the precinct video, OPA did not observe video that showed NE#1 inspecting the passenger side of his vehicle following the collision.

f. Photographs

Photographs were taken by both the reviewing sergeant and OPA investigator. The photographs depicted damage to the passenger side front and rear door of NE#1's vehicle.



Damage depicted along passenger side front and rear doors.

Photographs also depicted damage to the driver side, front bumper and headlight area of Vehicle #1.



Damage depicted by headlight.

g. OPA Interview – WO#1

OPA interviewed WO#1.

WO#1 noted that the SPD vehicle is “old,” “not particularly nice,” and a “piece of junk.” However, WO#1 stated he selected it for his shift as it reputedly had a better Automatic License Plate Reader (ALPR), a system that automatically reads nearby license plates.

WO#1 described conducting pre-patrol inspection of the vehicle prior to his shift. WO#1 noted the point of these inspections is to ensure there is no evidence left in the vehicle or damage. WO#1 described observing the passenger side damage on the vehicle during the pre-patrol inspection, but believing it was old damage. WO#1 stated that, later, the stationmaster informed him it was new damage. WO#1 stated he checked the logbook and confirmed there was no entry for the damage. WO#1 then reported the damage to his supervisor.

h. OPA Interview – NE#1

OP interviewed NE#1. NE#1 stated he regularly drives the SPD vehicle in question. NE#1 stated his regular practice is to conduct a pre-patrol inspection of his vehicle for damage or items left in the vehicle. NE#1 recalled conducting a pre-patrol inspection prior to his shift on May 9, 2023. NE#1 stated he did not observe the damage to the vehicle’s passenger side front and rear doors prior to his May 9, 2023, shift.

NE#1 provided his recollection of the incident. NE#1 recalled responding to a DV incident and conducting an area check for a suspect. NE#1 stated he was driving when he observed a male inside a vehicle matching the suspect’s description. NE#1 said he parked his vehicle, contacted the male, determined the male was not his suspect, and left the area.

NE#1 stated he had no recollection about the collision until he reviewed his video, noting that he saw he was involved in a collision while parking his vehicle prior to contacting the possible suspect. NE#1 stated, when his sergeant contacted him, he did not recall being in a collision, but he reviewed his video and determined that he had, in fact, been involved in a collision. NE#1 explained that, when conducting his video review, this incident stood out to him because it was one of the only ones where he was navigating “close streets.”

NE#1 stated he did not report the collision on the date of incident because he “didn’t recall” he had been in a collision. OPA played NE#1’s BWV and ICV for him. NE#1 was asked about the impact noise recorded in the videos. NE#1 was asked if he recalled noticing the noise at the time of the incident. NE#1 replied he did not. NE#1 was asked about his comment “ah...shit.” NE#1 responded:

So from this point, kind of, from the video, there's what appears an acknowledgment that something happened, by me, then. And then as the video proceeds, after I contact the subject, I just completely spaced it.

OPA clarified as follows:

OPA: Okay. So if I understand right, I don't want to put – just correct me if I'm wrong. You think, at this point, you're acknowledging something happened –

NE#1: Yes.

OPA: -- but then it just, kind of –

NE#1: It completely leaves my mind.

NE#1 was asked about the BWV depiction of his shadow. OPA asked NE#1 what he was looking at. NE#1 responded that he recalled looking at the vehicle the possible suspect was in.

NE#1 acknowledged his patrol vehicle struck a parked vehicle. OPA asked NE#1 to clarify how the collision escaped his mind. NE#1 responded:

I know I was very hyper focused on this individual. I think it startled me, kind of, finding him in the car, given the time delay I had on the call. I hadn't expected to find anyone and that caught me by surprise.

Finally, NE#1 provided additional context, admitting he was distracted this evening and had "been working a bit of overtime," including responding to a homicide the night before. NE#1 reiterated that he was surprised, hyper-focused on the potential suspect and "having the collision slip[p] out of my mind."

Analysis and Conclusions:

Named Employee #1 - Allegation #1

13.010 - Collisions Involving Department Vehicles-3. Employees Will Notify a Sergeant of Department Vehicle Collisions

It was alleged that NE#1 failed to notify his supervisor after being involved in a collision in a Department vehicle.

SPD Policy 13.010-POL-3 requires that employees involved in a Department vehicle collision notify a sergeant.

Ultimately, NE#1 admitted in his OPA interview that he was aware at the time of the collision that “something happened,” but then he “completely spaced it.” Even without this admission, OPA finds by more than a preponderance of the evidence that NE#1 was aware he had been involved in the collision. A loud impact noise was recorded on both BWV and ICV, and both videos depicted a noticeable shaking or wiggling. Finally, immediately after the collision, both BWV and ICV recorded NE#1 stating, “ah...shit.”

After being made aware he was involved in a collision, NE#1 was obligated to, “Notif[y] a supervisor immediately.” SPD Policy 13.010-TSK-1. NE#1 could have requested a supervisor over the radio immediately after stating, “ah...shit.” But even recognizing NE#1’s important and laudable task of searching for a DV suspect, at the latest, NE#1 should have notified a supervisor immediately after confirming the subject in the black Caprice was not the DV suspect. Considering NE#1’s amount of sleep, overtime, or subsequent sick leave, there may be an explanation NE#1 subsequently “spaced” the fact of the collision; however, these do not excuse the policy violation.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy

It was alleged that NE#1 failed to notify Vehicle #1’s owner or leave a written notice on Vehicle #1 after the collision as required by law.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. State law and municipal code require drivers to either notify the vehicle owner or leave a “written notice” after colliding with an unattended vehicle. See RCW 46.52.010 and SMC 11.56.430. The law requires a driver “immediately stop” and take one of these actions “then and there.” *Id.*

As discussed above at Named Employee #1, Allegation #1, OPA finds by more than a preponderance of the evidence that NE#1 was aware he collided with Vehicle #1. Under the law, NE#1 had certain obligations to either notify Vehicle #1’s owner or leave a written notice. NE#1 did neither of these things. Instead, NE#1 stated the fact of the collision almost immediately “slip[ped] out” of his mind. While there may be plausible reasons NE#1 almost immediately forgot about this collision, they do not excuse the policy violation.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**