
Issued Date: JULY 18, 2024

From: Office of Police Accountability, Director Gino Betts, Jr.



Case Number: 2023OPA-0336

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional
Finding: Sustained
 2. **Allegation #2:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing
Finding: Not Sustained - Unfounded (Expedited)
- **Proposed Discipline:** 270 Hours Suspension (30 Days) to Termination
 - **Imposed Discipline:** Termination

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 participates in the discipline meeting, the chief of police makes the final determination. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.

Executive Summary:

Named Employee #1 (NE#1) responded to help investigate a collision involving an SPD vehicle fatally striking Community Member #1 (CM#1). After his investigation, NE#1 left and called Witness Employee #4 (WE#4). During that conversation, NE#1 allegedly made comments that violated the department's standards and duties policy. Specifically, NE#1 allegedly said CM#1 had limited value and dismissed and laughed about her tragic death. If proven, the allegation would violate SPD policy 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional. It was also alleged that NE#1's comments about CM#1's death constituted bias-based policing. If proven, the allegation would violate SPD policy 5.140 - Bias-Free Policing POL-2. Officers Will Not Engage in Bias-Based Policing. Generally, allegations must be proven by a preponderance of the evidence. See OPA's *Internal Operations and Training Manual, section 7.1.*

However, “an elevated standard of review” applies “for termination cases where the alleged offense is stigmatizing to a law enforcement officer, making it difficult for the employee to get other law enforcement employment.” *Agreement by and between the City of Seattle and Seattle Police Officers’ Guild, section 3.1.*

Administrative Note:

SPD’s legal section received a public disclosure request (PDR) for records concerning the collision. While gathering responsive records, SPD discovered NE#1’s inadvertently recorded conversation with WE#4. The conversation was captured on NE#1’s body-worn video (BWV). On August 2, 2023, SPD emailed the recording to OPA. On August 3, 2023, OPA opened an intake investigation and sent NE#1 a “Notice of Receipt of Complaint.” Under section 3.6(A) of the Seattle Police Officers’ Guild’s (SPOG) collective bargaining agreement, OPA must notify the subject of a complaint within five business days. On August 8, 2023, at 6:18 PM, NE#1 emailed OPA’s director a rapid adjudication request. A rapid adjudication is appropriate for a complaint involving a minor to moderate policy violation the named employee acknowledges was inconsistent with SPD policy. See OPA’s Internal Operations and Training Manual section 5.4(B)(vi). It allows the named employee to accept or reject predetermined discipline rather than undergoing a full OPA investigation. *Id.* On August 8, 2023, at 6:25 PM, OPA’s director emailed NE#1, rejecting his rapid adjudication request, explaining, “...OPA does not consider this case a candidate for Rapid Adjudication.”

The case underwent a full investigation, which OPA sent to the Office of Inspector General (OIG) for review on November 3, 2023. On November 8, 2023, OIG suggested, before it would fully certify the investigation, that OPA incorporate complaints alleging that NE#1 engaged in bias-based policing. Those complaints were tracked under 2023OPA-0398. Following OPA’s additional classification and investigation, on January 4, 2024, OIG certified this investigation as thorough, timely, and objective.

Summary of Investigation:

On January 23, 2023, Witness Employee #1’s (WE#1) SPD patrol car struck and killed CM#1. While WE#1 is listed as a witness employee here, he is the named employee in 2023OPA-0043 (OPA’s investigation into whether WE#1’s actions concerning the collision constituted misconduct.) NE#1 and other officers responded to investigate the collision.

Computer-Aided Dispatch (CAD) Call Report

CAD records showed that at 8:07 PM, WE#1 reported his involvement in a “Motor Vehicle Collision with injuries” incident to West Dispatch. At 8:38 PM, CM#1’s first and last names were broadcast over the radio. At 9:14 PM, Witness Employee #2 (WE#2)—a union representative—arrived. At 9:40 PM, NE#1—vice president of WE#1’s union—messed West Dispatch requesting to be added to the call: “Log me to [a Traffic Collision Investigation Squad (TCIS) detective’s call number’s] call please[.]” Seventeen seconds later, NE#1 was dispatched to assist with the investigation. He arrived at 10:44 PM and left at 11:43 PM.

Police Report

NE#1 wrote a supplement report dated January 24, 2023, covering his role in the collision investigation. The report outlined NE#1's experience and credentials as a certified "Drug Recognition Expert." He wrote that he was off duty when, around 9:15 PM, "I was dispatched from home to assist TCIS in a vehicle [versus] pedestrian collision at the intersection of Dexter/Thomas." NE#1 indicated that he spoke with Witness Employee #3 (WE#3)—a TCIS detective—who "despite WE#1 showing no signs of impairment," wanted WE#1 evaluated. NE#1 wrote that he relocated to the West Precinct, where he was briefed. NE#1 noted that a sergeant told him WE#1 "was en route to a reported [overdose call]" before striking CM#1, who was being treated for injuries. NE#1's report also stated, "...it was undetermined whether [CM#1] had been in a crosswalk or had been crossing mid-block."

NE#1 wrote that he contacted WE#1, who agreed to an impairment evaluation. NE#1 observed and evaluated WE#1, finding no indication of impairment: "It was very obvious to me that [WE#1] was not impaired and safe to operate a motor vehicle." NE#1 also wrote, "At the time of this statement [,] I did not know [CM#1's] age or the nature of [her] injuries."

Rapid Adjudication

At 6:18 PM on August 8, 2023, NE#1 emailed OPA's director a rapid adjudication request describing his role in the collision investigation. NE#1 wrote, "While en route [,] I was notified that a young adult female was severely injured after being hit by an SPD patrol car. Before arriving [,] I was notified that the female had passed. I received no other information (which is not uncommon)." NE#1 indicated that after evaluating WE#1 at the West Precinct, he returned to his patrol car and headed home. He wrote that, during the drive, he spoke with WE#4—WE#1's union president—"to give him an update regarding what had occurred." NE#1 stated that during their conversation, WE#4 suggested "it was unfortunate that this would turn into lawyers arguing 'The value of human life.'" NE#1 stated that WE#4 "was lamenting the loss of life" when WE#4 asked, "What crazy argument can a lawyer make in something like this? What crazy thing can they come up with?" NE#1 wrote, "I responded with something like: 'She's 26 years old, what value is there, who cares[?].'" NE#1 suggested that his response was intended "as a mockery of lawyers – I was imitating what a lawyer tasked with negotiating the case would be saying and being sarcastic to express that they shouldn't be coming up with crazy arguments to minimize the payment. I laughed at the ridiculousness of how these incidents are litigated and the ridiculousness of how I have watched these incidents play out as two parties bargain over a tragedy."

NE#1 suggested the conversation was private and "not within the course of [his] duties." He acknowledged that "...without context [,] the comment could be interpreted as horrifying and crude." Still, he maintained, "...I was involved in a conversation regarding the callousness of the legal system." NE#1 further claimed, "...I had no idea who the victim was. All I knew was the [person's] approximate age and sex." Nevertheless, he conceded, "I do understand that if a citizen [heard his comments,] they would rightfully believe I was being insensitive to the loss of a human life. I also understand that if heard [,] it could diminish the trust in the Seattle Police Department and make [all] our jobs more difficult."

OPA's director declined the rapid adjudication request seven minutes after receiving it.

Recorded Call

NE#1's BWV captured two minutes and three seconds of his call with WE#4. The video is three minutes and three seconds, but the first minute does not contain audio due to a standard buffering period. At 1:09 AM, NE#1 tapped his mobile data terminal (MDT) to deactivate the patrol car's in-car video (ICV) camera, automatically recording when NE#1 activated the overhead lights before running a red light.



The red square on the MDT and pronounced beeping indicated the ICV was activated. The square turned blue after NE#1 tapped the screen, indicating that NE#1 deactivated it.



Notable portions of the phone call include the following:

Format: Timestamp, NE#1's Comment:

- 1:21 - Oh, he's good. He says, well, normally, we don't give voluntary statements. And I said, hey, you're gonna have to decide if you wanted to give a statement or not, but it does not seem like there's a criminal investigation going on... Otherwise, there might be (pause) other people arriving, correct?
- 1:50 - Yeah, I mean, he's going 50. That's not out of control. That's not reckless for a trained driver.
- 1:58 - Yeah, lights and sirens.

- 2:05- Initially, he said she was in a crosswalk. Uh, there's a witness that says, "No, she wasn't." But that witness could be different because I don't think she was thrown forty feet either. Uh, I think she went up on the hood, hit the windshield, and then when he hit the brakes, flew off the car. But she is dead (laughter).
- 2:37 - No, it's a regular person.
- 2:47 - Yeah, just write a check. Just, yeah (laughter). \$11,000. She was 26, anyway. She had limited value.

Three seconds after NE#1's last captured comment, his left hand jerked from the steering wheel onto his BWV to deactivate the recording.



Complainant Follow Up

On August 11, 2023, OPA spoke with the Complainant—an SPD legal unit employee. She said she emailed NE#1's recorded conversation to OPA because it potentially constituted misconduct. The Complainant expressed concern about NE#1's laughter after saying, "She is dead," and "\$11,000. She was 26, anyway. She had limited value."

NE#1 Interview #1

On September 5, 2023, OPA interviewed NE#1. He said he was assigned to SPD's Community Response Group, focusing on impaired driving enforcement. OPA showed NE#1 the recorded conversation before questioning. He said the recording captured his conversation with WE#4 after completing WE#1's impairment evaluation. NE#1 said he told WE#4 what he knew about the collision investigation, and WE#4 said something like, "What can anyone say about this?" "It is a bad situation" and "an awful incident." NE#1 said the conversation shifted to discussing how lawyers would respond. OPA asked NE#1 why he said, "She is dead," and laughed. NE#1 said it was a response to WE#4 asking, "What can be done to make things right?" and "Is there anything anyone can do?" NE#1 said he intended to express that CM#1 was deceased and nothing could be done. Regarding his laughter, NE#1 said, under the circumstances, "You can either laugh or cry." OPA confronted NE#1 with his comments, "Just write a check," and "\$11,000. She was 26, anyway. She had limited value." He claimed he was mocking what attorneys would say to minimize the incident.

NE#1 Interview #2

On October 11, 2023, OPA re-interviewed NE#1. That interview covered how NE#1 learned about the collision investigation and allowed him to explain lines of the recorded conversation that were not fully explored during the initial interview. He said even though he was off duty,

WE#3 called and asked him to evaluate WE#1 for impairment. NE#1 suggested that the request was not uncommon since he was among a few officers qualified to conduct impairment evaluations for severe or fatal collisions and had been called to do them across western Washington. He said he went to the West Precinct, where a sergeant briefed him about the incident. He also said he spoke with WE#1's lawyer, discussing whether WE#1 was under criminal investigation. NE#1 denied knowing WE#1 before that night. NE#1 said his involvement in the investigation concluded once he determined WE#1 was unimpaired. OPA asked why NE#1 deactivated the ICV, which automatically turned on when he activated the patrol car's overhead lights. He replied, "ICV comes on. You're not doing any business, so you turn it off." NE#1 described his conversation with WE#4 as "guild business." He said he called to update WE#4 because, as union president, WE#4 "may need to engage different legal partners or insurance for the officer," "mental health care for the officer," and "all the things a union does..." NE#1 described the tests and observations that led to his conclusion that WE#1 was unimpaired: examining eyes, body movements, mouth, nose, heart rate, and face color. NE#1 said he conducted horizontal gaze nystagmus and Romberg balance tests. OPA confronted NE#1 with lines from his captured comments, asking what WE#4 said to prompt them. NE#1 qualified his recollection: "I have no idea. We are trying to reconstruct a conversation from a one-sided BWV that's ten months old. Like I said, I can totally give you [the] context of what we were saying because I remember, but the exact verbiage it's, it's just impossible for me to recover." Nevertheless, he gave the following explanations:

Comment: Yeah, I mean, he's going fifty. That's not out of control. That's not reckless for a trained driver.

NE#1's explanation: [WE#4] was asking... Have you heard how this even occurred? And we were talking about that. And that was information that I had obtained just by hearing people talk [at] a police station. There is no way for me to know what went on out there. It's very preliminary. This [was] just after this occurred. And this is just what I heard.

NE#1 also said his comment, "Yeah, he had on lights and sirens," was based on what he heard at the West Precinct: "And that was information, like I said, picked up, sitting in a write-up room. That wasn't investigatory. It wasn't detectives, as far as I remember."

NE#1 described WE#4 as "beside himself," repeatedly saying things like, "My God, this is awful," and "What are we going to do?"

Comment: Yeah, well, initially, he said she was in a crosswalk. There's a witness that says, 'No, she wasn't.' But that witness could be different because I don't think she was thrown 40 feet, either. I think she went up on the hood [and] hit the windshield. And then when he hit the brakes [she] flew off the car, but she is dead (followed by four seconds of laughter and a three-second pause).

NE#1's explanation: That's when [WE#4] was talking about 'What are we going to do?' Like, "How do we fix it?" That was it. NE#1 denied expressing factual conclusions about the collision, insisting he was only relaying assumptions circulated by West Precinct officers. Concerning his laughter, NE#1 said, "Because [WE#4] was, 'So, what do we do? How do we fix this?' And you

laugh and say you can't. She's dead. You can't. Like, those are conversations had by police officers, attorneys, doctors, teachers, truck drivers, everybody.”

Comment: No. It's a regular person.

NE#1's explanation: That's what [WE#4] was talking about, the tragedy of it. It was something along the lines of "Was this a drunk or high person running in the road?" He was trying to figure it out. Questions that I think every police officer would ask when you come up to a scene is this, or when you hear about it. "Was this person running in the road?" You know, "Was this drunk or high person in the middle of the...," You know, that type of question.

NE#1 further offered that “regular person” meant that CM#1 exhibited “normal behavior” before the collision rather than “sprinting out in front of a car or running down the middle of the road.”

Comment: At mark 2:41, NE#1 said, “Yeah,” followed by six seconds of silence.

NE#1's explanation: [WE#4] was still lamenting. Like I said, he wasn't distraught, but he was disturbed by what had occurred. And he was lamenting that, now this is from independent memory, ...about the "lawyers will start circling."

Comment: Yeah, just write a check. Just yeah (followed by two seconds of laughter.)

NE#1's explanation: [WE#4] said something like, “What could somebody possibly say? What are they going to say to try to minimize this?” As I was mocking the attorney, he said, “Yeah, they're...What are they going to say?” And I said something that I thought an attorney would and probably has said in the past."

Comment: \$11,000. She was 26, anyway. She had limited value.

NE#1's explanation: It was part of NE#1 mocking civil litigators.

NE#1 Interview #3

On November 30, 2023, OPA interviewed NE#1 again. This interview covered the bias allegation. NE#1 said he learned CM#1's approximate age and gender from West Precinct chatter. NE#1 denied knowing CM#1's race or other discernible characteristics before his recorded call with WE#4.

WE#4 Interview #1

On September 12, 2023, OPA interviewed WE#4. WE#4 reviewed the recorded conversation before questioning. He suggested the conversation was “primarily union-related, about 80%,” but “some of it was personal in nature.” WE#4 said he aimed to “get some information on the tragic incident,” check WE#1's status, and ensure the union had adequate administrative resources for WE#1. OPA asked what WE#4 said before NE#1 commented, “She is dead,” followed by laughter. WE#4 indicated:

He commented on how fast the officer was traveling, how she unfortunately was struck by the police vehicle, and how she hit the windshield of the vehicle. And I was remarking that she was

more than likely dead instantly, which was a tragedy. And I said that the city [will] have to pay out a lot of money on this one. And that was the context of the conversation.

When asked what preceded NE#1, saying, “Just write a check (laughter). \$11,000. She was 26, anyway. She had limited value.” WE#4 said:

Well, there was remarking on how the city [will] have to pay out a ton of money to the family in this tragic situation and then how can the city--lawyers, in general speaking, and negotiating on the city's behalf with the family. How do you put a price tag on human life? And that was the crux of the conversation.

When asked whether he thought NE#1 laughed about CM#1's death, WE#4 replied:

I think, without context, just hearing the audio, which was unfortunately captured in a private phone call, you could have that as a reasonable takeaway. But if you were to look at and understand the context of that conversation, it's the way police officers, us, are, you know, human beings that do this difficult job. It's how we process trauma and tragedy. And, sometimes, officers use sarcasm and humor to overcome that emotional hurdle, which sometimes can be very burdensome. And that's how I take away that this conversation could be interpreted by those [who] don't understand the context of our private conversation. And I think that's a reasonable takeaway. Once you understand and capture what the conversation was truly about. Then [you'll] understand that there's another side to this, understanding in the broad conversation that this is a tragic event. And the victim is going through a grieving process. But police officers deal with tragedy almost [daily]. And we're human beings just like the next person, but we have to process these in a manner that allows us to go to that next tragic event. And, humor and sarcasm [are] used for us as a coping mechanism.

WE#4 Interview #2

On October 11, 2023, WE#4 participated in a follow-up OPA interview. That interview aimed to allow WE#4 to explain specific lines of the call rather than its general context. Specifically, OPA asked what WE#4 said before NE#1 made each notable comment:

Comment: Yep, yep, totally. All right, brother. Well... (followed by a three-second pause).

WE#4's explanation: It was ten months ago. I don't remember, and as I mentioned before, [the] majority of that conversation was private and union speech.

Comment: I'm sure TCIS is, and I... (followed by a three-second pause).

WE#4's explanation: I recall that being union speech.

Comment: Oh, he's good. Well, normally, we don't give voluntary statements. And I said, hey, you're gonna have to decide if you wanted to give a statement or not. But it does not seem like there's a criminal investigation going on. Otherwise, there would be other--What's that?

WE#4's explanation: Union speech.

Comment: Otherwise, there might be other people arriving, correct?

WE#4's explanation: Union speech.

Comment: Yeah, I mean, he's going 50. That's not out of control. That's not reckless for a trained driver.

WE#4's explanation: Union speech.

Comment: Yeah, lights and sirens (followed by a three-second pause).

WE#4's explanation: Union speech.

Comment: Yeah, well, there are some. Initially, he said she was in a crosswalk. There was a witness that no, she wasn't. But that witness could be different because I don't think she was thrown 40 feet, either. I think she went up on the hood [and] hit the windshield. Then, when he hit the brakes, she flew off the car. But she is dead.

WE#4's explanation: Union speech.

Comment: No, it's a regular person.

WE#4's explanation: I don't remember the crux of that conversation piece.

Comment: Yeah, just write a check (followed by laughter).

WE#4's explanation: Reiterating that the city attorney's office or whoever is litigating this tragic incident [will] have to pay a lot of money to this family.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 made unprofessional comments about CM#1's death.

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.* "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language derogatory, contemptuous, or disrespectful toward any person." *Id.*

Without question, NE#1's captured comments undermined public trust in the department, himself, and his colleagues. NE#1's rapid adjudication request acknowledged as much: "I do understand that if a citizen [heard his comments,] they would rightfully believe I was being insensitive to the loss of a human life. I also understand that if heard [,] it could diminish the trust in the Seattle Police Department and make [all] our jobs more difficult." Moreover, so did the union's September 15, 2023, press release:

[The union] understands the attention and outrage surrounding the viral video [,] which captures highly insensitive comments regarding the death of [CM#1] by [NE#1].

Without context, this audio is horrifying and has no place in a civil society. It sullens the profession of law enforcement, the reputation of all Seattle [police] officers [,] and paints Seattle in a terrible light. We feel deep sorrow and grief for the family of [CM#1] as this video has revictimized them in an already tragic situation as they continue to mourn her death.

NE#1's conversation was unintentionally recorded. However, intent is not an element of the department's professionalism policy. So, whether NE#1 intentionally undermined public trust is immaterial. Similarly, whether NE#1 anticipated the conversation's disclosure or the subsequent backlash is immaterial. NE#1's belief that he was having a covert conversation with a union president made its content more disturbing rather than mitigating. For many, it confirmed, whether fairly or not, beliefs that some officers devalue and conceal perverse views about community members—heightened by the fact that the rank and file's highest elected representatives participated in the call. The bottom line is that NE#1's comments caused criticism and condemnation that rippled across the globe. OPA received 388 complaints from across the world concerning NE#1's actions, including the following excerpts:

- “I’m sick to my stomach from that video of your officer laughing about the death of a young girl and calling her “low value[.]” That is misogynistic wording and indicative of other beliefs as well. The fact that you have these disgusting pigs out here killing people and laughing about it is vile. Fire those [low-value] fucking idiots immediately. How can such a trash person [still be] employed [,] and this is who we are supposed to trust to keep us safe??? We know she was brown [,] so the care about her life was already low [,] but to sit there and laugh about you killed her and then saying to throw money at her family. Just devilish behavior.”
- “What are you going to do about the audio recording stating the woman killed [a] speeding police officer was only worth \$11,000 and ‘she’s dead’ and the laughter? I am horrified but not surprised. I have a black 9-year-old granddaughter and am terrified she will encounter Seattle police someday alone.”
- “[NE#1], who is, as I understand it, [a police union vice president], was recorded in his car LAUGHING about the death of this beautiful young woman and saying she was of low value anyway, and they could just write a check. Apparently [,] the person he was talking to and joking it up about this young woman's death was [the police union president]. Really? So, the lives of citizens mean so little to you? Why did this young woman have low value? Was it because she was 1. a woman? 2. Not white? or 3. too old to have any value? As an older female [,] I would really like to know. If I am in an accident and I die, will the police be laughing about “*Oh, she was old and of low worth anyway?*”...Whatever happened to “Protect and Serve?” I find myself often wondering this.”
- “Shame on your entire department. Complicit with the murder and cackling about someone’s life. How do you decide who has value and who doesn’t? Who is regular and non-regular? Does regular mean non-white? Since we know you need to uphold white supremacy. Shame on you all.”

- “I’m shaking so much I can barely type this email. Is this the type of officer that we employ? I could throw up with the level of immorality and lack of humanity exhibited here. Would he say this of my 26-year-old daughter? Just disgusting.”

NE#1’s comments cast a shadow of anger and distrust that the department has worked tirelessly to escape. NE#1 and WE#4 suggested that the full context of their conversation would clear the air. However, after interviewing NE#1 three times and WE#4 twice, inconsistencies, irrationalities, and refusals to answer polluted their explanations. Generally, both claimed that NE#1’s laughter and \$11,000 assessment of CM#1’s life aimed to mock city attorneys who would negotiate a settlement for WE#1’s collision. However, throughout the call, NE#1 outlined why he believed WE#1 was not liable:

- WE#1 was unimpaired.
- WE#1 drove 50 MPH, “not out of control” or “reckless for a trained driver.”
- WE#1 had “lights and sirens” activated.

NE#1 even explained how he thought the collision occurred, despite his limited investigatory role of evaluating WE#1’s sobriety: “Yeah. Well, there’s some... Initially, he said she was in a crosswalk. Uh, there’s a witness that says, ‘No, she wasn’t.’ But that witness could be different because I don’t think she was thrown forty feet, either. I think she went up on the hood, hit the windshield, [and] then when he hit the brakes, flew off the car. But she is dead (followed by laughter).” Nevertheless, despite making the case for WE#1’s inculpability, NE#1 claimed to mock the attorneys tasked with proving it. Further, NE#1 described WE#4 as “beside himself,” lamenting the “tragic situation” and expressing sorrow for WE#1 and CM#1’s family throughout the call. However, if true, NE#1’s jocular disposition during the call inexplicably and starkly contrasted with WE#4’s somber tone. In response to WE#4 supposedly keening, “How do you put a price tag on human life?” and “Lawyers will start circling,” NE#1 laughingly suggested, “Yeah, just write a check.” Then, according to WE#4, when WE#4 said the city would “have to pay a ton of money” to CM#1’s family, NE#1 replied, “\$11,000. She was 26, anyway. She had limited value,” followed by four-seconds of full-bellied pronounced laughter.

NE#1 attempted to explain his apparent delight, “You can either laugh or cry. You don’t laugh over death. You laugh at the absurdity of it.” Similarly, WE#4 offered, “Humor and sarcasm are used as coping mechanisms to overcome emotional hurdles.” However, a more straightforward explanation is that NE#1 was caught—caught mocking CM#1’s death and assessing her worth at \$11,000. That explanation is corroborated by NE#1 disabling the ICV when it started recording the call and frantically disabling the BWV after realizing it captured his comments and, although one-sided, the tone of the conversation. At no time during the recording did NE#1 reference lawyers or settlements or otherwise suggest that the \$11,000 assessment was attributed to anyone or anything other than his own crassness. WE#4 attempted to corroborate NE#1’s claim that the recording was uncontextualized. Both suggested it misrepresented the true nature of their conversation, but during WE#4’s second OPA interview, when offered an opportunity to explain specific lines, WE#4 primarily shut down and claimed union privilege or that he did not remember.

Overall, NE#1's comments delivered a significant and undeniable blow to the department's efforts to overcome entrenched distrust. NE#1's comments were vile, inhumane, disturbing, derogatory, contemptuous, and disrespectful, and they unnecessarily and undeservedly subjected his department and colleagues to global condemnation.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

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

It was alleged that NE#1's comments about CM#1 constituted bias-based policing.

Officers are forbidden from expressing prejudice or derogatory comments concerning someone's age, gender, race, ethnicity, color, or other discernible personal characteristics. See SPD Policy 5.140-POL-2.

The Complainant alleged that CM#1's race, gender, or age motivated NE#1's prejudicial and derogatory comments about her worth. NE#1 acknowledged knowing CM#1's gender and approximate age before calling WE#4 but denied knowing her ethnicity. CAD records showed that at 8:38 PM, CM#1's first and last names were broadcast over the radio. While CM#1's name suggested her Indian heritage, there is no evidence that NE#1 heard that broadcast. At that time, he was off duty. NE#1 was not added to the call until 9:40 PM. NE#1 denied reading the CAD data, seeing CM#1's body, or learning CM#1's race by other means. There is no evidence to dispel that claim.

However, NE#1 admittedly knew CM#1's approximate age from West Precinct chatter. That discernible personal characteristic was the basis of NE#1's dismissive valuation. Specifically, in response to WE#4 supposedly suggesting the city would have to pay "a ton of money to the family in this tragic situation," NE#1 countered that CM#1's age somehow justified a relatively paltry settlement: "\$11,000. She was 26, anyway. She had limited value." SPD's bias-based policing policy explicitly prohibits ageism.

The department has demonstrated zero tolerance for verbal or written prejudicial commentary, even when made outside the offended party's presence. 2020OPA-0366 involved an officer speaking with other officers, referring to a Black community member as "Kunta Kinte." That officer was terminated. Similarly, 2018OPA-0874 involved an officer texting someone other than the subject of the comments, words showing biases towards women, lesbians, and people of color. For that and other violations, the officer was terminated.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**