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**Issued Date:** JUNE 28, 2024

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

**Case Number:** 2024OPA-0018

## **Allegations of Misconduct & Director's Findings**

### **Named Employee #1**

1. **Allegation #1:** 5.002 - Responsibilities of Employees Concerning Alleged Policy Violations  
POL 6. Employees Will Report Alleged Violations (eff. 07/2018)

**Finding:** Not Sustained - Unfounded

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

**Finding:** Not Sustained - Timeliness

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**This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.**

### **Executive Summary:**

The Complainant alleged that Named Employee #1 (NE#1) was arrested on suspicion of DUI and pled guilty to reckless driving, but NE#1 failed to notify SPD.

### **Administrative Note:**

On May 21, 2024, the Office of Inspector General certified this case as thorough and objective. However, OIG found it untimely because OPA processed the complaint on January 8, 2024, despite receiving an unconventional notification on January 6, 2020. Specifically, on January 6, 2020, OPA's former director was among several people emailed by SPD's HR director about NE#1 being put on administrative leave, but it did not explain why. Nevertheless, an intake was not opened until SPD inquired about the matter on January 8, 2024. OPA completed that investigation within 180 days of that date.

### **Summary of Investigation:**

On January 8, 2024, the Complainant—an SPD HR executive—emailed OPA concerning an incident involving NE#1: NE#1 was arrested for DUI and later pled guilty to reckless driving. The Complainant also alleged that NE#1 failed to report the incident to SPD.

OPA investigated the complaint, reviewing the SPD HR memorandum, Federal Way Police Department (FWPD) incident report, and court records. OPA also interviewed NE#1.

The FWPD incident report documented NE#1's January 5, 2020 arrest. The FWPD officer wrote that he performed a traffic stop on a car that ran a red light. NE#1 was the documented driver. The FWPD officer reportedly smelled the "obvious odor of intoxicating liquor coming from the vehicle," and NE#1 had bloodshot, watery, droopy eyes and spoke with slurred speech. The FWPD officer wrote NE#1 had trouble locating his license and registration, which he ultimately provided with his SPD identification card. The FWPD officers asked NE#1 if he was "Okay to drive?" NE#1 replied, "No," bowed his head, and said, "This is probably the best thing" that could happen as he struggled with personal issues. NE#1 declined field sobriety tests and asked the FWPD officer to speak with his supervisor because NE#1 "knew what [would] happen." The FWPD officer called NE#1's SPD supervisor and told her about the arrest. The SPD supervisor stated she would figure out SPD's next steps. The FWPD officer documented other signs of impairment—like NE#1 stumbling, saying he was "glad he had been arrested," and his strong alcoholic odor. NE#1 also stated he had taken prescription oxycodone the prior day and drank several beers at a bar. DUI charges against NE#1 were referred to the Federal Way Prosecutors' Office.

The next day, SPD's police chief emailed an HR memorandum entitled "Order of Administrative Reassignment to Home" concerning NE#1. It noted, among other things, that NE#1 needed to surrender his badge, firearm, identification card, and facility access card. A former OPA director was copied on the email.

Federal Way Municipal Court records showed NE#1 was charged with DUI and reckless driving. The DUI charge was later amended, and a guilty finding was entered for the reckless driving charge. NE#1 entered a stipulated order of continuance and complied with the stipulated order.

In his OPA interview, NE#1 provided his recollection of the night of his arrest. NE#1 said he was driving at a high rate of speed after drinking and was not "okay to drive." NE#1 said he declined field sobriety tests because he "knew that the smell of alcohol and everything else gave [the FWPD officer] everything you needed to [decide]." NE#1 did not recall giving the FWPD officer his SPD card but admittedly identified himself as an SPD officer. He also remembered asking the FWPD officer to call his supervisor to comply with the "policy that the Department's to be notified as soon as practical." NE#1 said his "life was kind of spiraling out of control" at that time. NE#1 said he has since received help for his issues. NE#1 also acknowledged having an oxycodone prescription when he was arrested. NE#1 described completing the community service and later pleading guilty to a lesser charge.

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## **Analysis and Conclusions:**

### **Named Employee #1 - Allegation #1**

#### ***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations POL 6. Employees Will Report Alleged Violations (eff. 07/2018)***

The Complainant alleged NE#1 failed to report this incident to SPD.

Employees must report minor misconduct to a supervisor, while potentially serious misconduct must be reported to a supervisor or OPA. SPD Policy 5.002-POL-6.

The arrest report documented NE#1's request that the arresting officer notify his supervisor about his arrest. It also noted that the FWPD alerted NE#1's supervisor. Further, SPD issued a memorandum placing NE#1 on administrative leave the next day, establishing that SPD knew about the incident.

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

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #1 - Allegation #2**

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

The Complainant alleged NE#1 violated the law.

Employees must adhere to laws, City policy, and Department policy. SPD Policy 5.001-POL-2.

NE#1 irrefutably violated the law. The FWPD incident report and NE#1 pleading guilty to reckless driving established his violation. Court documents showed that the conditions of NE#1's plea included completing a substance abuse evaluation, alcohol information school, and having a DUI ignition interlock. NE#1 also admitted to driving after drinking excessively.

Without question, a sustained finding is warranted. However, because the 180-day timeline has long expired, no discipline can result. See SPOG CBA article 3.6(B).

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

“Not Sustained Timeliness” means the evidence indicates a policy violation occurred, but OPA is unable to issue a sustained finding because either OPA did not reach its findings within the required timeframe, or the complaint was made to OPA beyond the allowable timeframe in which discipline can be imposed. OPA Internal Operations and Training Manual 7.2(A)(iv).

Recommended Finding: **Not Sustained - Timeliness**