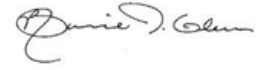

Issued Date: JULY 16, 2024

From: Deputy Director Bonnie Glenn on Behalf Of Director Gino Betts, Jr.
Office of Police Accountability



Case Number: 2024OPA-0062

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 5.001 – Standards and Duties. Employees Will Strive to be Professional
Finding: Not Sustained - Training Referral

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:

During an American Medical Response (AMR) transport of Community Member #1 (CM#1) to the King County Jail (KCJ), CM#1 repeatedly yelled homophobic slurs at an AMR employee (AMR#1). It was alleged that Named Employee #1 (NE#1) behaved unprofessionally by video recording CM#1 on his personal cellphone, during an AMR transport.

Administrative Note:

On July 3, 2024, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On January 25, 2024, OIG notified OPA that NE#1 used his personal cellphone to video recorded CM#1 during CM#1's transport to KCJ.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, police reports, and body-worn video (BWV). OPA also interviewed NE#1. OPA was unable to contact CM#1 for an interview.

On June 24, 2023, at 4:13 PM, CAD call remarks noted, "ADULT SON IS INTOX[ICATED] AND ELBOWED [REPORTING PARTY] IN BACK OF HEAD. [REPORTING PARTY] CURRENTLY IN DRIVEWAY IN VEH[ICLE]. SUSP[ECT] INSIDE HOUSE. NECK HURTING [SEATTLE FIRE DEPARTMENT] SCREENING. NO [WEAPONS]."

Multiple responding officers' police reports documented that CM#1 was arrested for assaulting his mother and transported via AMR to KCJ. NE#1's police report documented that he rode inside the AMR vehicle during that transport due to AMR employees' concern about CM#1's escalatory behavior.

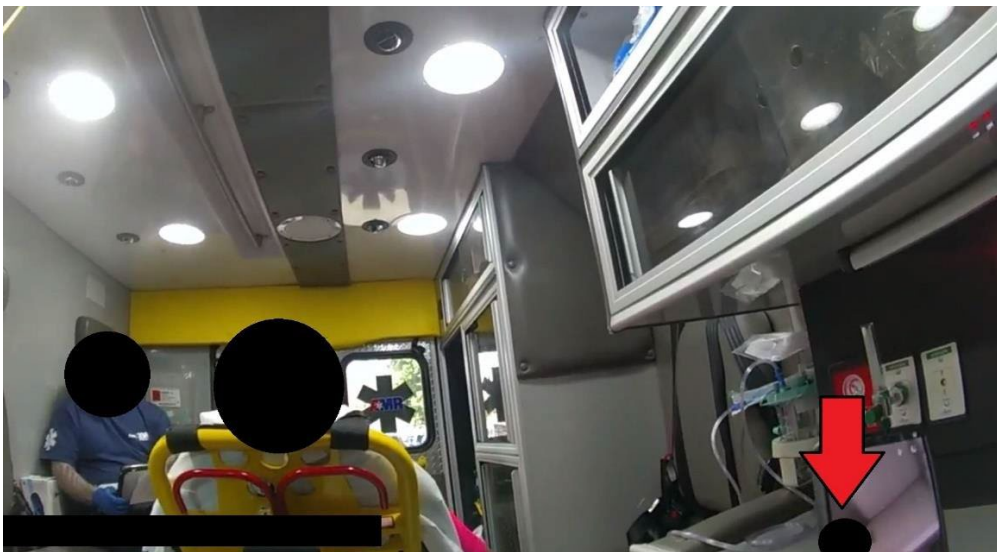
NE#1's BWV captured the following:

NE#1 entered the AMR vehicle where AMR#1 sat in front of CM#1, who was restrained to a gurney and repeatedly swearing and shouting homophobic slurs at AMR#1. NE#1 sat behind CM#1. NE#1 told AMR#1 that they would transport CM#1 to KCJ, where CM#1 would likely be medically declined. CM#1 repeatedly shouted at AMR#1, "Fuck you, you stupid [homophobic slur]!" NE#1 pulled out his personal cellphone and opened the Facebook Messenger app. NE#1 responded—appearing to write "Yup" to his wife, who messaged him the "eyes" emoji:



In his OPA interview, NE#1 said he was messaging his wife during the AMR transport.

NE#1 opened the camera in a self-facing mode and recorded a video:



BWV captured NE#1's face (redacted but indicated by the red arrow).

While NE#1 was recording, CM#1 shouted, "Fuck you, you stupid [homophobic slur]!" NE#1 appeared to inadvertently play the video, broadcasting, "You stupid..." for AMR#1 and CM#1 to hear. NE#1 quickly stopped playing the video.

NE#1's cellphone was not visible on BWV for several seconds, and then NE#1 appeared to place it in his police vest pocket. CM#1 continued swearing and shouting at AMR#1 during transport.

On March 28, 2024, OPA interviewed NE#1. NE#1 said he was in the AMR vehicle because CM#1 was combative. NE#1 said he used the Facebook Messenger app to communicate with his wife. NE#1 said he regularly sends his wife messages, pictures, and videos of himself during his shift and randomly decides what form he chooses. NE#1 denied trying to record CM#1. NE#1 said his wife previously worked in law enforcement, so he regularly communicates with her while he works to let her know he is fine. NE#1 said he recorded a video of himself, but when he released the record button, it replayed a portion of CM#1 screaming and saying, "You Stupid". NE#1 said he hit the back button and denied sending the recording to his wife. NE#1 also denied retaining that recording, sending the video to anyone, or posting it online.

On June 27, 2024, OPA reinterviewed NE#1. NE#1 said he recognized that CM#1 was in crisis because CM#1 was strapped to a gurney and shouting. NE#1 did not believe that CM#1's behavior would be captured in his recording. NE#1 believed his recording was appropriate, noting that he was communicating with his wife, CM#1 was facing away, and AMR#1 was looking away. NE#1 also noted that his recording was unrelated to the incident involving CM#1 and that NE#1 sat in the back of the AMR van without engaging CM#1 or AMR#1. NE#1 said he deleted the video because he did not want his wife to hear CM#1 shouting. NE#1 stated, he no longer had a copy of the video on his phone and deleted it. Furthermore, he explained he had not sent the video to anyone.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

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

It was alleged that NE#1 unprofessionally video recorded CM#1 on his personal cellphone.

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.*

Here, the preponderance of the evidence suggests NE#1 did not intend to record CM#1's behavior. First, NE#1's message to his wife ("Yup") did not appear to be related in any way to CM#1. Second, NE#1 sat behind CM#1 and opened the camera in a self-facing mode, supporting NE#1's claim that he intended to send a video of himself, not CM#1, to his wife. Third, NE#1 neither aimed his camera at CM#1 nor switched the camera's mode to record what was in front of NE#1. NE#1 stated he did not send the video to his wife but deleted it instead.

Based on the evidence provided, OPA finds, more likely than not, that NE#1 did not intend to demean CM#1 by inadvertently recording him and recommends this allegation be not sustained. However, OPA finds a training referral is warranted. Here, in review of the totality of the circumstances, OPA finds it was a lapse in judgment for NE#1 to record a quick video of himself on his personal phone to send to his wife, while on duty transporting CM#1 who was combative and in crisis.

Accordingly, 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 and provide retraining and counseling deemed appropriate. NE#1 should be more cognizant of his surroundings and the type of communication chosen when using a personal cellphone to contact third-parties or family members while on duty. Especially in the transport of a subject by AMR who was combative and in crisis. The retraining and counseling should be documented and maintained in Blue Team.

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