




CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 6, 2024

FROM: DIRECTOR GINO BETTS, JR. 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0125

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 Will Strive to be Professional	Not Sustained - Unfounded
# 2	5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 3	15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded
# 4	16.090 – In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 7. Employees Will Document the Existence of Video or the Reason for the Lack of Video (Effective October 1, 2020)	Sustained
# 5	16.090 – In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 5. Employees Recording Police Activity, b. When Employees Record Activity (Effective October 1, 2020)	Sustained

Imposed Discipline

No Discipline

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:

Named Employee #1 (NE#1) responded to an alleged accident between the Complainant and Community Member #1 (CM#1). The Complainant reported that CM#1 drove her vehicle up a steep hill and struck him as he rode a bicycle on a sidewalk at the top. The Complainant alleged that NE#1 prevented the parties from exchanging insurance information, mistreated him due to his gender, and wrote an inaccurate police report. It was also alleged that NE#1 untimely activated his body-worn video (BWV) and failed to document the absence of a video recording.

ADMINISTRATIVE NOTE:

On July 30, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:



A. OPA Complaint

On March 13, 2024, the Complainant filed an OPA complaint, alleging that NE#1 prevented him from exchanging insurance information with CM#1, wrote false statements in the police report, and refused to cite CM#1.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, police report, Seattle Fire Department (SFD) patient care record, BWV, in-car video (ICV), photographs, and email correspondence. OPA also interviewed the Complainant, CM#1, and NE#1.

B. Computer-Aided Dispatch (CAD) Call Report

On February 10, 2023, at 2:39 PM, CAD call remarks noted, "GO WITH FIRE FOR MALE THAT FELL ON BICYCLE, NOW CLAIMING THAT [REPORTING PARTY] HIT HIM WITH HER VEH[ICLE]. NO WEAP[O]N SEEN.

C. Police Report

NE#1's police report documented the following:

NE#1 responded to the incident location, where SFD evaluated the Complainant but found no obvious injuries.¹ NE#1 spoke with CM#1, who reported that she was pulling up the steep hill when the Complainant, riding a bicycle on the sidewalk, crashed in front of her. CM#1 reported that the Complainant saw her approaching, overreacted, and swerved. The Complainant told NE#1 that he was riding his bicycle on the sidewalk when CM#1 sped up on the hill, causing him to swerve and fall. NE#1 concluded, "Since there were no independent witnesses and the versions of what took place differed, I provided both parties with an incident number and documented the incident."

NE#1 coded the incident as a "traffic incident, no collision."

D. Body-Worn Video (BWV) and In-Car Video (ICV)

NE#1's BWV captured the following:

The first minute, which lacked audio,² captured NE#1 speaking with CM#1 and the Complainant, who was photographing the scene. NE#1 activated his BWV as he entered his patrol vehicle. NE#1 exited, handed CM#1 a business card with the incident number, and told her, "I'm not putting – he will not get your information, so have a better day." CM#1 left the scene. NE#1 approached the Complainant and handed him a business card with the incident number. NE#1 said CM#1's information was on that card. The Complainant asked for NE#1's name, which NE#1 wrote on the card. NE#1 asked the Complainant whether his bicycle was okay. The Complainant replied, "I don't know. I haven't checked it out. Probably not. As hard as she hit me." The Complainant walked away as NE#1 reentered his patrol vehicle and deactivated his BWV.³

¹ SFD documented in the Complainant's patient care record, "No Complaints or Injury/Illness Noted." SFD noted the Complainant, "was riding his bike and avoided collision with a car," and that the Complainant stated he hit his head but neither lost consciousness nor felt new pain.

² The first minute of BWV had no audio due to a standard buffering period.

³ ICV captured the Complainant walking towards his bicycle, inspecting it, and giving a thumbs up to NE#1.

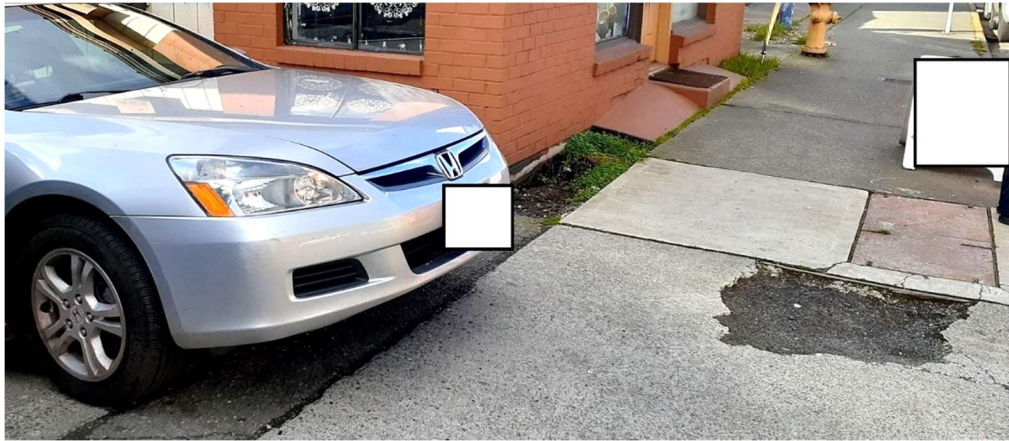


NE#1's ICV captured the following:

NE#1 drove to the incident location where SFD personnel and bystanders were present. NE#1 initially spoke with CM#1 and the Complainant simultaneously, but ICV did not capture their conversation. NE#1 and CM#1 relocated to CM#1's vehicle as the Complainant spoke with bystanders. NE#1 talked to CM#1. The bystanders walked away, and the Complainant approached NE#1 and CM#1. He stood near them for a few seconds, walked away, and began photographing CM#1's vehicle and the scene. NE#1 approached the Complainant, spoke with him briefly, and entered his patrol vehicle. The remainder of the ICV was consistent with BWV observations.

E. Photographs

The Complainant gave OPA the photographs he took on the incident date. One photograph depicted CM#1's vehicle and the sidewalk where the incident occurred:



Another photograph depicted the hill that CM#1 drove up:





F. OPA Interviews

Complainant

On March 27, 2024, OPA interviewed the Complainant, whose statements were consistent with his OPA complaint. The Complainant said he was “coasting down” the sidewalk when CM#1 came “barreling out” and bumped him, causing him to change direction and fall “hard.” The Complainant said CM#1 exited her vehicle, moved his bicycle, and called 9-1-1. The Complainant said there were no witnesses and was unaware of nearby cameras that may have recorded the collision. The Complainant theorized that NE#1 prevented him from obtaining CM#1’s insurance information because CM#1 was uninsured. The Complainant said he did not receive CM#1’s insurance information despite NE#1’s assurance that he would provide it. The Complainant said his insurance company denied his claim based on NE#1’s police report. The Complainant said NE#1 did not cite CM#1 for failing to yield the right-of-way and having expired tabs, indicating gender-based bias. The Complainant also said NE#1 untimely activated his BWV. The Complainant claimed to have sustained physical injuries from the alleged collision.

On March 28, 2024, the Complainant emailed OPA a written statement consistent with his interview statements and OPA complaint. Additionally, the Complainant alleged that NE#1’s police report was biased, untruthful, and contained outdated information. The Complainant wrote that NE#1 documented CM#1’s name and telephone number but failed to document her license and insurance information. Subsequent statements that the Complainant emailed to OPA were consistent with his interview statements and OPA complaint.

Community Member #1

On March 29, 2024, OPA interviewed CM#1. CM#1 said she regularly parks in the parking lot, cautiously driving up the steep hill and stopping because a business on the left obscures the street. CM#1 said when she drove up the hill, the Complainant rode his bicycle, glanced at her, and likely hit a pothole in the sidewalk, causing him to fall. CM#1 said she stopped about four feet from the Complainant and removed the bicycle on top of him because he was “fussy” and would not get up. CM#1 believed the Complainant was uninjured but called 9-1-1. CM#1 did not recall whether she was asked to provide her insurance information but realized she should have provided it to the Complainant. CM#1 said that NE#1 told her that the Complainant was likely trying to prove a point because he was embarrassed. CM#1 said she had insurance and current registration on the incident date but forgot to put the new tab on her plate.

Named Employee #1

On June 3, 2024, OPA interviewed NE#1. NE#1 said he responded to the incident and spoke with CM#1 and the Complainant. CM#1 reported that after she slowly pulled up the steep hill, the Complainant fell in front of her and insisted on getting her insurance information, which she did not want to provide because he was agitated and aggressive. CM#1 denied striking the Complainant. The Complainant reported that CM#1 quickly drove up the hill, causing him to swerve and fall. NE#1 noted that the Complainant’s story later changed with him claiming CM#1 struck him—which NE#1 believed was dispelled by the evidence, including no damage to CM#1’s vehicle or the Complainant’s bicycle and the Complainant being uninjured. NE#1 said the Complainant did not mention that he was injured, and SFD evaluated him and found no injuries. NE#1 said the bystanders did not witness the incident. NE#1 said that after responding to other calls that day, he realized he had forgotten to write a report about this incident. NE#1 said he wrote a traffic incident report the next day, believing no collision or injury occurred. NE#1 said the Complainant was not entitled to obtain CM#1’s insurance information since no collision occurred. NE#1 denied physically preventing the Complainant from exchanging insurance information with CM#1.

ANALYSIS AND CONCLUSIONS:



Named Employee #1 – Allegation #1

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

The Complainant alleged that NE#1 physically prevented him from obtaining CM#1's insurance information, constituting unprofessionalism.

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.*

ICV did not capture NE#1 physically restraining the Complainant. According to NE#1, CM#1 privately told him she did not give the Complainant her insurance information due to his aggression. While BWV captured NE#1 telling CM#1 that the Complainant would not obtain her information, NE#1 told OPA that the Complainant was not entitled to it because he believed no collision occurred. Because the absence of injuries and physical evidence, such as vehicular or bicycle damage, corroborated CM#1's account, CM#1 was not required to provide her insurance information to the Complainant. Additionally, the Complainant alleged that NE#1 did not cite CM#1 for failing to yield and expired tabs. There was insufficient evidence supporting the claim that CM#1 failed to yield, given no witnesses and CM#1's conflicting account of what transpired. There was no indication that NE#1 knew about the allegedly expired tabs. Even if he knew CM#1's tabs were expired, whether to cite her was at NE#1's discretion. Overall, OPA finds that NE#1 was professional throughout his response.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 – Allegation #2

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

The Complainant alleged that NE#1 engaged in gender-based mistreatment.

Biased policing means "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well as other discernible personal characteristics of an individual." SPD Policy 5.140-POL. It includes different treatments based on gender. *See id.* Employees are forbidden from making decisions or taking actions influenced by bias, prejudice, or discriminatory intent. *See* SPD Policy 5.140-POL-2.

OPA found insufficient evidence supporting the Complainant's interpretation that NE#1 provided preferential treatment based on gender. ICV captured NE#1 speaking with CM#1 and the Complainant when he arrived at the incident location. NE#1 provided both parties with business cards and the incident number. BWV captured the Complainant and NE#1 joking with each other. The next day, NE#1 wrote a police report documenting both accounts reported to him. Although NE#1 told OPA that he believed no collision occurred, his incident report remained neutral, finding no party at fault "Since there were no independent witnesses, and the versions of what took place were different." OPA found no evidence of gender-based bias during NE#1's interaction with the parties and in his police report.

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



Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 – Allegation #3

15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#1's police report contained false statements.

Officers must document all primary investigations in a report. SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. *Id.*

NE#1's police report was complete, thorough, and accurate, even though he failed to record his interviews on BWV. First, the Complainant alleged that NE#1's documentation of CM#1's account was false. NE#1 accurately documented CM#1's account based on CM#1's interview with OPA. CM#1 told OPA that when she drove up the hill, the Complainant rode his bicycle, glanced at her, and likely hit a pothole in the sidewalk, causing him to fall. CM#1 denied hitting the Complainant. NE#1's documentation of CM#1's account was consistent with her statements. Second, the Complainant alleged that NE#1's documentation of the Complainant's account was false. NE#1 accurately documented the Complainant's account based on his SFD patient care record. SFD personnel evaluated the Complainant before NE#1 arrived. An SFD employee documented the Complainant's account, writing, "[P]atient was riding his bike and avoided collision with a car leaving a grocery store." NE#1's documentation of the Complainant's account was consistent with the information in his SFD patient care record. Third, the Complainant alleged that NE#1 failed to document the Complainant's injuries. NE#1 accurately documented the Complainant having "no obvious injuries," consistent with his SFD patient care record, which noted, "No Complaints or Injury/Illness Noted" and "Patient Evaluated, No Treatment/Transport Required." Overall, because other evidence corroborated the information in NE#1's police report, like interview statements and the Complainant's SFD patient care record, NE#1's police report was complete, thorough, and accurate.

Additionally, the Complainant expressed concern that more of his personal details were documented in NE#1's police report than CM#1's. NE#1 said many personal details were prefilled from previous reports. This means a person having more contact with the police, whether as a victim or witness, would naturally have more prefilled information than someone with less police contact.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 – Allegation #4

16.090 – In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 7. Employees Will Document the Existence of Video or the Reason for the Lack of Video (Effective October 1, 2020)

It was alleged that NE#1 failed to document the absence of BWV.

Employees will document the existence or absence of any BWV and/or ICV in any related paperwork. SPD Policy 16.090-POL-1(7) (effective October 1, 2020). When employees know there is no recording or a delay in recording,



employees will explain why in the submitted paperwork. *Id.* When employees are not submitting paperwork, they will enter a CAD update with this explanation. *Id.*

OPA found no documentation explaining NE#1's late BWV activation. He did not document an explanation for it in his incident report or CAD. NE#1 told OPA he would have updated the call had he realized that he activated his BWV late. However, he also stated he realized his BWV was not recording when he returned to his patrol vehicle, so he should have known to document the late activation. Second, in 2019, OPA recommended a training referral for NE#1 based on his failure to activate BWV and document the absence of video. *See* 2019OPA-0300. OPA cautioned, "NE#1 should be informed that subsequent non-compliance with this policy may result in a Sustained finding." The preponderance of the evidence shows NE#1 violated this policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 – Allegation #5

16.090 – In-Car and Body-Worn Video, 16.090-POL-1 Recording with ICV and BWV, 5. Employees Recording Police Activity, b. When Employees Record Activity (Effective October 1, 2020)

It was alleged that NE#1 failed to record police activity.

When safe and practical, employees will record police activity, even if the event is out of view of the camera. SPD Policy 16.090-POL-1(5)(b) (effective October 1, 2020). Police activity includes, among other things, dispatched calls, starting before the employee arrives on the call to ensure adequate time to turn on cameras and questioning victims, suspects, or witnesses. *See id.* If circumstances prevent recording at the start of an event, the employee will record as soon as practical. *Id.* Employees will record the entire event to its conclusion unless specifically instructed otherwise by SPD policy. *Id.*

NE#1 told OPA that he usually activates his BWV and ICV simultaneously, so he believed his BWV was activated when he arrived at the incident location. NE#1 also suggested he would not have heard any beeping sound to indicate the BWV was activated because traffic would have drowned it out. NE#1 said he realized his BWV was not activated when he returned to his patrol vehicle.

As noted above, this explanation is unconvincing. OPA recommended a training referral for this same policy violation in 2019OPA-0300. NE#1 knew that policy required him to activate his BWV before engaging in police activity. NE#1 activated his BWV about five minutes after he arrived on the scene. By then, NE#1 had already interviewed CM#1 and the Complainant. NE#1 was on notice that failure to activate his BWV "may result in a Sustained finding." The preponderance of the evidence shows NE#1 violated this policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**