



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 18, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS JR.,
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0141

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	16.090 – In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Employees Record Activity	Not Sustained - Unfounded

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) conducted a traffic stop on the Complainant and cited him for blocking traffic during a road race. The Complainant alleged that NE#1 yelled at him, cited him for blocking traffic, and was racially biased against him. It was also alleged that NE#1 failed to activate his body-worn video (BWV).

ADMINISTRATIVE NOTE:

On September 16, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On March 24, 2024, Witness Supervisor #1 (WS#1)—a sergeant—submitted a Blue Team complaint on the Complainant's behalf, documenting the following information. According to NE#1, Witness Employee #1 (WE#1)—a parking enforcement officer—stopped the Complainant, who was operating a vehicle, at a crosswalk to allow runners to cross during a running event. The Complainant was then directed to drive, but he blocked the crosswalk. NE#1 cited the Complainant for that traffic violation. According to the Complainant, he did not drive because he did not want to hit WE#1, who stood in the roadway. The Complainant alleged he was cited based on his race.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report and BWV. OPA also interviewed the Complainant, NE#1, and two witness employees.



B. Computer-Aided Dispatch (CAD) Call Report

On March 24, 2024, at 9:23 AM, "TRAFFIC STOP – OFFICER INITIATED ONVIEW" was coded into CAD.

C. Body-Worn Video (BWV)

NE#1 activated his BWV and said, "Doggone it. Body cam failed to activate. That's awesome." NE#1 radioed his BWV failing to activate. Witness Employee #2 (WE#2), who was directing traffic on a crosswalk, told NE#1 that he heard runners yelling at the Complainant to "get out of the way." NE#1 briefed WS#1, saying the Complainant was directed to pass the crosswalk but stopped in the middle of it and the roadway, preventing runners from crossing. NE#1 said the Complainant was argumentative and disobeyed orders to move. NE#1 said he conducted a traffic stop on the Complainant to cite him, during which the Complainant requested a supervisor.

WS#1 spoke with the Complainant, who said WE#1, standing in the middle of the roadway, motioned him to drive while cars were in the opposite travel lane. The Complainant said he did not want to hit WE#1, so he waited for WE#1 to move. NE#1 approached the Complainant and WS#1. NE#1 handed a citation to the Complainant and explained why he was cited. The Complainant asked whether he was cited because he was Mexican. NE#1 replied, "Of course not," explaining that the Complainant obstructed the roadway by stopping his vehicle. NE#1 walked away, and WS#1 asked about the Complainant's race claim. The Complainant wondered whether the contact occurred because of his race, stating, "It happens to me a lot. It's not the first time." The Complainant described NE#1 as aggressive.

D. OPA Interviews

Complainant

On April 9, 2024, OPA interviewed the Complainant. The Complainant said he stopped at the crosswalk but was motioned to drive. The Complainant said he did not drive because WE#1 obstructed his path. The Complainant said NE#1 yelled at him to drive, but he told NE#1 that he was waiting for WE#1 to move. The Complainant said he began driving slowly to avoid WE#1 but stopped when pedestrians approached, causing NE#1 to yell again. The Complainant said he was directed to pull over and was afraid because NE#1 was angry. The Complainant believed NE#1 may have yelled at him and stopped him based on race but acknowledged NE#1 did not comment on his race. The Complainant believed race impacted this interaction because he thought he did nothing wrong.

Named Employee #1

On May 23, 2024, OPA interviewed NE#1. NE#1 said he was on the shoulder when WE#1 motioned the Complainant to drive, but the Complainant stopped on the crosswalk and yelled at WE#1, saying WE#1 was blocking the roadway. NE#1 said the Complainant had adequate room to pass and noted no other drivers struggling to drive by as NE#1 or WE#1 stood in the roadway. NE#1 said he ordered the Complainant to drive at least three times and then conducted a traffic stop because he obstructed the roadway by disobeying orders. NE#1 said he spoke loudly so the Complainant could hear him. NE#1 said he attempted to activate his BWV when he directed the Complainant to pull over. NE#1 said he noticed his BWV was not activated as he obtained the Complainant's documentation, so he attempted to activate his BWV again. NE#1 said he returned to his motorcycle and again noticed his BWV was not activated, so he attempted to activate his BWV again, which was then successful. NE#1 said he cited the Complainant because of his traffic violation, not his race. NE#1 said race did not impact his interaction with the Complainant and denied knowing the Complainant's race until he mentioned it.



Witness Employee #1

On August 29, 2024, OPA interviewed WE#1. WE#1 said he heard NE#1 shout, “Go, go, go” at a vehicle stopped in the middle of a crosswalk. WE#1 said NE#1 shouted so that the Complainant could hear. WE#1 said the Complainant was given several opportunities to drive. WE#1 denied blocking the roadway. WE#1 denied hearing NE#1 comment about the Complainant’s race or say anything perceived as unprofessional.

Witness Employee #2

On September 3, 2024, OPA interviewed WE#2. WE#2 said the Complainant stopped his vehicle in the roadway and disobeyed multiple orders to drive. WE#2 said NE#1 shouted so that the Complainant could hear. WE#2 said bicyclists told the Complainant to move. WE#2 denied hearing NE#1 comment about the Complainant’s race or say anything perceived as unprofessional.

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 unprofessionally yelled at him and cited him for blocking traffic.

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.*

Although the Complainant believed NE#1 yelled at him, two witness employees perceived that interaction differently. They believed NE#1 shouted so that the Complainant could hear, not because NE#1 was unprofessional. Additionally, NE#1 said the Complainant disobeyed multiple orders to move his vehicle that obstructed traffic, justifying a citation. The witness employees corroborated NE#1’s account. A preponderance of the evidence shows NE#1 issued lawful orders and cited the Complainant for a traffic violation.

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 mistreated him based on race.

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 treatment based on race. *See id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning personal characteristics. *See* SPD Policy 5.140-POL-2.

The Complainant believed he was mistreated despite doing nothing wrong and claimed that he could not move because WE#1 blocked the roadway. However, NE#1 and WE#1 refuted that claim, saying there was sufficient space



for the Complainant to pass. NE#1 specifically noted no other driver struggling to drive by WE#1. NE#1 and the witness employees said the Complainant disobeyed multiple orders to move. Furthermore, the witness employees denied hearing NE#1 comment on the Complainant's race. The totality of these circumstances suggests the Complainant's citation was based on his vehicle obstructing traffic, and not on race.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 – Allegation #3

16.090 – In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 2. When Employees Record Activity

It was alleged that NE#1 failed to activate his BWV.

When safe and practical, sworn employees will record police activity, even if the event is out of view of the camera. SPD Policy 16.090-POL-2(2). Police activity includes, among other things, traffic stops. *See id.* If circumstances prevent recording at the start of an event, the employee will record as soon as practical. *Id.* Sworn employees will record the entire event to its conclusion unless specifically instructed otherwise by SPD policy. *Id.*

According to NE#1's interview statements, NE#1 attempted to activate his BWV twice—once when he directed the Complainant to pull over and another time as he obtained the Complainant's documentation. NE#1 claimed he successfully activated his BWV when he returned to his motorcycle. BWV captured NE#1 immediately radioing the BWV issue. While NE#1's BWV did not capture a significant portion of the traffic stop, OPA credits NE#1's statements that he attempted to activate his BWV twice, but his BWV failed to activate. NE#1's explanation is partially corroborated by the fact he ultimately was able to activate his BWV, his statement immediately after his BWV was activated ("Doggone it. Body cam failed to activate. That's awesome."), and his immediate reporting of the issue.

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

Recommended Finding: **Not Sustained - Unfounded**