



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 6, 2024

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

CASE NUMBER: 2024OPA-0221

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

| Allegation(s): |  | Director's Findings               |
|----------------|--|-----------------------------------|
| # 1            | 16.110-POL-5 Responding to Subjects in Behavioral Crisis<br>Officers Shall Document All Contacts With Subjects Who are in<br>Any Type of Behavioral Crisis | Not Sustained - Training Referral |

#### Named Employee #2

| Allegation(s): |  | Director's Findings               |
|----------------|--|-----------------------------------|
| # 1            | 7.010 - Submitting Evidence, 7.010-POL 1. Employees Secure<br>Collected Evidence   | Sustained                         |
| # 2            | 5.001 - Standards and Duties POL-10. Employees Will Strive to<br>be Professional   | Sustained                         |
| # 3            | 5.001-POL 11. Employees Will Be Truthful and Complete in All<br>Communication  | Not Sustained - Lawful and Proper |
| # 4            | 16.090 - In-Car and Body-Worn Video, 16.090-POL-2 Sworn<br>Employees Recording Police Activity, 2. When Sworn<br>Employees Record Activity                 | Sustained                         |
| # 5            | 16.110-POL-5 Responding to Subjects in Behavioral Crisis<br>Officers Shall Document All Contacts With Subjects Who are in<br>Any Type of Behavioral Crisis | Sustained                         |

#### Imposed Discipline

|                   |
|-------------------|
| Written Reprimand |
|-------------------|

***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:

The Complainant reported she was raped to SPD, and a criminal investigation was opened. Several days later, the Complainant called 9-1-1 to report she located additional evidence. Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded. The Complainant alleged NE#2 failed to collect the evidence, handled the call unprofessionally, and dishonestly stated he would provide the evidence to detectives.

After completing the intake investigation, OPA alleged NE#1 and NE#2 failed to complete a Behavioral Crisis Report. OPA also alleged NE#2 failed to activate his body-worn video when required to do so.

### ADMINISTRATIVE NOTE:



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On August 26, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

**SUMMARY OF INVESTIGATION:**

In October 2023, the Complainant reported that she was raped to SPD. Evidence was collected at the scene and a detailed report was completed. The Complainant was transported to a hospital and had a Physical Evidence Recovery Kit completed by a Sexual Assault Nurse Examiner.

A few days after reporting the rape, the Complainant contacted 9-1-1 to report she located a "box with LED lights on it" that she believed was "recording her." The call notes indicated the call was "related" to the prior reported rape. The call notes also stated the Complainant was "high on meth," but declined the crisis line.

The named employees responded to the call. The named employees were riding in a single vehicle as two-officer unit. NE#2 was attached as the "primary" officer on the call.

NE#1's body-worn video (BWV) recorded the entire interaction. NE#2 did not activate his BWV during this incident. Throughout the interaction, the Complainant engaged almost entirely with NE#2 while NE#1 stood near the Complainant's doorway. The named employees contacted the Complainant in her apartment unit. As NE#2 entered, he told the Complainant that the officers were recording the interaction. The Complainant searched for the device for several minutes. While searching, the Complainant noted that several alcohol bottles that were present were brought by "the person that I believe raped me while I was unconscious." Neither officer followed up on this statement. The Complainant found the device and showed it to NE#2. The Complainant described speaking with an unspecified male about the Complainant's desire to put up Christmas lights as decorations. The Complainant stated that "the next day" the male provided her with the device as a "wall decoration." The Complainant noted to NE#2, "this literally is not a wall fucking decoration." The Complainant plugged the device into a wall outlet. The device displayed red lights on the wall.



*The Complainant demonstrating the device to NE#2.  
The device is circled in green, plugged into the wall.*

The Complainant opined the device was spyware. NE#2 opined the device was just an LED light decoration and did not appear to be a camera. The Complainant stated she found similar devices on the internet that have cameras in them. NE#2 told the Complainant she could throw it away. The Complainant asked, "Can a detective look and see what that is?" NE#2 said he could take the device, noting "I can get rid of this for you." The Complainant responded, "Don't get rid of it. What do you mean 'get rid of it?'" NE#2 responded that he would take the device "back to the precinct and lock it in." The Complainant clarified, "turn it in?" NE#2 responded, "yeah." The Complainant asked, "So they can see what it is?" NE#2 replied, "yeah."

NE#2 took the device from the Complainant, and the named employees exited the Complainant's apartment. While waiting for the elevator, NE#2 threw the device into a nearby trashcan.

Neither named employee completed an incident report or Behavioral Crisis Report for the incident.

**ANALYSIS AND CONCLUSIONS:**

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

***16.110-POL-5 Responding to Subjects in Behavioral Crisis Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis***

It was alleged neither named employee completed a Behavioral Crisis Report for the incident.



SPD Policy 16.110-POL-5(9) requires officers complete a Behavioral Crisis Report for all crisis-related incidents, including where officers interact “with persons in crisis when their behavior is deemed ‘baseline.’” SPD Policy 16.110-POL-5(9).

The computer-aided dispatch (CAD) call report noted that the Complainant was “high on meth.” BWV showed that the Complainant was speaking quickly and erratically. The Complainant showed the named employees a device that she believed was “spyware,” but which NE#2 opined was only a light decoration. After NE#2 suggested throwing the device away, the Complainant became upset.

As described further at Named Employee #2, Allegation #1, both named employees believed the device had no evidentiary value. Instead, the named employees believed the Complainant was in crisis. As both named employees acknowledged in their OPA interviews, they were obligated to complete Behavioral Crisis Reports and their failure to do so violated policy.

Here, OPA recommends findings of Not Sustained – Training Referral for NE#1, but a Sustained finding for NE#2. Although both officers were obligated under policy to ensure a Behavioral Crisis Report was complete, NE#2 was the primary officer on this call. Related to this difference in roles, NE#2 took a significantly more active role in the investigation and, ultimately, made the choice to tell the Complainant he would give the device to detectives but then threw the device away. Even accepting NE#2’s explanation that he did not believe the device had evidentiary value and that the Complainant was in crisis, his actions and decision-making should have been documented in a Behavioral Crisis Report.

Accordingly, OPA recommends this allegation against NE#1 be Not Sustained – Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 13.110-POL-5 with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented in Blue Team.

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

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

##### ***7.010 - Submitting Evidence, 7.010-POL 1. Employees Secure Collected Evidence***

The Complainant alleged NE#2 failed to secure evidence.

SPD Policy 7.010-POL-1 requires that employees secure collected evidence. It further instructs employees that they must place that evidence into the Evidence Unit or an authorized evidence storage area before they end their shift.

OPA recommends this allegation be Sustained. The Complainant reported she was raped, and SPD was investigating the Complainant’s criminal allegations. Several days later, the Complainant called 9-1-1 to provide additional evidence. The report number for the Complainant’s rape report was attached to this call as “related.” NE#2 responded as the primary. The Complainant reported to NE#2 that she believed a man raped her while she was unconscious. The Complainant also reported a man<sup>1</sup> provided her with the device, which she believed was “spyware” and asked NE#2

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<sup>1</sup> The Complainant did not explicitly tell NE#2 that the man who allegedly raped her was the same man that gave her the device, nor did NE#2 ask any questions to clarify this.



to provide the device to the “detectives.” NE#2 said he would do so, then—without reviewing the prior rape call or inquiring further—threw the device in the trash and did not document doing so in any kind of report.

NE#2 may have genuinely believed—and it may have in fact been the case—that the Complainant was in crisis and providing him with an LED light of no evidentiary value. But NE#2 appears to have made several assumptions rooted in his failure to either review the related call or seek any clarification from the Complainant. NE#2 told OPA there was no indication of a rape on the call. This is incorrect. While the CAD remarks did not include details of the reported rape, the call originally came in at about 6:34 p.m. on October 11, 2023. At 6:36 p.m., the call taker attached the previously reported rape incident as the very first entry on the CAD call report. NE#2 failed to review this ahead of arriving at a low level, priority 3 call. Even accepting that NE#2 missed this reference in the call report, the Complainant’s statements that she believed a man raped her while she was unconscious and references to the “detectives” should have alerted him to probe further. NE#2 did not do so. Finally, the Complainant stated that the device looked like recording devices she found online. NE#2 made no effort to review or corroborate this information and appeared to dismiss it. Based on NE#1’s BWV recording of the device, it appears entirely plausible the device could have been either a simple light—as NE#2 assumed—or have contained a recording device. Because NE#2 chose to throw the device away, the device cannot be examined further.

If, as the complainant stated, the rape suspect provided her with a recording device under the guise that it was a holiday decoration, it could potentially be evidence of either the alleged rape or a separate crime entirely.<sup>2</sup> Or the device could have been a light and nothing more. Not every item that police are required to collect as evidence of a crime ends up being material. NE#2 erred in stating to the Complainant he was going to take the device “back to the precinct and lock it in,” and then decided the device was of no evidentiary value and threw it away.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

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

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

The Complainant alleged that NE#2 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10.

OPA recommends this allegation be Sustained. Members of the public must be able to trust that officers who respond to their calls for service will take their concerns seriously, investigate appropriately, and give them straightforward information. NE#2 failed to do so here.

Overall, NE#2’s actions appeared to show he prematurely allowed his assumptions to dictate his course of action. In his OPA interview, NE#2 stated there was no indication of a rape on the call, despite the fact the rape report was attached as a related incident. NE#2 also stated that, while going to the call, he believed the Complainant was only reporting that a device was recording her. NE#2 also stated he believed the Complainant was in crisis, offering as his

<sup>2</sup> See, e.g., RCW 9A.44.115 (Voyeurism) and 9.73.030 (Washington state wiretapping statute).



only observation for this belief the fact that the Complainant believed the device was a recording device, which NE#2 felt was not possible. As discussed further below, NE#2 did not appear to genuinely investigate the Complainant's concerns and, instead, used a ruse to convince the Complainant he would follow through on her concerns when he did not have any intention of doing so. Finally, NE#2's failed to follow protocol during this call, such as by activating his BWV or writing a Behavioral Crisis Report. Although, NE#2 may simply have forgotten to activate his BWV or file a report, these omissions from routine further indicate a lack of care with this call.

Also, NE#2 did not thoroughly investigate the Complainant's concerns. Among other things, NE#2 did not: (1) appear to examine the device, (2) ask any follow-up questions about the Complainant's reference to being raped or determine if that rape was reported or investigated, (3) ask what the Complainant meant by the "detective," (3) clarify who the "person" was who the Complainant believed raped her, (4) clarify who the man was who the Complainant stated gave her the device, (5) ask for more information about the reportedly similar recording devices that the Complainant said she located online. Even if NE#2 ultimately believed that the Complainant was experiencing a crisis, this did not relieve him from his obligation to conduct a thorough primary investigation of the call. See SPD Policy 15.180-POL-1 ("Officers shall conduct a thorough and complete search for evidence").

Finally, NE#2 did not speak to the Complainant in a straightforward manner. Although OPA ultimately finds the NE#2 did not violate SPD Policy 5.001-POL-11, his decision to tell her he would turn the device in to "appease her" and "de-escalate" was questionable. The Complainant did not appear significantly escalated and, instead, appeared frustrated that NE#2 was suggesting that she should throw away what she believed was evidence of a crime.

NE#2's actions on this call fell short of the Department's expectations, undermining the Complainant's trust when she found out NE#2 did not turn the device in for her rape case.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

### **Named Employee #2 - Allegation #3**

#### ***5.001-POL 11. Employees Will Be Truthful and Complete in All Communication***

The Complainant alleged that NE#2 lied when he said he would turn the device in and then failed to do so.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

As an initial matter, NE#2 told the Complainant he would turn the device in at the precinct. Less than three minutes later, NE#2 threw the device in a trash can at the Complainant's building. NE#2 admitted he never had any intention of turning the device in as he did not believe it was of any evidentiary value. Although NE#2's statements to the Complainant were not accurate, OPA does not find NE#2 violated this policy, in review of the totality of the circumstances. NE#2 did not act with dishonest intent in this instance and, instead, sought only to "appease" and "de-escalate" the circumstances by telling her what she wanted to hear. OPA questions whether NE#2's ruse was necessary or well-advised here and should have been documented. Here, NE#2's statements were not intentional deceit but, at worst, a misguided ruse.<sup>3</sup>

<sup>3</sup> See SPD Policy 5.001-POL-11. Although SPD's Patrol Ruse policy was not in effect on the date of this incident, its enactment less than a month later indicates that an "officer's act of deception intended to achieve a person's cooperation," is sometimes a necessary function of a patrol assignment and not always best analyzed as an act of dishonesty. See SPD Policy 5.300 (Patrol Ruses).



OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

**Named Employee #2 - Allegation #4**

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

It was alleged that NE#2 did not activate his BWV when required to do so.

SPD policy requires sworn employees equipped with BWV activate their BWV for certain events, including “dispatched calls, starting before the employee arrives on the call to ensure adequate time to turn on cameras.” SPD Policy 16.090-POL-2(2).

NE#2 did not activate his BWV for this call. OPA checked NE#2’s BWV for function on October 11, 2023 and found it was in working order and recorded other calls for service that same night. NE#2 admitted he failed to do so and acknowledged this violated policy. OPA accepts NE#2’s explanation that he simply forgot to do so in this instance. OPA finds that, NE#2 violated policy accordingly.

OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #2 - Allegation #5**

***16.110-POL-5 Responding to Subjects in Behavioral Crisis Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis***

It was alleged neither named employee completed a Behavioral Crisis Report for the incident.

NE#2 was the primary officer and should have completed the report. Also, for the reasons stated above at Named Employee #1, Allegation #1, a violation of this policy occurred.

OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**