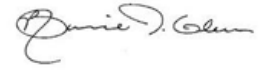


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**Issued Date:** NOVEMBER 27, 2024

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



**Case Number:** 2024OPA-0240

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

### **Named Employee #1**

- 1. Allegation #1:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing  
**Finding:** Not Sustained - Unfounded
- 2. Allegation #2:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional  
**Finding:** Not Sustained - Unfounded

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### **Named Employee #2**

- 1. Allegation #1:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing  
**Finding:** Not Sustained - Unfounded
- 2. Allegation #2:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional  
**Finding:** Not Sustained - Unfounded

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### **Named Employee #3**

- 1. Allegation #1:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing  
**Finding:** Not Sustained - Unfounded
  - 2. Allegation #2:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional  
**Finding:** Not Sustained - Unfounded
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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 the named employees were discriminated against him because he is deaf.

**Administrative Note:**

On November 15, 2024, the Office of Inspector General (OIG) certified OPA's investigation as objective and timely but declined to certify the investigation as thorough. OIG noted that OPA reviewed precinct video during the investigation but did not preserve this footage. When OIG reviewed the investigation, the precinct video was no longer available. OIG reasoned, "The absence of this video creates a gap in the investigative record which OPA cannot correct." OPA acknowledges its error in not timely preserving the precinct video but respectfully disagrees that this single error makes this entire investigation not thorough. As part of its investigation, (1) OPA conducted extensive review of precinct security video that is non-audio and included extensive notes with screenshots of relevant moments in its Report of Investigation (ROI). (2) OPA reviewed body-worn video (BWV) from Named Employee #2 (NE#2) and Named Employee #3 (NE#3) that significantly corroborated most relevant portions of the facility video summarized in the ROI. (3) The BWV with audio provided better evidence concerning the interactions between NE#2 and NE#3, which formed the crux of the Complainant's allegations.

OPA conducted an extensive investigation of this incident, including BWV and facility video review, an email-based interview with the Complainant, and three interviews with the named employees.

**Summary of Investigation:**

**A. OPA Complaint and Complainant Statement**

The Complainant filed a web-based complaint with OPA. OPA later interviewed the Complainant by email. The Complainant and OPA investigator agreed to an email interview to communicate effectively and accommodate schedules. In his complaint and interview, the Complainant alleged the following.

The Complainant went to the West Precinct to obtain a copy of a police report. He attempted to enter the West Precinct, but it was locked, and he could not use the intercom feature because he cannot hear. Named Employee #1 (NE#1) came outside. The Complainant typed on his phone to communicate with NE#1, but NE#1 responded with his voice before using his finger to beckon him inside. NE#1 pointed for him to wait before NE#1 typed on the Complainant's phone that they were "looking for sign language and will be with [the Complainant]." NE#1 left without telling him how long to wait, asking him what his preferred method of communication was, or learning that he only wanted to ask a simple question.

NE#2 was working at the front window and allowed another person into the building. NE#2 helped that person first, which made the Complainant feel neglected. NE#2 finished with the other person then gestured for the Complainant to approach. The Complainant gestured his frustration to NE#2, who wrote with “angry letters and lines” in response. The Complainant asked for NE#2’s name, badge, and asked for a supervisor. NE#2 shook his head, refused to give that information, and gave him attitude for asking for a supervisor before shutting the window in the Complainant’s face. NE#2 left leaving the Complainant “clueless.”

NE#3—a sergeant—came out, which scared the Complainant. The Complainant asked NE#3 for NE#2’s name and badge number, which NE#3 refused to provide. NE#2 wrote his name and badge number on a card, gave it to NE#3, and NE#3 gave the card to the Complainant. NE#3 asked what he could help with, at which point the Complainant told NE#3 that he was “not in [the] mood to get their help right now.” The Complainant left.

## **B. Facility Video and Body-Worn Video**

OPA reviewed West Precinct facility video as well as BWV from NE#2 and NE#3. OPA did not identify any relevant BWV from NE#1. As the situation was described by the Complainant, NE#1 would not have been obligated under policy to activate his BWV. See SPD Policy 16.090-POL-2(2) (When Sworn Employees Record Activity). It depicted the following.

From about 2:30pm to 2:54pm, multiple individuals approached the front entrance of the West Precinct at different times. These times are estimates. It did not appear the time stamps for the interior and exterior facility cameras aligned perfectly. One of these was Community Member #1 (CM#1). Around 2:30pm, CM#1 walked directly into the West Precinct without needing to use the intercom. CM#1 went to the front desk and began speaking with NE#2. Around 2:38pm, a UPS delivery driver also approached and entered through the front door. The Complainant approached the front door around 2:54pm.

During this time, NE#2 continued speaking with CM#1 at the front desk. NE#2’s BWV was angled towards the front entrance, indicating that NE#2 would have been able to see anyone waiting outside.

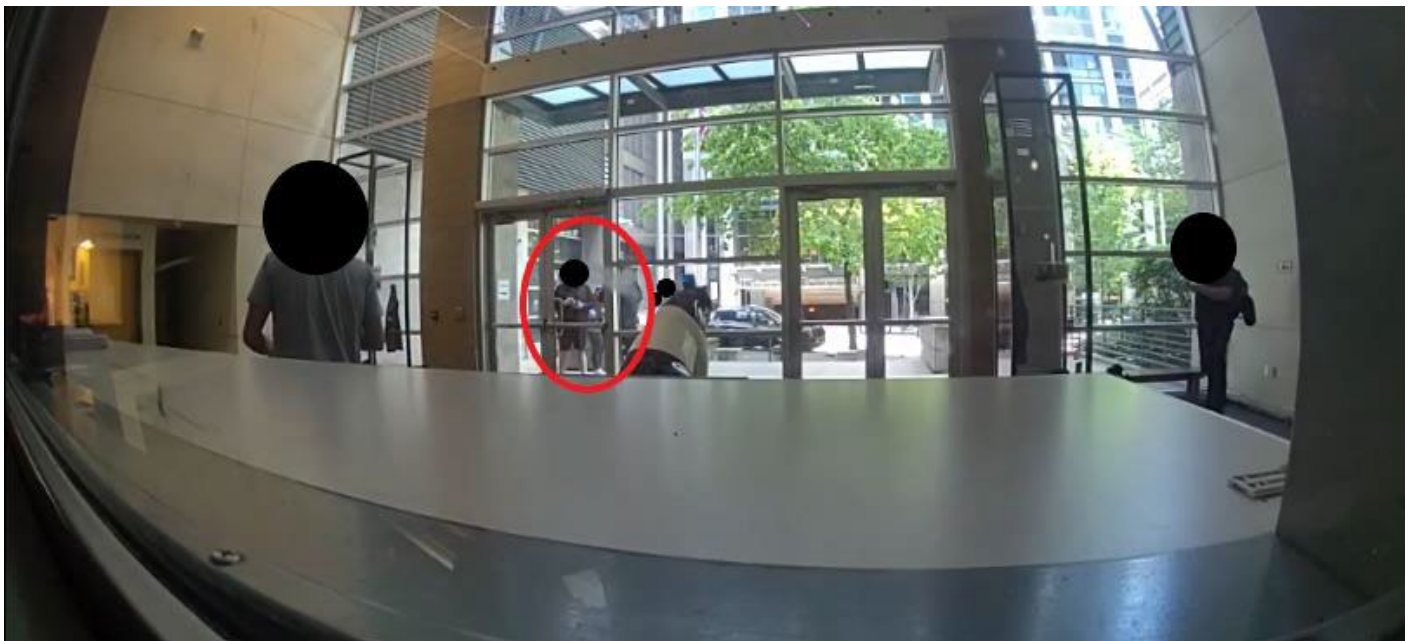


*Image from NE#2's BWV immediately before UPS Driver entered.*

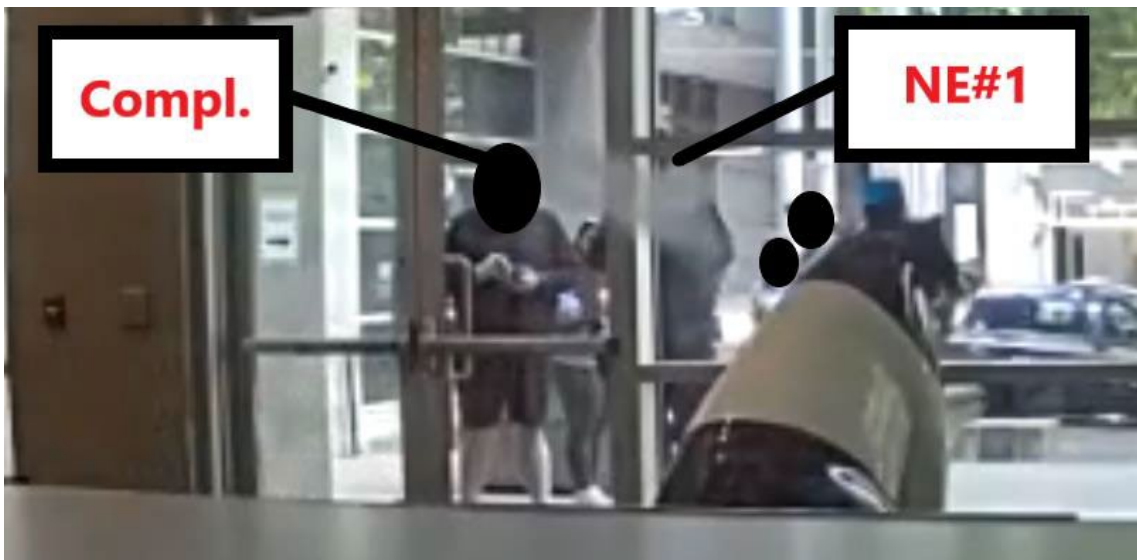
About five minutes and forty-five seconds later, NE#1 walked out of the West Precinct.



NE#1 and the Complainant interacted immediately outside the West Precinct. CM#1 walked away from the front desk and sat down at a bench to the right.

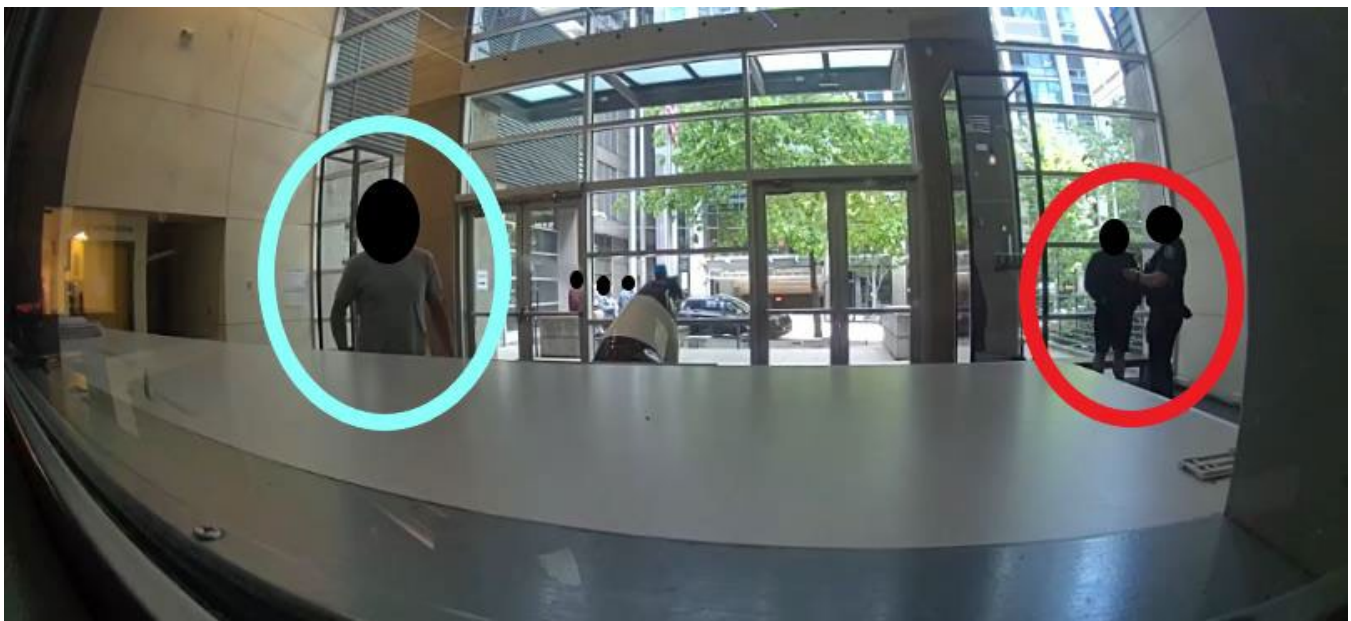


*NE#1 and the Complainant are circled in red. CM#1 walking away, at left.*



NE#1 and the Complainant interacted for about one minute outside. During this time, they appeared to use the Complainant's phone to communicate. NE#1 entered the West Precinct and approached NE#2 at the front desk. The Complainant waited outside. NE#1 told NE#2, "There's a guy outside that is Sign Language only. ... He's deaf, he only uses Sign Language." NE#2 asked, "What did he want?" NE#1 responded, "He's looking for a report." NE#2 replied, "Okay, alright." NE#1 explained he needed to respond to a call. NE#2 told NE#1 to have the Complainant come in and wait.

NE#1 allowed the Complainant into the West Precinct, then indicated for him to wait by a bench off to the side. While NE#1 and the Complainant continued to interact near one bench, CM#1 stood up and walked back to the front desk.



*CM#1 circled in blue. Complainant and NE#1 circled in red.*

NE#2 then spoke with CM#1 for about six and a half minutes while the Complainant waited by the bench. CM#1 then left.

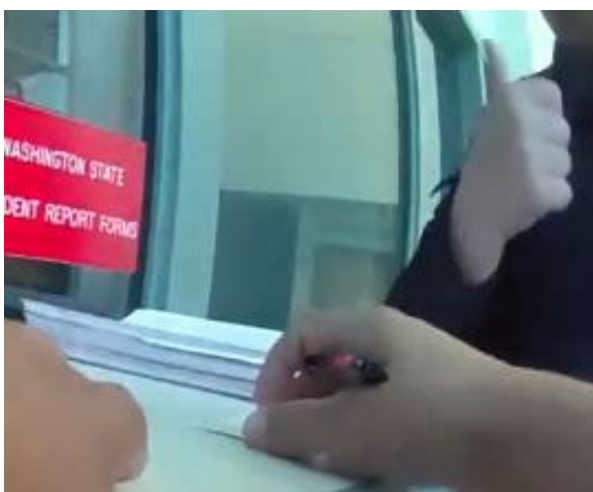
About two minutes after CM#1 left, the Complainant was observed at the front desk. Appearing to communicate with Sign Language. After waiting about three more minutes. NE#3 entered the lobby to engage with the Complainant. The Complainant used his cell phone to communicate with NE#3. NE#3 used a pen and paper to communicate with the Complainant. NE#3 gave the Complainant his name and badge number and those of NE#2. NE#3 communicated which name and badge number identified himself versus NE#2 by pointing at the information, then pointing to the respective person it identified. The Complainant also appeared to confirm this information by similarly pointing to the written information and then pointing to NE#2 and NE#3.

NE#3 wrote out, while contemporaneously saying, "Can I assist you with something? Also, I can have an interpreter come." The Complainant responded by writing something on his phone.



Complainant and NE#3 communicating with notepad and cell phone.

NE#3 read a message on the Complainant's cell phone. NE#3 then gave the Complainant an SPD business card, appearing to circle information on the card. The Complainant did not appear to show any obvious dissatisfaction with NE#3. The Complainant then gave NE#3 a thumbs up, made an "okay" gesture, signed "thank you," then nodded, waved goodbye to NE#3, and left.



"Thumbs up" gesture



*Signing "thank you"*



The Complainant and NE#3 interacted for about two and a half minutes in total.

### **C. OPA Interviews**

OPA interviewed all three named employees.

NE#1 described his interaction with the Complainant. NE#1 said the Complainant waved him down and expressed that he wanted a copy of a police report. NE#1 said he escorted the Complainant into the lobby and instructed him that he would be seen next. NE#1 described communicating with the Complainant using the Complainant's cell phone notepad. NE#1 said the

Complainant did not appear upset or to need anything else. NE#1 said he needed to leave for a dispatched call.

NE#2 described his interaction with the Complainant. NE#2 said he was assisting another patron (CM#1) when NE#1 told him about the Complainant needing a copy of a police report. NE#2 told NE#1 to bring the Complainant inside. NE#2 said that, prior to assisting the Complainant, a gentleman entered and need assistance with a quick question, which NE#2 answered promptly. NE#2 estimated the Complainant waited in the lobby for less than ten minutes for service. NE#2 said the Complainant used his phone to ask why NE#2 helped the gentleman before him. NE#2 said he verbally answered the Complainant, stating that he was checking to gauge the gentleman's request. NE#2 explained to the Complainant that, since the gentleman's request was quick, he addressed it first. NE#2 said the Complainant appeared to understand and then asked for a sergeant. NE#2 requested a sergeant. NE#3 responded, and NE#2 described writing down his name and badge number. NE#2 described the Complainant as appearing impatient, not wanting to wait for an interpreter, and leaving immediately after communicating with NE#3. NE#2 said that police reports are not obtained at precincts. NE#2 denied acting with bias or unprofessionally towards the Complainant, noting that he interacted with the Complainant about a week later without incident.

NE#3 stated he responded to the lobby to speak with the Complainant. NE#3 said he communicated with the Complainant by phone notepad application, pen, and paper. NE#3 stated he sometimes verbalized things he was writing down, but he was only attempting to communicate effectively with the Complainant. NE#3 also said he provided the Complainant with his name and badge number, as well as those of NE#2. NE#3 stated the Complainant appeared satisfied with their interaction and declined an interpreter. NE#3 said he thought the Complainant just wanted a copy of a police report, which is a service provided at police headquarters, not the individual precincts.

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## **Analysis and Conclusions:**

### **Named Employee #1 – Allegation #1**

#### ***5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing***

The Complainant alleged the named employees were unprofessional and biased against deaf people by speaking to him with their voice, being “rude,” refusing to provide their names and badge numbers, and helping hearing people before him.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatment due to the disability status of the subject. See *id.* Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL- 2. The Americans with Disabilities Act (ADA) requires that, “public entities take appropriate steps to ensure that communications with people with disabilities are as effective as

communication with others. ... The type of aid or service necessary to ensure effective communication may vary by the nature, length, and complexity of the communication. However, in all circumstances, the ADA requires that the expressed choice of the individual with the disability be given primary consideration in determining which communication aid to provide.” See SPD Deaf and Hard of Hearing Resource Card.

These allegations are unfounded. In comparing facility video, BWV, the complaint, and the Complainant’s emails, OPA recognizes how the Complainant and named employees walked away from this encounter with different understandings of what occurred. But the evidence does not indicate any named employee discriminated against or behaved unprofessionally with the Complainant.

First, the evidence appeared to show that the front lobby doors were either unlocked or were being attended frequently by either NE#2 or other officers. In any event, using the UPS Driver’s entrance as a reference point, NE#1 appears to have exited the West Precinct almost as soon as the Complainant arrived. The intercom did not appear to in any way hinder the Complainant’s access to the building.

Second, the named employees used readily available, effective aids (phone notepad; pen and paper; gestures) to communicate with the Complainant given the simple complexity of their interactions. The Complainant conveyed that he wanted a copy of a police report. The Complainant then appeared to abandon his request for a police report and requested NE#2 and NE#3’s names and badge numbers, which NE#3 promptly provided. When NE#3 asked if he could assist with anything else, the Complainant appeared to decline. The limited times the named employees spoke to the Complainant using their voices appears to be either supplemental to using gestures or communication aids, or, in the case of NE#2, at the very beginning of their interactions.

Third, the Complainant did not appear to express a preference for any other manner of communication. Even when he was offered an interpreter explicitly, he declined. Additionally, the Complainant appeared to be communicating effectively using his cell phone, pen and paper, and gestures, when considering the nature, length, and complexity of the communication needed.

Fourth, OPA did not observe any evidence that any employee was rude to the Complainant. Nor did the evidence show that any employee refused to provide their name or badge number when asked.

Finally, NE#2 did not appear to assist anyone out of turn with the Complainant. Instead, what appears to have happened is that NE#2 took a brief break from actively assisting CM#1 around the time the Complainant entered the building. NE#2 then returned to assisting CM#1 for about six and a half minutes, completing this interaction, then assisting the Complainant. This was both reasonable and, in fact, assisted CM#1 and the Complainant in order. That said, OPA also understands how the Complainant would have perceived that CM#1 was being assisted out of turn. But the Complainant was not aware that NE#2 was already in the process of assisting CM#1 at the time the Complainant entered the precinct. This appears to have been a misunderstanding.

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-10. Employees Will Strive to be Professional***

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.

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

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**Named Employee #2 – Allegation #1**

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

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

**Named Employee #2 – Allegation #2**

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

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

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**Named Employee #3 – Allegation #1**

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

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

**Named Employee #3 – Allegation #2**

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

For the reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**