



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 20, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0248

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 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 - Inconclusive

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, an SPD civilian executive, filed an OPA complaint concerning an "inappropriate audio" recorded on Named Employee #1's (NE#1) body-worn video (BWV).

ADMINISTRATIVE NOTE:

On December 18, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received this email complaint on June 5, 2024. OPA investigated this complaint by reviewing the BWV and interviewing NE#1.

OPA reviewed the relevant BWV, which was two hours forty-two minutes and thirty seconds (2:42:30) long. The BWV was recorded on July 31 into August 1, 2020. The reason for activation was not discernible in the BWV. In the BWV, NE#1 was recorded inside a precinct building for about an hour and a half. NE#1 used a computer, had conversations with other officers, and filled out a report while intermittently making comments to himself. NE#1 was also recorded using the restroom, singing, emailing, quoting a movie to himself, and doodling.

After about ninety minutes, NE#1 entered a police van alone. As he started the van, the AM/FM radio was on. A commercial started playing concerning a local nurses and care givers union. The commercial supported the union members in a labor dispute. The voiceover stated:

The nurses and caregivers in [Union] have proudly cared for our community during the COVID-19 crisis, often at the risk to their own health. Their work is essential. Their retirement is too.



But at [medical facility], hospital profits are down, and [medical facility] management is looking for ways to save money. They want to do it by suspending caregivers' retirement contributions for months at a time. Suspending retirement contributions to shore up profit margins and dole out millions to highly paid executives will hit people of color the hardest. ...

NE#1 then made the following statement as the commercial continued playing:

Gotta hit those people of color the hardest. We gotta hit those people of color.

NE#1 made this statement in a noticeably changed pitch and inflection from his baseline speaking pitch, when compared to the rest of the BWV.

NE#1 then exited the precinct garage. He drove around for a few minutes while singing to himself. NE#1 went to a convenience store, joked with store staff while making a purchase, and then returned to the van. For the remainder of the video, NE#1 drove around while listening to the radio, speaking to various community members and officers, and talking to himself intermittently. NE#1 also stopped briefly at a gas station, attended a call at an encampment, spoke with a community member, and screened an arrest. NE#1 then deactivated his BWV.

OPA interviewed NE#1 on November 12, 2024. NE#1 stated he did not know what he was doing at this time or why his BWV was activated. NE#1 said he recalled "nothing" from the union commercial. When asked about his statement ("Gotta hit those people of color the hardest. Gotta hit those people of color."), NE#1 responded:

I don't have any recollection of any of this occurring prior to this, beginning of this interview I watched the video it's the first time I've seen it. It's apparent to me I was just parroting what the commercial said.

NE#1 denied knowing why he chose to parrot that specific phrase, responding, "That's what they said. I'm talking to myself. I don't, I don't know."

NE#1 denied behaving unprofessionally, stating:

I didn't know I was being recorded. I'm talking to myself in private parroting what was said on a commercial. Any reasonable human being will watch this video and put them—be able to put themselves in my shoes instantly and know, it means nothing it's flow of consciousness or whatever. It's unreasonable to think that anybody would be offended.

NE#1 similarly denied that the comment could undermine public trust, noting his belief that those who know him and work with him would know he is not biased. NE#1 stated he was just parroting the statement in the commercial.

NE#1 concluded the interview by stating he thought "this is all very Orwellian." He elaborated that he was concerned that everything that victims, witnesses, or suspects ever told him was "now subject to the government use of technologies to single out things that they've said in years past." NE#1 concluded he thought "the specter of Seattle's municipal government displaying their ability to do this is terrifying."



ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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

It was alleged that NE#1's comments were 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.

This case presents somewhat unique issues for OPA to decide whether NE#1's comments—made years prior, to himself, on duty, while he was alone, and inadvertently recorded by BWV—were unprofessional or expressed prejudice towards people of color.

OPA recognizes that, to many, this decision may be deeply unsatisfying. To some, NE#1's comments may appear clearly unprofessional or biased. To others, they may appear "obvious" that NE#1 was talking to himself in a stream-of-conscious manner and that his words were essentially meaningless ramblings, signifying nothing more than a passing thought. Ultimately, OPA must endeavor to decide cases fairly, based on policy and the evidence provided, by a preponderance of the evidence. In review of the totality of the circumstances, OPA finds insufficient evidence that NE#1's comments undermined public trust.

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

It was alleged that NE#1's comments expressed prejudice and were derogatory towards people of color.

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 based on the race 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.

For the reasons articulated in Named Employee #1 – Allegation #1, and based on the elevated standard of review, more than a preponderance of the evidence,¹ OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained – Inconclusive**

¹ Under the Seattle Police Officers' Guild Collective Bargaining Agreement (SPOG CBA), where "the alleged offense is stigmatizing to a law enforcement officer," an "elevated standard of review (i.e. – more than preponderance of the evidence)" applies. SPOG CBA article 3.1.