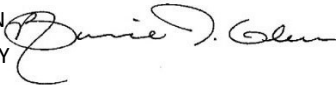




## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 25, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN  
OFFICE OF POLICE ACCOUNTABILITY 

CASE NUMBER: 2024OPA-0385

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

| Allegation(s): |   | Director's Findings                   |
|----------------|---|---------------------------------------|
| # 1            | 5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations | Not Sustained - Unfounded (Expedited) |

#### Named Employee #2

| Allegation(s): |   | Director's Findings |
|----------------|---|---------------------|
| # 1            | 6.150 – Advising Persons of Miranda and the Right to Counsel, 6.150-POL-1 Advising Miranda Rights, 2. Miranda Warnings Must Precede Custodial Interview | Sustained           |

#### Imposed Discipline

Resigned Prior to Proposed Discipline

#### Named Employee #3

| Allegation(s): |  | Director's Findings                   |
|----------------|--|---------------------------------------|
| # 1            | 13.031 – Vehicle Eluding and Pursuits, 13.031-POL-2 When Sworn Employees May Pursue and Supervisor Responsibilities, 1. Sworn Employees May Not Pursue Unless the Following Requirements Have Been Met: (Effective May 19, 2023) | Not Sustained - Unfounded (Expedited) |

***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.***

### **ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee's chain of command and the department's human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*

### **EXECUTIVE SUMMARY:**

Named Employee #3 (NE#3) observed a stolen car occupied by juveniles, activated his patrol car's lights and sirens, and followed the stolen car into a dead-end area within a park. The juveniles exited the stolen car and attempted to flee but were ultimately arrested. The Complainant alleged that NE#3 engaged in an unauthorized pursuit of the



stolen car and that Named Employee #1 (NE#1), a sergeant, failed to classify the incident as an unauthorized pursuit. It was also alleged that Named Employee #2 (NE#2) failed to Mirandize two juveniles before questioning them.

**ADMINISTRATIVE NOTE:**

During its intake investigation, OPA identified Witness Officer #1 (WO#1), NE#2, and NE#3 failing to notify a juvenile that he was being recorded. OPA sent their potential violations of SPD Policy 16.090-POL-2(1) (Notification of Recording) to their chain of command for Supervisor Action.<sup>1</sup> OPA also identified WO#1 failing to provide an additional juvenile warning after Mirandizing a juvenile. OPA sent WO#1's potential violation of SPD Policy 6.150-POL-1(10) (Sworn Employees Will Read Additional Warning for Juveniles) to his chain of command for Supervisor Action.

The allegations against NE#1 and NE#3 were approved for expedited investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing NE#1 and NE#3. As such, OPA did not interview NE#1 and NE#3 in this case. On November 20, 2024, OIG certified OPA's expedited investigation as thorough, timely, and objective.

The allegation against NE#2 underwent a full investigation. On February 11, 2025, OIG certified OPA's full investigation as thorough, timely, and objective.

NE#2 separated from SPD on January 28, 2025.

**SUMMARY OF INVESTIGATION:**

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, in-car video (ICV), body-worn video (BWV), and incident and supplement reports. OPA also interviewed NE#2 before his separation from SPD.

On September 12, 2024, multiple CAD call remarks noted five juveniles involved in a car theft and a subsequent collision.<sup>2</sup>

ICV captured NE#3 operating a patrol car, with NE#2 in the passenger seat. Upon noticing the stolen car, NE#3 executed a U-turn at an intersection as the stolen car entered Warren G. Magnuson Park.<sup>3</sup>

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<sup>1</sup> A Supervisor Action generally involves a minor policy violation or performance issue the employee's supervisor addresses through training, communication, or coaching. See OPA Internal Operations and Training Manual section 5.4(B)(ii).

<sup>2</sup> A witness officer's incident report stated that witnesses observed a car collision, after which five juveniles exited the stolen car, stole another car, and drove off.

<sup>3</sup> The witness officer's incident report described this dog park as "a dead end with no outlet."



NE#3 activated his lights and siren and followed the stolen car, reaching a speed of 51 MPH. About nine seconds later, NE#3 remarked, "I can't pursue." NE#2 replied, "Yeah." NE#3 deactivated his lights and sirens and decelerated while still trailing the stolen car. NE#3 radioed that the stolen car was "fleeing toward the dog park." NE#3 drove through two stop signs—one at a speed of 17 MPH and the other at 24 MPH—as the stolen car pulled away from NE#3. The stolen car reached a dead end, after which NE#2 said, "They're bailing." Five juveniles exited the car and fled.



NE#3 increased speed to 30 MPH as he approached the stolen vehicle and parked behind it. NE#2 and NE#3 exited the patrol car and chased after the juveniles. The stolen car was not in park, causing it to roll forward until it struck a fence. In total, NE#3 followed the stolen car for about 55 seconds, with his lights and sirens activated for about 11 seconds.

BWV captured NE#2 chasing after the juveniles. NE#2 located one in the park, guided him to the ground on his stomach, and restrained him. While breathing heavily, NE#2 questioned the juvenile about the stolen car driver's identity and subsequently handcuffed him. NE#2 maneuvered the juvenile to a seated position. NE#3 handcuffed another juvenile and brought her to NE#2. NE#2 questioned the two juveniles about the driver's attire, last name, age, and residence. NE#2 also questioned the juveniles' ages and their relationship to the driver. The juveniles either responded to NE#2's questions or indicated that they did not know or remember. NE#2 relayed the information he gathered via radio. NE#2 then escorted the juveniles to a patrol car, where he Mirandized them and issued a juvenile warning. Officers later located the remaining juveniles and arrested them.



On January 14, 2025, OPA interviewed NE#2. He admitted to questioning the juveniles before Mirandizing them, explaining that his intention was to gather information to relay to assist other officers in locating the remaining juveniles. He referenced SPD Policy 6.150-POL-1(1), which states that *Miranda* warnings should be given “as soon as practical.” When asked about whether he was aware of the need to issue *Miranda* warnings, he responded, “Yeah. I do believe that the, the policy says as soon as practical, and we felt that it was probably more practical to get more information out as soon as possible due to the fluid nature of the investigation.”

### **ANALYSIS AND CONCLUSIONS:**

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

#### ***5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations***

The Complainant alleged that NE#1 failed to classify the incident as an unauthorized pursuit.

Employees will report alleged violations. SPD Policy 5.002-POL-6. Employees will report any alleged minor policy violation to a supervisor. *Id.* Employees will report any alleged serious violations to a supervisor or OPA. *Id.* Employees who witness or learn of a violation of public trust or an allegation of a violation of public trust will take action to prevent aggravation of the incident or loss of evidence that could prove or disprove the allegation. *Id.* Any employee who observes another employee engage in dangerous or criminal conduct or abuse will take reasonable action to intervene. *Id.*

As noted below in Named Employee #3 – Allegation #1, OPA determined that NE#3 did not engage in a pursuit. Therefore, NE#1 did not have any policy violation to identify or report.

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

Recommended Finding: **Not Sustained – Unfounded (Expedited)**

#### **Named Employee #2 – Allegation #1**

#### ***6.150 – Advising Persons of Miranda and the Right to Counsel, 6.150-POL-1 Advising Miranda Rights, 2. Miranda Warnings Must Precede Custodial Interview***

It was alleged that NE#2 failed to Mirandize two juveniles before questioning them.

Sworn employees must give *Miranda* warnings before questioning a person who is in custody. SPD Policy 6.150-POL-1(2). Custodial interrogation means “express questioning or other actions or words by a law enforcement officer which are reasonably likely to elicit an incriminating response from an individual and occurs when reasonable individuals in the same circumstances would consider themselves in custody.” RCW 10.122.020(1).

There was no dispute that NE#2 questioned the juveniles before Mirandizing them. The nature of the questioning was reasonably likely to elicit incriminating responses, as it probed the juveniles’ knowledge about the driver of the stolen car and their association to him. While NE#2 recognized this issue, he argued that SPD Policy 6.150-POL-1(1) permits *Miranda* warnings be given “as soon as practical.” NE#2 believed it was necessary to communicate the information he obtained from the juveniles to other officers who were searching for the remaining juveniles. NE#2



may have viewed his choice to delay the *Miranda* warnings as justified under the circumstances, considering that the officers could benefit from the information he was relaying during their search. However, NE#2's rationale was flawed for three reasons. First, SPD Policy 6.150-POL-1(2) clearly states that *Miranda* warnings must precede a custodial interview. Although the "as soon as practical" language in SPD Policy 6.150-POL-1(1) contemplates reasonable delays in issuing *Miranda* warnings, it does not authorize an officer to question an arrested person during that delay. Second, SPD policy grants juveniles greater legal protections than adults, highlighting the necessity of timely *Miranda* warnings. *See, e.g.*, SPD Policy 6.150-POL-1(11) (prohibiting sworn employees from questioning juveniles after issuing *Miranda* warnings and requiring sworn employees to provide juveniles with access to legal counsel). Third, even if OPA were to accept NE#2's rationale for withholding *Miranda* warnings, he had sufficient opportunity to administer them after concluding his questioning in the park. Instead, NE#2 provided the *Miranda* warnings much later—after escorting the juveniles to a patrol car.

OPA credits NE#2 for issuing *Miranda* warnings, even though they were untimely. OPA recognizes there are times where it is uncertain whether *Miranda* warnings are required given the fluid, fact-specific nature of that determination. However, this was not one of those times. Here, the subject was already in custody, he was juvenile, and NE#2's specific reason was to get more information out as soon as possible.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #3 – Allegation #1**

***13.031 – Vehicle Eluding and Pursuits, 13.031-POL-2 When Sworn Employees May Pursue and Supervisor Responsibilities, 1. Sworn Employees May Not Pursue Unless the Following Requirements Have Been Met: (Effective May 19, 2023)***

The Complainant alleged that NE#3 engaged in an unauthorized pursuit of the stolen car.

A pursuit is "an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle, and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer (RCW 10.116.060)." SPD Interim Policy 13.031-POL-1 (effective May 19, 2023).

Sworn employees may not pursue unless the following requirements are met: (1) the pursuing sworn employee has completed an emergency vehicle operator's course (EVOC), has completed an updated EVOC within the previous two years, and has been certified in at least one pursuit ending option; (2) there is probable cause to believe that a person in the vehicle has committed or is committing a violent offense or sex offense (RCW 9.94A.030); (3) the person poses a significant imminent threat of death or serious physical injury to others such that, under the circumstances, the public safety risks of failing to apprehend or identify the person are greater than the inherent risk of pursuit driving; (4) the pursuing sworn employee has received authorization to continue the pursuit from a supervisor; and (5) a supervisor is actively monitoring and supervising the pursuit. SPD Interim Policy 13.031-POL-2(1) (effective May 19, 2023). A vehicle pursuit may not be initiated if these requirements are not met, and the pursuit must be terminated, unless circumstances change. *Id.* Sworn employees are prohibited from pursuing for the



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sole crimes of eluding, escape, or DUI. *Id.* Sworn employees will terminate a pursuit when the risk to any person outweighs the need to stop the eluding vehicle. *Id.*

Here, NE#3 attempted to conduct a traffic stop on the stolen car, which fled in response. NE#3 followed the stolen car for about nine seconds, briefly reaching a speed of 51 MPH, before deactivating his lights and sirens and decelerating. State law and the SPD interim policy in effect on the incident date permitted some reasonable leeway for an officer to discontinue his prior attempt to stop a fleeing car if the necessary conditions for a pursuit were not satisfied. See RCW 10.116.060(3) (“A vehicle pursuit not meeting the requirements under this section must be terminated”); SPD Interim Policy 13.031-POL-2(1) (effective May 19, 2023) (“A vehicle pursuit may not be initiated if all the requirements above are not met, and the pursuit must be terminated, unless circumstances change”) (emphasis added). Within 11 seconds, NE#3—with NE#2’s agreement—immediately recognized that a pursuit was unauthorized and terminated it in compliance with the interim policy.

After NE#3 deactivated his emergency equipment and decelerated, he followed—not pursued—the stolen car until it reached a dead end. While NE#3 drove through two stop signs and occasionally exceeded the speed limit, such actions could not be characterized as substantially outside of a normal driving pattern, especially when viewed in the context of his overall driving pattern. NE#3 generally drove at or near the speed limit, proceeded through less congested intersections, and briefly accelerated to reasonable speeds to maintain visual on the stolen car. Additionally, given that the officers were aware the stolen car was heading toward a dead end, it would have been reasonable for them to continue following it until it reached that point.

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

Recommended Finding: **Not Sustained – Unfounded (Expedited)**