

Issued Date: OCTOBER 30, 2024

From: Director Gino Betts, Jr. 
Office of Police Accountability

Case Number: 2023OPA-0164

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy
Finding: Not Sustained – Inconclusive

 2. **Allegation #2:** 5.001 - Standards and Duties, 5.001-POL 10. Employees Will Strive to be Professional
Finding: Sustained

 3. **Allegation #3:** 5.001 - 5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication
Finding: Sustained
- **Proposed Discipline:** Thirty (30) Days Suspension to Termination
 - **Imposed Discipline:** Termination

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.

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:

An organized retail crime and special investigations manager at Rite Aid employee (Investigator #1) contacted the Seattle Police Department about his investigation into "a fencing operation" at a

Rite Aid store. He indicated that Rite Aid “identified boosters that” took stolen Rite Aid property to a business—a convenience store attached to a car wash—allegedly owned by the named employee (NE#1), a civilian community outreach employee, to be sold. It was later alleged that NE#1 spent extended periods at his business while on city time. The Complainant, an SPD captain, made an OPA complaint.

Administrative Note:

On August 29, 2024, Seattle’s Office of the Inspector General certified this investigation as timely, thorough, and objective.

Summary of Investigation:

Surveillance Video Rite Aid notified SPD about repeated thefts at one of its stores. SPD’s Major Case Task Force (MCTF) surveilled NE#1’s business from April 2023 to early March 2024 and gave OPA footage showing the subject driving vehicles registered to NE#1 during hours NE#1 was reportedly working his city job. Those videos showed:

- April 27, 2023: The subject arrived at 9:17 AM and left at 10:11 AM. He returned at 11:06 AM and left at 2:12 PM (total time: roughly four hours when NE#1’s timesheet reflected he was working).
- April 28, 2023: The subject arrived at 10:22 AM and left at 10:55 AM. He returned at 11:06 AM and left at 4:00 PM (total time: roughly five and a half hours when NE#1’s timesheet reflected that he was working).
- May 4, 2023: The subject arrived at 9:03 AM and left at 9:59 AM (total time: roughly an hour when NE#1’s timesheet reflected he was working).
- May 8, 2023: (Total time: roughly five hours when NE#1’s timesheet reflected he was working.)
- May 10, 2023: (Total time: roughly five hours when NE#1’s timesheet reflected he was working.)
- May 12, 2023: (Total time: roughly three and three-quarter hours when NE#1’s timesheet reflected he was working.)
- May 15, 2023: (Total time: roughly two and a half hours when NE#1’s timesheet reflected he was working.)
- May 17, 2023: (Total time: roughly two and a half hours when NE#1’s timesheet reflected he was working.)
- May 19, 2023: (Total time: roughly three and a half hours when NE#1’s timesheet reflected he was working.)
- May 22, 2023: (Total time: roughly one and a half hours when NE#1’s timesheet reflected he was working.)
- May 24, 2023: (Total time: roughly one and three-quarter hours when NE#1’s timesheet reflected he was working.)
- May 31, 2023: (Total time: roughly three hours when NE#1’s timesheet reflected he was working.)

- June 5, 2023: (Total time: roughly four hours when NE#1's timesheet reflected he was working.)
- June 7, 2023: (Total time: roughly two hours when NE#1's timesheet reflected he was working.)
- June 9, 2023: (Total time: roughly two and a half hours when NE#1's timesheet reflected he was working.)
- June 12, 2023: (Total time: roughly four and a half hours when NE#1's timesheet reflected he was working.)
- June 16, 2023: (Total time: roughly four and a half hours when NE#1's timesheet reflected he was working.)



On June 16, 2023, at 12:44 PM, the subject in the red baseball cap drove the black vehicle, registered to NE#1, to NE#1's business during work hours.



That same day, the subject left and returned at 2:06 PM.



He left the business at 4:46 PM.

- June 22, 2023: (Total time: roughly two and three-quarter hours when NE#1's timesheet reflected he was working.)
- June 23, 2023: (Total time: roughly one and three-quarter hours when NE#1's timesheet reflected he was working.)
- June 26, 2023: (Total time: roughly five hours when NE#1's timesheet reflected he was working.)
- June 28, 2023: (Total time: roughly three hours when NE#1's timesheet reflected he was working.)
- June 29, 2023: (Total time: roughly one hour when NE#1's timesheet reflected he was working.)
- July 7, 2023: (Total time: roughly four hours when NE#1's timesheet reflected he was working.)
- July 10, 2023: (Total time: roughly 45 minutes when NE#1's timesheet reflected he was working.)
- July 11, 2023: (Total time: roughly one and a quarter hours when NE#1's timesheet reflected he was working.)
- July 14, 2023: (Total time: roughly four and a half hours when NE#1's timesheet reflected he was working.)
- July 21, 2023: (Total time: roughly three hours when NE#1's timesheet reflected he was working.)

- July 24, 2023: (Total time: roughly four hours when NE#1's timesheet reflected he was working.)
- July 28, 2023: (Total time: roughly four and a half hours when NE#1's timesheet reflected he was working.)
- August 3, 2023: (Total time: roughly two and a half hours when NE#1's timesheet reflected he was working.)
- August 4, 2023: (Total time: roughly two hours when NE#1's timesheet reflected he was working.)
- August 7, 2023: (Total time: roughly one and a quarter hours when NE#1's timesheet reflected he was working.)
- August 8, 2023: (Total time: roughly one and a half hours when NE#1's timesheet reflected he was working.)
- August 9, 2023: (Total time: roughly two and a half hours when NE#1's timesheet reflected he was working.)
- August 14, 2023: (Total time: roughly an hour when NE#1's timesheet reflected he was working.)
- August 23, 2023: (Total time: roughly one and a quarter hours when NE#1's timesheet reflected he was working.)
- August 31, 2023: (Total time: roughly one and a quarter hours when NE#1's timesheet reflected he was working.)
- September 4, 2023: (Total time: roughly one and a half hours when NE#1's timesheet reflected he was working.)
- September 15, 2023: (Total time: roughly four and a half hours when NE#1's timesheet reflected he was working.)
- September 18, 2023: (Total time: roughly three hours when NE#1's timesheet reflected he was working.)
- September 22, 2023: (Total time: roughly three hours when NE#1's timesheet reflected he was working.)
- September 27, 2023: (Total time: roughly an hour when NE#1's timesheet reflected he was working.)

OPA Interviews On August 13, 2024, OPA interviewed Witness Employee #1 (WE#1), an MCTF detective. WE#1 said that Rite Aid contacted SPD about an ongoing retail theft at a location. Specifically, Rite Aid reported that a female subject routinely stole from the store, seemingly targeting cleaning products. Store employees followed that subject to NE#1's business, about half a block away. Rite Aid showed WE#1 photographs of items in Rite Aid packaging on shelves at NE#1's business. MCTF surveilled NE#1 business and later attempted a controlled buy of stolen Rite Aid products there. However, the female store clerk told the buyer to return "when the man was here." During a subsequent attempted controlled buy, NE#1 told the buyer he was uninterested. Occasionally, on live stream video, after being tipped by Rite Aid's loss prevention officer, WE#1 saw the female subject carrying large boxes of laundry detergent and other items from Rite Aid into NE#1's business. She was also observed leaving NE#1's business without those items. WE#1 interviewed the Rite Aid shoplifter, who said she sold stolen Rite Aid items to

NE#1 at his business. She said she primarily sold NE#1 cleaning products for the attached car wash. The female subject agreed to cooperate with MCTF's investigation, but they later lost contact with her and closed the investigation. WE#1 estimated that NE#1 spent 3540 hours a month at his business when reportedly working for SPD. Given NE#1's salary, WE#1 estimated that NE#1 stole \$11,400 in city time.

On August 7, 2024, OPA interviewed NE#1's supervisor, Witness Employee #2 (WE#2). WE#2 reported several ongoing issues with NE#1 work performance, including NE#1's belief that he did not have to account for his whereabouts during work hours: "There was a lot of pushback because he felt that he got to come and go as [he wanted]... [NE#1] did not like the idea of having to report in at the beginning of his shift, and he definitely did not want to have to come into headquarters to start his day." WE#2 described NE#1 as being regularly "AWOL" during shifts. He also said once he learned about MCTF's investigation into NE#1, he was advised to "take a hands-off approach," which is why no administrative actions were taken to address his performance issues.

On August 7, 2024, OPA interviewed NE#1. He said he worked as an SPD community liaison for about ten years. NE#1 said his work requires him to spend 95% of his time in the community at events, meetings, and assisting victims, and he goes "into the office to log hours and do weekly reports." He acknowledged owning the convenience store and car wash. NE#1 theorized that the Complainant may have seen him "swing by" his business during a "lunch break" and assumed he was abusing city time:

"So what happens is, whoever that person is who brought the allegations of me being visible or using my hours at my business? Yeah, it could be one of those people who saw me maybe on a swing by one business at my lunch break. Okay, you know, sure. So when I go for my lunch break, you know, nobody knows I work for the department... You see me [at] noon at my workplace? Yeah, that's my lunch break. I got a meeting. I just came here to see how things are going. Grab my lunch and leave... My work is not inside the house. I'm mostly out in the community. So, whenever I do outreach, I have 20 minutes before the next meeting. I just stopped by my business, okay? And then take off to the next meeting.

NE#1 said he typically took up to a 30-minute lunch and never spent over 30 minutes there during his downtime. He also said he knew the purported Rite Aid shoplifter as a customer at his convenience store. He denied buying stolen Rite Aid merchandise from her or knowing of his employees buying and selling stolen merchandise. NE#1 said his wife and brother worked at the business. NE#1 said the shoplifter's sister told him, "Hey, watch out," and that SPD "was doing a sting operation on me." He expressed frustration with WE#2's oversight, describing him as a micromanager. NE#1 also confirmed owning the make and model vehicles that MCTF's surveillance suggested he regularly drove to and from his business during work hours.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy

The Complainant alleged that NE#1 violated the law by buying and selling stolen merchandise.

Employees must adhere to laws, City policy, and Department policy. SPD Policy 5.001-POL-2. A person who knowingly initiates, organizes, plans, finances, directs, manages, or supervises the theft of property for sale to others or who knowingly traffics in stolen property is guilty of trafficking in stolen property in the first degree. RCW 9A.82.050.

There is a strong indication that stolen Rite Aid merchandise was bought and sold at NE#1's business. MCTF and Rite Aid employees saw a prolific shoplifter transport stolen Rite Aid merchandise to NE#1's business and leave without those items. The shoplifter told WE#1 that she sold those items to NE#1, and Rite Aid provided a photo of its packaged merchandise on NE#1's store's shelves. Further, during MCTF's attempted controlled buy, the female store clerk told the undercover buyer to wait for "the man" to complete the transaction. NE#1 spent significant time at his business, even during work hours, as covered below, and acknowledged interacting with the shoplifter. Nevertheless, given the highest burden of proof applied to criminal cases, it is understandable why MCTF closed its investigation when the shoplifter disappeared. Similarly, despite the lower evidentiary threshold, the available evidence falls short of establishing that NE#1 knowingly initiated, organized, planned, financed, directed, managed, or supervised the theft of property for sale or trafficked stolen property—particularly since the sole person directly implicating NE#1 disappeared and had shaky credibility at best.

Accordingly, OPA recommends that this allegation be Not Sustained –Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #2

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

The Complainant alleged that NE#1's misuse of city time was unprofessional.

SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Additionally, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers," whether on or off duty. Id.

MCTF's investigation showed that NE#1 spent considerable work hours at his business. As NE#1 told OPA, his job required him to be at community events and meetings about 95% of the time, not posted at his business. While NE#1 suggested that he occasionally went there for a 30-minute lunch, MCTF's surveillance showed that he repeatedly and grossly exceeded 30-minute visits. MCTF estimated, and NE#1's timesheets corroborated, that NE#1 was paid \$11,400 in unearned wages. Moreover, MCTF's surveillance showed that NE#1 was at his business when his weekly reports indicated he was at community events. For example, NE#1's weekly report

indicated that he attended a February 20, 2024 meeting from 4 PM to 6 PM. However, he is on video, arriving at his business at 5:38 PM that day and leaving at 6:18 PM. Similarly, in an email responding to WE#2 questioning NE#1's whereabouts on June 29, 2023, NE#1 claimed that he took that day off. However, NE#1's timesheet showed that he reported working that day.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged that NE #1 untruthfully reported work hours.

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

For the reasons above, OPA recommends that this allegation be Sustained. Recommended

Finding: **Sustained**