

Issued Date: DECEMBER 8, 2023

From: Director Gino Betts, Office of Police Accountability



Case Number: 2021OPA-0308

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
 - a. **Finding:** Not Sustained - Inconclusive
2. **Allegation #2:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional
 - a. **Finding:** 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:

It was alleged that Named Employee #1 (NE#1) assaulted Community Member #1 (CM#1), constituting unlawful and unprofessional conduct.

Administrative Note:

On October 20, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

On the date of the alleged incident, NE#1 worked as an SPD parking enforcement officer. Subsequently, parking enforcement officers transitioned from SPD to the Seattle Department of Transportation. NE#1 separated from City employment in January 2022.

Summary of the Investigation:

On July 7, 2021, an SPD supervisor made an OPA complaint noting that NE#1 was under investigation for simple assault. It also noted that NE#1 was not arrested, and the case was forwarded to the King County Prosecuting Attorney's Office (KCPAO) for review.

OPA opened an investigation, reviewing the complaint, King County Sheriff's Office (KCSO) case file, and KCPAO declination. NE#1 and CM#1 refused to participate in OPA's investigation.

1. KCSO Case File

The KCSO case file included fifteen pages of summary reports, seven photographs, and CM#1's recorded statement. King County Sheriff's Office (KCSO) deputy (Deputy #1) documented speaking with CM#1, who reported that NE#1 assaulted him. Deputy #1 noted a "visible welt on [CM#1's] forehead," which CM#1 said NE#1 caused by punching him. CM#1 claimed there was "mutual combat," but NE#1 "struck first." CM#1 told Deputy #1 that NE#1 wanted to "scrap" with him for some time. CM#1 explained that Community Member #2 (CM#2)—CM#1's ex-girlfriend—previously dated NE#1. CM#1 said NE#1 and CM#2 had children in common. CM#1 told Deputy #1 that NE#1 "works for SPD."

CM#1 told Deputy #1 that CM#2 saw text messages on CM#1's phone suggesting infidelity. CM#1 said CM#2 placed his personal items outside her apartment, where CM#1 was staying. CM#1 said, when he went to retrieve his belongings, NE#1 confronted him. CM#1 said he and NE#1 had a history of mutual animosity. CM#1 said he previously tried to file police reports against NE#1 but was "laughed off." CM#1 did not specify where he tried to file those reports. CM#1 also stated he observed a blue Honda Civic following him after the assault.

Deputy #1 spoke with CM#2. CM#2 confirmed that NE#1 drove a blue Honda Civic. CM#2 stated NE#1 was not at her apartment earlier and that NE#1 would have been at work at that time. CM#2 confirmed placing CM#1's items outside her apartment. CM#2 said she did not see CM#1 but communicated with him by text.

Deputy #1 documented several unsuccessful attempts to speak with NE#1. Deputy #1 photographed CM#1's reported injuries, capturing a welt where CM#1 alleged NE#1 punched him.

Deputy #2 took a recorded statement from CM#1 and documented it in a report. Deputy #2's report was consistent with Deputy #1's report. The statement CM#1 provided to Deputy #2 detailed his version of how the confrontation occurred. CM#1 said he was walking to his car when NE#1 approached and said he wanted to fight. CM#1 said he declined due to his religious beliefs but told NE#1 that he would defend himself. CM#1 reported that NE#1 threw several punches, causing a lump on CM#1's forehead. CM#1 said he fought back. CM#1 reported that he and NE#1 fought in the past and that NE#1 previously vandalized CM#1's car. CM#1 said that, after the fight, NE#1 followed CM#1 in his vehicle. CM#1 said NE#1 drove aggressively, causing CM#1 to fear for his life.

2. KCPAO Declination

KCPAO sent a declination to Deputy #1 on June 26, 2023. KCPAO declined to file charges as the case exceeded the statute of limitations. KCPAO also flagged missing evidence, including text

messages between CM#1 and CM#2, and the subscription records, call log, and geographic log from NE#1's cell phone.

3. OPA Efforts

OPA contacted CM#1 and NE#1 for interviews, but both declined to participate. OPA could not compel NE#1 to participate since he was separated from City employment. CM#1 indicated that he and NE#1 "amicably" resolved their issues, and he did not want OPA's investigation to proceed further.

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

It was alleged that NE#1 violated the law by assaulting CM#1.

Employees must adhere to laws, City policy, and Department policy. SPD Policy 5.001-POL-2.

There is insufficient evidence to prove that NE#1 violated the law. The only suggestion that he did come from CM#1. Although there are photos of his injuries, they merely corroborate the undisputed fact that a physical altercation occurred. Without more, OPA cannot conclude whether CM#1 was injured in self-defense or mutual combat— particularly when CM#1 declined an OPA interview.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 – Allegation #2

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

It was alleged that NE#1 was unprofessional by engaging in a fight with CM#1. SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." *Id.* Moreover, while on duty or in uniform, employees will not publicly ridicule "the Department or its policies, other Department employees, other law enforcement agencies, the criminal justice system, or the police profession. This applies where such expression is defamatory, obscene, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth." *Id.*

For the reasons articulated at Named Employee #1 - Allegation #1, OPA cannot conclude that NE#1 was unprofessional. While challenging someone to mutual combat is arguably inherently unprofessional, there is insufficient proof that NE#1 did that. Similarly, there are less details about the allegation that NE#1 followed CM#1 in his car.

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

Recommended Finding: **Not Sustained - Inconclusive**