

**Issued Date:** JANUARY 14, 2024

**From:** Director Gino Betts, Office of Police Accountability



**Case Number:** 2023OPA-0314

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

### **Named Employee #1**

1. **Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-7. Employees Engaged in Department-Related Activities Identify Themselves When Requested
    - a. **Finding:** Not Sustained - Inconclusive
  2. **Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
    - a. **Finding:** Not Sustained - Inconclusive
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### **Named Employee #2**

1. **Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-7. Employees Engaged in Department-Related Activities Identify Themselves When Requested
    - a. **Finding:** Not Sustained - Unfounded
  2. **Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
    - a. **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 are written in the first person.**

### **Executive Summary:**

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) patrolled outside T-Mobile Park. The Complainant alleged that the named employees were unprofessional when she attempted to cross a street. The Complainant also alleged that the named employees refused to give her their names and badge numbers.

**Administrative Note:**

On December 8, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

**Summary of the Investigation:**

The Complainant submitted an online OPA complaint on July 18, 2023. It stated that when she and her husband (Community Member #1 or CM#1) tried crossing an unmarked street, NE#1 yelled, "Stop! Turn around! This isn't a crosswalk!" The Complainant described NE#1 as enraged, flailing his arms, and yelling about a sign prohibiting crossing, which the Complainant said was unreadable. The Complainant wrote that she asked for NE#1's name, badge number, and supervisor, but NE#1 turned around and returned to his motorcycle. The Complainant wrote that a few minutes later, NE#2 and NE#1 allowed others to cross the same street. The Complainant wrote that she obtained NE#1's name off his shirt.

OPA investigated the complaint, reviewing the Complainant's photographs. OPA also interviewed the Complainant, CM#1, and the named employees. OPA did not find pertinent computer-aided dispatch reports, mobile data terminal information, incident reports, or body-worn video (BWV).

OPA interviewed the Complainant on August 3, 2023. That interview was consistent with the Complainant's OPA complaint. The Complainant said NE#1 angrily yelled and waved his arms when she and CM#1 started crossing the street. The Complainant said she was surprised by NE#1's behavior. The Complainant said CM#1 went into "protection mode" and yelled at NE#1. The Complainant described NE#1's behavior as unprofessional and disrespectful. The Complainant said NE#2 appeared to condone NE#1's behavior, came off as "crass" when CM#1 defended her, smirked, and responded unprofessionally to CM#1. The Complainant said she requested NE#1's name and badge number several times, but NE#1 ignored her. The Complainant said she and CM#1 returned minutes later and saw the named employees permitting others to cross the street. The Complainant said she photographed the named employees to report them to OPA.

OPA interviewed NE#1 on November 14, 2023. NE#1 said the street was an unmarked crosswalk. NE#1 said he did not recall waving his arms or yelling but suggested that such behavior is warranted when someone engages in dangerous behavior, like a pedestrian entering oncoming traffic. NE#1 said that such behavior was aimed at ensuring public safety. NE#1 said people must cross marked crosswalks and traffic-controlled intersections before traffic officers set up their posts. NE#1 denied recollection of the Complainant requesting his name and badge number.

OPA interviewed NE#2 on November 14, 2023. NE#2 denied recollection of this incident, an interaction between the Complainant and NE#1, CM#1 and himself, or anyone requesting his or NE#1's names and badge numbers. NE#2 said safety concerns preclude pedestrians from crossing the street before traffic officers set up their posts.

OPA interviewed CM#1 on December 1, 2023. CM#1 said he did not notice barricades or signs on the street but noticed the named employees on their motorcycles speaking with each other. CM#1 said he and the Complainant were crossing the street when NE#1 vigorously waved his arms and yelled, "You can't cross there!" CM#1 said he did not witness the entire interaction between the Complainant and NE#1, but, at one point, said to NE#1, "Come on. Really?" CM#1 said he returned to the street minutes later and saw the named employees directing traffic and permitting others to cross the street. CM#1 said the Complainant demanded NE#1's name and badge number, but NE#1 turned away and directed people across the street. CM#1 said he did not hear NE#1 refusing to provide his name and badge number. CM#1 said he did not interact with NE#2. CM#1 said NE#2 did nothing during the Complainant's and NE#1's interaction.

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## **Analysis and Conclusions:**

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

#### **5.001 – Standards and Duties, 5.001-POL-7. Employees Engaged in Department-Related Activities Identify Themselves When Requested**

The Complainant alleged that NE#1 did not identify himself when requested.

Employees engaged in department-related activities must provide their name and Department serial number verbally or in writing if requested. SPD Policy 5.001-POL-7.

Here, the Complainant said she asked for NE#1's name and badge number several times, but NE#1 ignored her. CM#1 corroborated the Complainant's claim, saying that NE#1 turned away to direct people across the street. However, CM#1 also said he did not hear NE#1 refusing to provide his name and badge number. NE#1 disputed the Complainant's claim, saying that he always gives his name and badge number when asked and that there would be no reason to refuse to provide such information to the Complainant. NE#1 also said he did not recall the Complainant asking for his name and badge number. Based on these facts, there is insufficient evidence to conclude that NE#1 intentionally withheld his name and badge number from the Complainant.

Accordingly, OPA recommends 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 was unprofessional when he flailed his arms and yelled at her.

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,” whether on or off duty. Id. Additionally, employees must “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” Id. “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language derogatory, contemptuous, or disrespectful toward any person.” Id.

Here, the Complainant said NE#1 flailed his arms and yelled at her when she attempted to cross an unmarked street. The Complainant became so alarmed at NE#1’s behavior that she confronted him, photographed the named employees, and filed an OPA complaint. CM#1 partially corroborated the Complainant’s claim, saying NE#1 vigorously waved his arms and yelled, “You can’t cross there!” However, CM#1 did not witness the entire interaction or mention any verbal altercation between NE#1 and the Complainant. CM#1 said, at one point, he told NE#1, “Come on. Really?” Contrarily, the named employees did not recall any verbal altercation between NE#1 and the Complainant. NE#1 said he only waves his arms and raises his voice to alert people that crossing a street while vehicles are coming is dangerous. NE#1 said such behavior is not meant to be unprofessional but aimed at public safety. NE#2 said he would have de-escalated any interaction between NE#1 and the Complainant if NE#1 was unprofessional.

It is plausible that NE#1’s actions, as described by the Complainant, crossed the line into unprofessionalism. Conversely, NE#1’s arm waving and yelling are also consistent with alerting the Complainant and CM#1, at a distance, not to cross an unmarked street. The Complainant could have misconstrued that as unprofessional and confronted NE#1 about it. However, no alleged verbal altercation was captured on BWV or witnessed by an independent person. Based on these facts, there is insufficient evidence to conclude that NE#1 was unprofessional.

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

Recommended Finding: **Not Sustained - Inconclusive**

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

### **5.001 – Standards and Duties, 5.001-POL-7. Employees Engaged in Department-Related Activities Identify Themselves When Requested**

The Complainant alleged that NE#2 did not identify himself when requested.

Here, the evidence indicates that the Complainant may have requested NE#1’s name and badge number, not NE#2’s. Even if NE#2 were asked for his name and badge number, NE#2 said he would have provided such information. No evidence indicates that NE#2 intentionally withheld his name and badge number from the Complainant.

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

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #2 – Allegation #2**

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

The Complainant alleged that NE#2 was unprofessional by condoning NE#1's behavior and responding unprofessionally to CM#1.

Here, whether there was a verbal altercation between NE#1 and the Complainant is disputed. NE#2 said he would have de-escalated any interaction between NE#1 and the Complainant if NE#1 was unprofessional. NE#2 said he could not recall this incident or any interaction between the Complainant and NE#1. There is insufficient evidence to conclude that NE#2 condoned NE#1's alleged unprofessional behavior. Furthermore, NE#2 and CM#1 denied ever interacting with each other. Therefore, NE#2 could not have responded unprofessionally to CM#1.

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

Recommended Finding: **Not Sustained - Unfounded**