

Issued Date: JANUARY 22, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0330

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional
 - a. **Finding:** Sustained
 - **Imposed Discipline:** Written Reprimand

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) contacted the Complainant and his girlfriend, Community Member #1 (CM#1), who were occupying a vehicle stopped in a bus lane. CM#1 had a misdemeanor warrant. When NE#1 asked CM#1 to exit the car, CM#1 asked why. The Complainant alleged that NE#1 was unprofessional when he threatened to break the car window and pull CM#1 out by her hair.

Administrative Note:

On December 21, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

On July 31, 2023, the Complainant filed a web-based OPA complaint. The Complainant wrote that on January 2, 2021, NE#1 pulled up behind him and requested CM#1, in the passenger seat, to exit the car. The Complainant wrote that CM#1 politely asked why. The Complainant wrote that NE#1 replied, "I'm going to talk to you. Either that, or we can talk like this through your fucking warrant and I'm going to break the window and pull you out by your hair! I'm telling you what's

going to happen.” The Complainant wrote that CM#1 feared that NE#1 would physically attack her. The Complainant described NE#1’s conduct as “abusive” and “unprofessional.”

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and police reports. OPA also interviewed CM#1 and NE#1.

On January 2, 2021, at 7:49 PM, CAD call remarks noted, “[VEHICLE] PARKED IN BUS LANE FACING [NORTHBOUND] ON EAST SIDE, 2 OCCUPANTS SMOKING SOMETHING OFF OF FOIL.”

NE#1 and Witness Officer #1 (WO#1) responded to the location and activated their BWV, which captured the following. NE#1 and WO#1 pulled up behind a car parked on a bus lane. NE#1 approached the Complainant, in the driver seat, while WO#1 approached CM#1, who was in the passenger seat. WO#1 said they were illegally parked in a bus lane and witnesses saw them “smok[ing] something off of foil.” The Complainant said the car died and people nearby said he could park there. The officers obtained the Complainant’s and CM#1’s information, then returned to their patrol car. WO#1, through a records check, discovered the Complainant had a third-degree license suspension and needed an ignition interlock device (IID) installed and CM#1 had a misdemeanor warrant from Marysville. NE#1 returned to CM#1. NE#1 and CM#1 had the following exchange:

NE#1: Hey, ma’am? Can you roll down this anymore or can you not?

CM#1: Uh, no. The battery’s dead.

NE#1: The battery’s dead? Okay. Can you unlock it really quick? I need to talk to you. [About 25 seconds passed. NE#1 knocked on the window.] Hey. Unlock the door.

CM#1: Um, can I ask why?

NE#1: I’m going to talk to you. Either that or, or we can talk like this through your fucking warrant, and I’m going to break the window and pull you out by your hair.

CM#1: Okay. I wasn’t. I wasn’t.

NE#1: I’m telling you what’s going to happen.

CM#1: I wasn’t trying to. [CM#1 unlocked the door, then NE#1 opened it. CM#1 began stepping out with her hands raised.]

NE#1: Stay right there! Don’t move! [CM#1 sat back down with her hands raised.] You are not in control.

CM#1: Okay. I am sorry.

NE#1: You are being detained by the police. Do you understand that?

CM#1: Yes.

NE#1: When I tell you to open the door, open it or I'm going to drag you out.

CM#1: Okay.

NE#1: Do you get that?

CM#1: Yes. I'm sorry. I wasn't, I wasn't trying to be difficult. I'm . . .

NE#1: You are being difficult! Do as you're told! I was telling you, you have a misdemeanor warrant out of Marysville.

CM#1: Okay.

NE#1: Would you like me to drive you up to Marysville?

CM#1: No, I'm sorry. I.

NE#1: I'm trying to cut you a break!

CM#1: I'm not. I'm not.

NE#1: Don't be difficult with the police!

CM#1: Okay. [CM#1's hands are still raised.]

NE#1: Get back in the vehicle! [CM#1 turned toward the windshield, then NE#1 closed the door.]

NE#1 approached the Complainant, who was outside with WO#1. During NE#1's conversation with CM#1, WO#1 asked the Complainant to exit the car. WO#1 became aware that the Complainant threw an item under the car, so NE#1 and WO#1 handcuffed him. WO#1 picked up what appeared to be drug paraphernalia, then Mirandized the Complainant. NE#1 told the Complainant that he was under arrest for driving without an IID installed. NE#1 searched the Complainant, then placed him in the back of a patrol car. WO#1 returned to CM#1 and told her to move the car, or he would tow it.

NE#1 and WO#1 wrote police reports consistent with the events captured on BWV.

OPA interviewed CM#1 on August 11, 2023. CM#1 described the incident consistent with the evidence summarized above. CM#1 said NE#1 was “aggressive” immediately upon contact. CM#1 said she cooperated and did not challenge NE#1 when NE#1 threatened to break the window and drag her out by her hair. CM#1 said NE#1 “freaked out” and described his conduct as “off-putting.”

OPA interviewed NE#1 on November 30, 2023. NE#1 said he was an SPD officer for about 13 years. NE#1 described the incident consistent with the evidence summarized above. NE#1 said CM#1 appeared compliant until she asked why she should open the door. NE#1 said a person with a warrant usually complies, fights, or flees. NE#1 said because CM#1 was noncompliant, she would either fight or flee. NE#1 said he used “street vernacular” to gain immediate compliance, de-escalate, and avoid a chase or using force. NE#1 said his verbal approach was successful because CM#1 complied. NE#1 described other factors contributing to his verbal approach. NE#1 said at least two officers typically arrest one suspect, but, here, he and WO#1 each engaged one person. NE#1 said he and WO#1 did not know if there were weapons in the car and could not see if CM#1 reached for a weapon due to limited visibility in the car. NE#1 said there was potential crossfire based on where WO#1 engaged the Complainant. NE#1 noted that he did not effect a traffic stop on the Complainant but was directed there by a community member’s call for service. NE#1 believed his conduct was professional, saying he did not intend to use force but intended to effect an arrest and ensure that he and WO#1 went home that night.

Analysis and Conclusions:

Named Employee #1 – Allegation #1 5.001 – Standards and Duties, 5.001-POL-10. Employees Shall Strive to be Professional (Effective March 1, 2018)

The Complainant alleged that NE#1 was unprofessional when he threatened to break the window and pull CM#1 out by her hair.

SPD employees shall strive to be professional. SPD Policy 5.001-POL-10 (effective March 1, 2018). Employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers. Id. Employees will 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 that is derogatory, contemptuous, or disrespectful toward any person. Id.

Here, NE#1’s statements fell short of Department standards. NE#1’s statements were unprofessional and escalatory for several reasons. CM#1 was neither escalated nor noncompliant. CM#1 calmly asked NE#1 why he wanted the door open. Rather than respond civilly, NE#1 unnecessarily escalated the interaction by swearing and threatening CM#1. NE#1’s statement

speaks for itself. NE#1 said, “I’m going to talk to you. Either that or, or we can talk like this through your fucking warrant, and I’m going to break the window and pull you out by your hair.” CM#1 apologized several times and raised her hands throughout most of the interaction. Despite CM#1’s obvious submission, NE#1 remained unprofessional by raising his voice and telling CM#1 that he was in control and to “do as you’re told.” NE#1’s statements could not be justified by NE#1’s stated reasons. While limited visibility and the possibility of a weapon in the car are valid concerns, NE#1 inappropriately escalated the interaction when neither the Complainant nor CM#1 indicated any intent to disobey, flee, or fight.

NE#1’s statements under these circumstances were unprofessional. SPD Policy on the date of this incident provided the “philosophy for employee conduct and professionalism.” SPD Policy 5.001-POL. Policy directed: “The Department expects all employees to . . . remember that community care-taking is at times the focus, not always command and control; and that the guiding principle is to treat everyone with respect and courtesy, guarding against employing an officious or overbearing attitude and refraining from language, demeanor, and actions that may cause the individual feeling . . . intimidated.” Id. NE#1’s statements to CM#1 did not comply with this policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**