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**Issued Date:** MARCH 9, 2024

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



**Case Number:** 2023OPA-0413

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

### **Named Employee #1**

1. **Allegation #1:** 5.001-POL 10. Employees Will Strive to be Professional  
**Finding:** Sustained
2. **Allegation #2:** 5.001 - Standards and Duties, 5.001-POL 13. Employees Will Not Use Their Position or Authority for Personal Gain  
**Finding:** Not Sustained - Inconclusive
3. **Allegation #3:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing  
**Finding:** Sustained
  - **Proposed Discipline:** Two Hundred Seventy Hours (30-Day) Suspension to Termination
    - **Imposed Discipline:** Termination

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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.**

### **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 (NE) allegedly directed threats, profanity, and a racial epithet at Community Member #1 (CM#1) and Community Member #2 (CM#2).

### **Administrative Note:**

On February 23, 2024, Seattle's Office of Inspector General certified this investigation as thorough, timely, and objective.

## **Summary of Investigation:**

On September 15, 2023, the Chinese Information and Service Center (CISC)—a nonprofit aimed at “[helping] immigrants throughout King County achieve success in their new community by providing information, referral, advocacy, social, and support services” (see note #1 below)—submitted an online OPA complaint alleging:

*On August 29, 2022, off-duty SPD officer [NE] pounded aggressively on the door of our client, an older immigrant Chinese woman, demanding she open the door. After our client and her elderly uncle frighteningly opened the door, the officer's aggression continued. He called our client a racial slur more than once ("dumb f'ing ch\*nk") and threatened her with state action ("you're going to jail"). We have a recording of it. [NE's] misuse of power has resulted in significant psychological, health, economic, and legal consequences to our client. The police officer is our client's neighbor and lives within 15 feet of her. Our client is in extreme fear for her safety and her life.*

Note #1: Chinese Information and Service Center (2024, March 9). About Us. CISC. Retrieved March 9, 2024, from <https://ciscseattle.org/about-us/>.

OPA opened an investigation, reviewing an audio recording that captured the incident. OPA also interviewed NE and Community Member #3 (CM#3)—NE’s domestic partner. Through CISC, CM#1 declined to participate in an OPA interview but agreed to answer emailed questions. OPA also sought to interview CM#2, but CISC provided a notarized letter from CM#2 declining participation.

### **CM#1’s statement**

CM#1 described herself as an Asian woman and caregiver for CM#2—her blind and hard-of-hearing uncle. OPA emailed questions to CM#1 on December 8, 2023, and received her response on January 17, 2024. CM#1 said NE and CM#3 were their neighbors in a condominium building who “live together across the landing from me.” She stated that on August 29, 2022, she and CM#2 “were peacefully at home” when NE and CM#3 “pounded on our door, demanding we open the door.” CM#1 stated that NE accused her of leaving bones in a common area. She said NE called her a “dumb [fucking] chink” twice, a “cunt,” and threatened her with jail. CM#1 said she had no relationship with NE or CM#3 before that day but often saw NE “wearing his gun.” CM#1 described NE’s larger stature, law enforcement status, and aggressiveness as terrifying. CM#1 also claimed that NE “continued to act in intimidating ways, including lingering in common areas staring at me and taking a photo of my trash” after their August 29, 2022 encounter.

### **CM#3**

OPA interviewed CM#3 on January 24, 2024. CM#3 said she was president of the homeowner association and that NE moved into her condo in 2019. She said she and CM#1 had a “friendly relationship” that deteriorated with CM#1’s involvement in HOA meetings, filing complaints about their dog, and intentionally leaving bones in common areas to pose a hazard to their dog. CM#3 said their feud resulted in the filing of mutual restraining orders. CM#3 said she was granted a restraining order in February 2023 and CM#1 was granted a restraining order in June 2023. CM#3 said that on August 29, 2022, she and NE returned home from a weekend away. She said

NE had a history of alcoholism and relapsed about nine months prior. CM#3 said NE drank that day and was “highly intoxicated.” She also admitted to drinking that day. CM#3 said she was walking their dog and noticed a “funny bone in his mouth that he had found under some bush.” She said it was the third time their dog retrieved bones there.

CM#3 said, “As you can imagine, my dog is, you know, our family. I was upset.” She said she ran and “pounded on [CM#1’s] door a couple of times, and I told her to...confront me, to face me...” CM#3 said the door opened, and “it was almost like CM#1 kind of pushed [CM#2] out.” She described CM#2 as over eighty years old. CM#3 said, during her yelling, that CM#1 exited her condo, and NE ran from their condo, “grabbing me...[and] holding me back...” She said NE directed her to “Get back into the house.” CM#3 insisted that NE got involved to protect her and de-escalate the situation. CM#3 denied recollection of NE using racial and sexist slurs but explained, “It was a highly emotional time, and one may say...spontaneous utterances that you would not remember.” Similarly, CM#3 denied recollection of NE threatening CM#1 and CM#2 with jail but explained, “Someone who commits animal cruelty is committing a crime for which they can go to jail.”

## **NE**

OPA interviewed NE on January 4, 2023. NE said his and CM#3’s issues with CM#1 “started long before the incident in question,”—stemming from CM#1’s belief that the HOA was responsible for a leak into her condo. He described CM#1 and CM#3 as “strong-headed women” who “both want to be right.” NE said CM#1 filed HOA complaints to “harass” CM#3. He said he tried avoiding the dispute, “I didn’t want any part of it. Absolutely nothing to do with getting involved...I don’t even own the unit. It’s none of my business, really. So, I did everything I could to stay out of it.” NE referenced “several occasions” of bones and grease “being poured from [CM#1 and CM#2’s] balcony...where the dog can get it.” NE said on August 29, 2022, he and CM#3 returned home from a vacation. He said he was “drinking most of the day.” NE said CM#3 took their dog outside while he watched television. He said he heard screaming and loud pounding, so he ran outside and saw CM#3 banging on CM#1’s door. NE said he grabbed CM#3 from behind and told her to “get in the house.” He said since CM#3 was “very upset,” he “didn’t want anything to happen.” NE said as he tried defusing the confrontation, CM#1 or CM#3 would escalate it: “I got frustrated, and I got pissed off, and I lost my cool.” NE denied recollection of calling CM#1 “names” but was admittedly “very upset and intoxicated.” However, he explained, “No matter how pissed off you are at somebody, you shouldn’t say those things... And it actually it makes me sick that I actually said that to her.” OPA played the audio recording. NE replied, “Sounds like me, yeah.”

## **Audio Recording**

The Complainant gave OPA a transcript of the recording, attributing the following statements to the following parties:

- NE (purportedly to CM#2): Stop yelling at my fucking wife.
- NE (unclear to whom): Get back in the house. Get back in the fucking house.

- NE (purportedly to CM#2): I don't understand a word you're fucking saying. If you ever talk to my wife again...we're going to have a fucking problem.
- CM#2 to NE: I don't talk to her...This is [my] neighbor...I see you more [than] I see my brother [or] my children. I see you every day.
- NE (purportedly to CM#2): I'm not your brother. I'm not your fucking neighbor. If you ever talk to my wife again that way...
- CM#1 to NE: We don't need [to] talk to her. She [came] to knock on the door.
- NE (purportedly to CM#1): You started this whole fucking shit.
- NE (purportedly to CM#1): You fed my fucking dog hot dogs, and now, now you're all pissed off. Go fuck yourself, you fucking chink.
- NE (purportedly to CM#1): Go fuck yourself.
- CM#3 (purportedly to CM#1): You're nothing. You're nothing.
- CM#1: Yeah, I'm nothing. You're something. I'm nothing.
- NE (purportedly to CM#1): You don't own anything here. You own shit.
- NE (purportedly to CM#1): So, fuck you...
- NE (purportedly to CM#2): The problem is [CM#1].
- CM#3 (purportedly to CM#2): I respect you. You own here... [CM#1 laughed.]
- NE (purportedly to CM#1): You think that's funny? You dumb fucking chink. [CM#1 laughed.]
- NE and CM#3 accuse CM#1 of stealing from CM#2 by overcharging when CM#2 bought CM#1's condo.
- NE (purportedly to CM#1): Fuck you.
- NE (purportedly to CM#2): You think you can disrespect us like that? Fuck you.
- NE (purportedly to CM#1): You don't own this place, you stupid fucking cunt.
- CM#1 and CM#3 call each other a "bitch."
- NE (purportedly to CM#1): You're going to jail.
- CM#1 (purportedly to CM#3): Bitch. Bitch. Bitch. Bitch.
- NE (purportedly to CM#2): You and I will be good neighbors. I will help you.
- NE (purportedly to CM#2): I don't want [CM#1] to ever talk to my wife again.
- CM#3 accuses CM#1 of planting bones "to kill [their] dog."
- CM#2 explained that due to his blindness and allergies, their dog scared him.
- NE (purportedly to CM#2): [CM#2], I want to be a good neighbor.
- NE said he would be "appropriate" and "accommodating" but would not get rid of their dog.
- NE (purportedly to CM#2): The law and HOA policy are two different, totally...You don't know what the fuck you're talking about...with all due respect. The HOA policy and the law are two different things. If you think HOA policy and the law are the same thing, you're dreaming. Here's what I'm going to do. If you have a problem with it, we'll outvote you and kick you the fuck out of this place.
- CM#2 to NE: You cannot leave that dog outside.
- NE (purportedly to CM#2): [CM#2], I'm sorry. I'm sorry that you moved here, and I don't know what led you to move here. We had a dog, and like, we still have a dog, and you will probably move out before we get rid of our dog. That is the bottom line.
- NE (purportedly to CM#1): And, just FYI, if you do any shit to my dog, you're going to jail.

- CM#1 to NE: Go ahead and search, go ahead and search, who did it. I don't know, okay? Don't talk to me. Don't talk to me, please. Don't talk to me. I don't want to talk to you....

## **Analysis and Conclusions:**

### **Named Employee #1 - Allegation #1**

#### **5.001-POL 10. Employees Will Strive to be Professional.**

The Complainant alleged that NE#1 directed threats, profanity, and a racial epithet at CM#1 and CM#2, constituting unprofessionalism.

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 anyone. SPD Policy 5.001-POL-10. Regardless of duty status, employees may not engage in behavior that undermines public trust in the department, the officer, or other officers and will avoid unnecessary escalation of events. Id.

Here, despite the parties being neighbors and CM#1 regularly seeing NE carry a holstered firearm, there is insufficient evidence that NE overtly identified himself as a law enforcement officer. Nevertheless, his threatening, profane, aggressive behavior significantly undermined public trust and the department's aim to "treat all people with dignity...respect and courtesy, guarding against employing an officious or overbearing attitude and refraining from language, demeanor, and actions that may cause [an] individual to [feel] belittled, ridiculed, or intimidated." SPD Policy 5.001-POL. Specifically, in a drunken rage, NE loudly targeted CM#1 with sexist, racist, and profane remarks. Similarly, despite CM#2's elderly, blind, and hard-of-hearing condition, NE threatened and attempted to intimidate CM#2 against talking to CM#3, even though CM#3, also intoxicated, banged on CM#1 and CM#2's door, initiating the confrontation. NE told OPA he intended to diffuse the situation, but the audio recording dispelled that claim. It showed that NE was the most aggressive and threatening party involved.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

### **Named Employee #1 - Allegation #2**

#### **5.001 - Standards and Duties, 5.001-POL 13. Employees Will Not Use Their Position or Authority for Personal Gain**

The Complainant alleged that NE used his law enforcement status to intimidate CM#1.

SPD employees are prohibited from using their position or authority for personal gain. SPD Policy 5.001-POL-13.

NE twice threatened CM#1 with jail, but as stated above, there is insufficient evidence that he intended to misuse his law enforcement status. NE told OPA that he referenced CM#1 going to

jail for endangering his dog with bones, hot dogs, and grease rather than a threat to incarcerate her without cause. While a law enforcement officer like NE, who believed NE committed crimes against his dog, would be expected to file a police report, NE said he thought the evidence was insufficient for it to go anywhere. As stated above, NE attempted to threaten, bully, and intimidate CM#1, but the evidence does not establish that he referenced or misused his law enforcement status.

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

Recommended Finding: **Not Sustained – Inconclusive**

### **Named Employee #1 - Allegation #3**

#### **5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing**

The Complainant alleged that NE's racist and sexist comments to CM#1 constituted bias-based policing.

Officers shall not express—verbally, in writing, or by other gestures— prejudice or derogatory comments concerning discernible personal characteristics, like gender, race, and ethnicity. See SPD Policy 5.140-POL-2.

Here, NE made prejudicial and derogatory comments about CM#1's gender and ethnicity. Specifically, he called her a "cunt" and "a dumb fucking chink," twice. That constitutes a textbook violation of this policy. Nevertheless, NE told OPA, "Me calling [CM#1] what I did on the tape had nothing to do with her race. It was simply because I was angry, and it just came out as [an] excited utterance, I guess you could say. But it was not race-based. I'm not racist." However, anger and intoxication merely inhibit one's ability to suppress disturbing, demeaning, and disgusting beliefs. NE's behavior undermined the department's commitment to eradicating bias at an individual and institutional level and building "mutual trust and respect with Seattle's diverse groups and communities." SPD Policy 5.140-POL. Moreover, NE's sexist and racist epithets of choice, combined with his repeatedly referring to CM#1 as "nothing" during the confrontation, established his intent to demean her discernible personal characteristics.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**