
Issued Date: FEBRUARY 23, 2024**From:** Deputy Director Bonnie Glenn on Behalf of Director Gino Betts, Jr.

Office of Police Accountability

Case Number: 2023OPA-0028

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.001 - Standards and Duties, 5.001-POL 10. Employees Will Strive to be Professional

Finding: Sustained

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

Finding: Not Sustained - Inconclusive

- **Proposed Discipline:** Twenty-Seven Hours (3-Day) Suspension
 - **Imposed Discipline:** Twenty-Seven Hours (3-Day) Suspension

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:

It was alleged Named Employee #1 (NE#1) violated the law and was unprofessional during a domestic violence (DV) incident with her then-boyfriend (Community Member #1 or CM#1).

Administrative Note:

On February 14, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On January 8, 2024, a civilian human resources manager emailed OPA. The subject of the email was NE#1's name and the manager requested a "status update on this case – I think there was an arrest involved."

OPA opened an intake investigation. During the intake investigation, OPA identified that NE#1 was involved in a DV incident on September 1, 2023. The Pullman (WA) Police Department (PPD) investigated the incident and submitted their investigation to the Whitman County Prosecuting Attorney's Office (WCPAO) to consider charges against NE#1. WCPAO declined to file charges against NE#1 on September 15, 2023. OPA opened a separate investigation to determine why an internal Blue Team referral concerning this matter was not submitted. That issue is being considered under OPA case number 2024OPA-0027. OPA proceeded to full investigation. During its investigation, OPA reviewed, among other things, the PPD and WCPAO criminal records. OPA also interviewed CM#1 and NE#1.

1. Criminal Records

An incident report was completed by a PPD Officer (PPD #1). PPD #1 documented the following in his report.

On September 1, 2023, at about 3:52am, PPD #1 responded to a 9-1-1 hang-up call at an apartment unit (Apartment). CM#1 originally called 9-1-1 but hung up the phone. A dispatcher called CM#1 back, and CM#1 stated, "everything is taken care of," and that NE#1 was intoxicated and was trying to leave in her vehicle. The dispatcher could hear a female voice in the background. CM#1 kept apologizing, noting that everything was, "okay now."

On arrival, PPD #1 observed through an Apartment window that NE#1 was sitting on the floor, "partially under a table." PPD #1 knocked on the door. CM#1 answered. PPD #1's partner (PPD #2) entered the Apartment to speak with NE#1. PPD #1 spoke with CM#1 outside the Apartment.

CM#1 informed PPD #1 that he and NE#1—his girlfriend—got into an argument while walking home from a bar. CM#1 reported that, once inside the Apartment, he and NE#1 continued to argue verbally for about thirty to forty-five minutes. According to CM#1, NE#1 stated she wanted to leave and go to her car. CM#1 said he hid NE#1's car keys to prevent her from driving while intoxicated. CM#1 described NE#1 becoming upset that she could not find her keys. CM#1 said NE#1 started throwing things around his Apartment. CM#1 said that, when he tried to stop NE#1 from breaking items by grabbing her. CM#1 said NE#1 then slapped him on the left and "possibly" the right cheek three or more times. CM#1 denied that the slaps caused pain. CM#1 also stated NE#1 pulled down his shower curtain, breaking it. CM#1 stated he believed NE#1 intentionally broke his shower curtain, but that other items may have been broken accidentally.

CM#1 stated NE#1 continued searching and throwing CM#1's property. CM#1 reported NE#1 exited his Apartment, and he closed the Apartment door and did not allow NE#1 back inside. CM#1 reported that NE#1 began pushing on the front door to reenter. CM#1 stated that he realized his door was being damaged, so he decided to open the door to allow her inside.

NE#1 informed PPD #1 that, during the argument, she wanted to get her car and “feel her emotions.” NE#1 stated CM#1 believed she was trying to drive while intoxicated, causing him to hide her car keys. NE#1 said she started looking for her keys, throwing things around because she did not know where her keys were located. NE#1 described an incident in the bathroom, at first alleging CM#1 pushed her down, then stating she lost her footing causing her to pull on the shower curtain and break the towel bar. NE#1 stated she hit CM#1 while she was in the bathroom. NE#1 stated CM#1 held her down to prevent her from leaving and driving while intoxicated, and she hit CM#1 in response. NE#1 also stated she threw items in the bathroom when CM#1 tried to prevent her from leaving. When PPD #1 asked NE#1 why she was pushing and kicking NE#1, she responded, “that was when I was trying to go to my car.” NE#1 stated CM#1 tried to stop her, “because I was obviously looking for my keys.”

NE#1 stated she exited the Apartment because CM#1 said, “go to your car,” and CM#1 shut the front door behind her and did not return her keys. NE#1 said she tried to reenter the Apartment. When PPD #1 asked how the door was damaged, NE#1 said she, “pushed myself into the door so I can get my keys.” PPD #1 documented that NE#1 initially said CM#1 did not prevent her from leaving the apartment, but later NE#1 said she felt CM#1 was preventing her from leaving and driving while intoxicated. NE#1 denied being injured. NE#1 stated she told CM#1 that she did not want to drive and that he could lock her keys in the car trunk.

PPD #1 documented observing multiple items apparently thrown to the ground in the Apartment and that his sergeant (PPD #3) observed a ripped shower curtain, broken shower bar, and broken toilet paper dispenser. PPD #1 wrote that CM#1’s front Apartment door had “pieces of wood broken off,” and the “wood surrounding the striker plate had damage to it consistent with damage sustained when someone attempts to force an inward swing door open.”



Image from PPD BWV. Damage to door is circled in red.



Image from PPD BWV. Damage to door is circled in red.

PPD#1 certified the accuracy of his report under penalty of perjury and requested charges against NE#1 for assault in the fourth degree DV and malicious mischief 3rd degree DV. Under RCW 9A.36.041, a person is guilty of assault in the fourth degree if he or she “assaults another.” Assault in the fourth degree is a gross misdemeanor, except in specific circumstances. Under RCW 9A.48.090, a person is guilty of malicious mischief in the third degree if he or she “knowingly and maliciously causes physical damage to the property of another.” Malicious mischief in the third degree is a gross misdemeanor. WCPAO declined to charge NE#1 based on an “uncooperative victim.”

OPA also reviewed BWV from responding PPD officers. The BWV was consistent with PPD#1’s incident report.

2. OPA Interview – Community Member #1

OPA conducted an audio-recorded interview with CM#1. According to CM#1, the following occurred.

CM#1 and NE#1 “drank a little too much” on the night of the incident and, during this time, NE#1 told CM#1 some “sensitive information” that started an argument. Back at the Apartment, NE#1 said she was going to leave, and CM#1 hid NE#1’s keys to prevent her from driving intoxicated. CM#1 stated he and NE#1 were “definitely both intoxicated,” and they both had four or five India Pal Ale (IPA) beers at the bar.

After CM#1 hid NE#1's keys, NE#1 started going through CM#1's things to find them. CM#1 repeatedly asked NE#1 to stop going through his things, but NE#1 did not stop. CM#1 stated he grabbed NE#1 and pulled her away, causing her to fall, and then CM#1 got on top of NE#1. CM#1 said this was when NE#1 slapped him, but CM#1 did not believe NE#1 was trying to harm him.

NE#1 then went to the bathroom to look for her keys. CM#1 said he used his body to block NE#1 in the bathroom, causing her to fall and knock over the toilet paper holder and the shower curtain. NE#1 then went to the living room and started pulling out potatoes and onions while CM#1 asked her to stop. CM#1 told NE#1 she needed to leave, and CM#1 "assisted her" out the front door. NE#1 then started punching the code into the door, but CM#1 prevented NE#1 from reentering. NE#1 then "started to get a little more aggressive trying to get in." CM#1 stated the door broke because NE#1 was "applying more force," and he was also pushing the door. CM#1 allowed NE#1 to reenter, and the two separated. CM#1 called 9-1-1. CM#1 denied NE#1 pushed or kicked him, nor did CM#1 remember NE#1 throwing any items at him.

CM#1 acknowledged he "played a role in this escalating as well." CM#1 stated, when he saw NE#1 packing her bag, he believed NE#1 was trying to, "leave leave," and was not just trying to walk away from the situation. CM#1 said he was trying to prevent NE#1 from driving while intoxicated, so he took her keys but did not take her wallet or phone.

3. OPA Interview – Named Employee #1

OPA conducted an audio-recorded interview with NE#1. NE#1 stated the following.

NE#1 confirmed she and CM#1 were in a dating relationship at the time of the incident. NE#1 similarly described the circumstances of the argument with CM#1 and their level of intoxication. NE#1 stated she had three beers at the bar. After the two started arguing in the Apartment, NE#1 decided to leave to sleep in her car with her keys locked in the trunk. NE#1 stated, "I just didn't want to be in his apartment anymore. I didn't want to be near him."

NE#1 described CM#1 blocking her exit from the bathroom. NE#1 said CM#1 made an "X" in the bathroom doorway with his body and then prevented her from crawling out under his legs by moving his legs. NE#1 said she threw the shampoo because CM#1 was blocking the door. NE#1 described trying to leave the bathroom, saying, "I tried going under him so that I could leave the bathroom, but he then moved his position so that I couldn't leave and I just didn't know what else to do." NE#1 stated she lost her balance after throwing face scrub at CM#1, causing her to fall. NE#1 said she fell and broke the shower curtain and toilet paper holder.

In her interview, NE#1 described slapping CM#1 while the two were in the bedroom. This was inconsistent with NE#1's statement to PPD #1 on the date of the incident. Then, NE#1 told PPD #1 that she hit CM#1 in the bathroom. NE#1 said she told CM#1 that she wanted to leave, but CM#1 got on top of her and pinned her arms down. NE#1 said she told CM#1 to get off of her, but CM#1 refused. Since the only thing NE#1 could move was her arm, she slapped CM#1. This caused CM#1 to get off NE#1.

NE#1 said she then started to pack her bag to leave but was unable to find her keys. CM#1 told her he hid them. NE#1 began searching for the keys by looking “every little place.”

NE#1 denied pushing or kicking CM#1. This is inconsistent with NE#1’s statement to PPD #1 on the date of the incident. Then, NE#1 was asked why she pushed and kicked CM#1. NE#1 responded, “Cause he was trying to like prevent me from leaving the apartment.”

When asked questions about why she tried to force her way back into the Apartment, NE#1 stated she wanted to retrieve her property from inside the Apartment. NE#1 said she tried to enter by inputting the door code, but CM#1 shut the door closed. NE#1 speculated the door may have broken, “maybe when we were both trying to open and close the door.”

NE#1 stated she did not believe she violated SPD Policy 5.001-POL-2 based on the alleged assault or property damage because, “nothing was intentional, so no.” NE#1 also denied violation SPD’s professionalism policy, because the incident occurred in private inside CM#1’s apartment.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

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

It was alleged NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10. Additionally, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.*

OPA finds that NE#1’s behavior during this incident was unprofessional. Here, based on the evidence provided, her actions and behavior undermined public trust in the Department and NE#1. On the night in question, NE#1 and CM#1 became intoxicated to the degree both attributed their behavior during the incident to their level of intoxication. The two then had a verbal, then physical, argument that NE#1 participated in escalating. NE#1 ransacked CM#1’s Apartment searching for her keys and—at best—damaged CM#1’s door trying to regain her property rather than call the police for a civil stand-by. Ultimately, CM#1 summoned the police, who determined enough evidence suggested NE#1 committed a crime that they referred the case to the WCPAO for consideration of charges. NE#1 identified herself to the PPD officers as a sworn SPD officer throughout the incident. On or off duty, this behavior falls short of SPD’s professionalism policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

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 and damaging CM#1's property.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. For termination cases involving SPOG members where the alleged offense would be "stigmatizing to a law enforcement officer," such as a DV crime, an elevated burden of proof applies. See SPOG CBA 3.1.

The evidence does not show by more than a preponderance that NE#1 violated the law. Based on the evidence provided, both parties' recollections were inconsistent. Whether it was due to their level of intoxication on the date of occurrence or the time that lapsed since the incident, there was inconsistency. In the context of a DV dispute, both NE#1 and CM#1 appear to have plausible defenses for their use of force against one another: CM#1 to defend his property, and NE#1 to prevent CM#1 from detaining her. See RCW 9A.16.020 (permitting the use of force to prevent malicious interference with personal property and to prevent an offense against a person). Similarly, NE#1's explanation that she broke the shower curtain while falling is plausible.

Whether NE#1 committed malicious mischief for damaging CM#1's door is a closer call. NE#1 was attempting to reenter CM#1's Apartment after CM#1 closed the door on her. But NE#1 had been staying overnight in the Apartment and her possessions were inside. Moreover, even as CM#1 described, the door broke during the struggle between NE#1 (attempting to open the door) and CM#1 (attempting to close the door). OPA cannot show by the required burden of proof that NE#1 "knowingly and maliciously" damaged the door.

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

Recommended Finding: **Not Sustained - Inconclusive**