

Issued Date: JULY 8, 2024

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

Case Number: 2024OPA-0030

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 5.001 - Standards and Duties POL-8. On-Duty Officers in Civilian Attire Identify Themselves When Contacting Citizens
Finding: Not Sustained - Training Referral
- 2. Allegation #2:** 5.001 - Standards and Duties, POL-10. Employees Will Strive to be Professional
Finding: Not Sustained - Inconclusive
- 3. Allegation #2:** 16.232 - Traffic Stops, 16.232-POL 2. Sworn Employees Will no Longer Treat the Following Portions of the Below Municipal Code as Primary Violations
Finding: Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

The Complainant alleged that Named Employee #1 (NE#1), wearing civilian attire, failed to identify himself as an SPD officer during a traffic stop. The Complainant also alleged that NE#1 was rude and demeaning. Finally, the Complainant alleged that NE#1 cited them for offenses where a stop is unpermitted.

Administrative Note:

Allegation #3, concerning the Complainant's citations for secondary offenses, was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees on that issue. As such, OPA did not interview the named employee concerning that allegation.

On May 20, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

The Complainant alleged that NE#1, dressed in civilian attire and unequipped with a body-worn camera, harassed, intimidated, and bullied them during an “[unjustified]” traffic stop. The Complainant described NE#1 as “incredibly rude” and “[refusing] to produce [or] announce [that he was an SPD officer].” Finally, the Complainant alleged NE#1 “started making stuff up” and issued citations unrelated to NE#1’s initial claim that the Complainant was “driving like a madman.”

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, traffic infraction, body-worn video (BWV), and 9-1-1 audio recording. OPA also interviewed the Complainant and NE#1. OPA attempted to contact the Complainant’s partner multiple times unsuccessfully. Ultimately, the Complainant requested that their partner be present during their interview as an accommodation. OPA agreed, and the Complainant’s partner provided some details and clarification. However, the Complainant’s partner was not interviewed separately.

Traffic Infraction

NE#1 cited the Complainant for three infractions: (1) not using a signal, (2) driving without registration, and (3) driving without insurance. NE#1 also wrote that he worked in plain clothes as a Homicide Unit sergeant in an unmarked SPD vehicle when he saw the Complainant’s vehicle “almost strike a pedestrian in a crosswalk.” NE#1 wrote that the Complainant’s vehicle pulled over to the right as if to park but then “almost immediately pulled back into the lane of travel without signaling,” almost hitting NE#1’s vehicle. NE#1 stated he had to brake to avoid a collision. NE#1 wrote that he performed a traffic stop to ask the Complainant whether “everything was okay.” NE#1 described the Complainant as motioning “like he was masturbating,” which NE#1 received as a disrespectful gesture. NE#1 wrote that the Complainant refused to provide identifying information and requested a uniformed officer equipped with BWV. Witness Officer #1 (WO#1) arrived and took the Complainant’s information. However, the Complainant did not provide proof of insurance or registration. NE#1 cited the Complainant for failing to use a turn signal when required, having no registration, and having no insurance.

Complainant’s OPA Interview

The Complainant told OPA they were driving with their partner in the passenger seat before NE#1 stopped them. The Complainant said they approached an intersection with a traffic light where someone looked like they were about to cross the street but had not entered the crosswalk. The Complainant said they drove past the crosswalk and started to park before realizing it was not a legal parking spot. The Complainant said they were pulling out when someone—later identified as NE#1—asked what they were doing. NE#1 drove a dark SUV, but the Complainant did not notice anything else about NE#1. The Complainant indicated they are legally blind in their left eye but have perfect vision in their right eye. The Complainant noted that neither they nor their partner recognized NE#1 as a police officer since he had no identifiers. The Complainant said NE#1 rudely asked what they were doing and pulled next to them to block them from leaving. The Complainant said they asked NE#1 to identify himself, but NE#1 refused and kept asking what they were doing. The Complainant described NE#1 as loud and unprofessional, saying, “You’re driving like a madman.” The Complainant denied running a red light and said they tried to use their signal before reentering the road. The Complainant said they attempted to drive

away, as nothing indicated NE#1 was a police officer until NE#1 flashed their red lights. The Complainant said NE#1 pulled them over and requested their license and registration, but the Complainant did not comply, as they were uncertain that NE#1 was a law enforcement officer. The Complainant said NE#1 aggressively barked orders and repeatedly refused to identify himself. The Complainant said WO#1, a uniformed patrol officer, responded and took over.

Body-Worn Video

WO#1's BWV showed NE#1 waiting near an unmarked SUV with emergency lights activated. NE#1 told WO#1 he tried to perform a traffic stop, but the Complainant requested an officer with BWV. NE#1 wore a vest displaying an SPD logo.



NE#1 pointing to the Complainant's vehicle. The blue arrow is pointed at the SPD logo.

NE#1 told WO#1 he needed the Complainant's license and proof of insurance and planned to mail a citation. NE#1 described the Complainant as uncooperative. WO#1 spoke with the Complainant and asked for a "rundown." The Complainant's account to WO#1 was consistent with their OPA complaint and interview. The Complainant also noted their concern that NE#1 was impersonating a police officer. The Complainant gave WO#1 their registration and license but could not provide proof of insurance.

When WO#1 returned the Complainant's information, NE#1 said the Complainant would be cited for failing to yield to a pedestrian at a crosswalk. The Complainant stated there was no pedestrian. NE#1 said the Complainant would also be cited for not having proof of insurance or current registration. The Complainant told NE#1 he looked forward to seeing him in court.

NE#1's OPA Interview

NE#1 told OPA he worked at SPD's Homicide Unit on the incident date. NE#1 said he drove an unmarked vehicle with "police rims," subdued lights and sirens, and an "exempt" government license plate.

NE#1's OPA interview generally mirrored what he wrote in the Complainant's citation. He said the Complainant "almost hit the pedestrian." NE#1 said the Complainant pulled over towards an open space. NE#1 stated he initiated contact to see what was happening. NE#1 said he looked at the Complainant, who made an obscene gesture. NE#1 said, "I hit my siren," and the Complainant reentered the road without signaling.

NE#1 said he did not immediately identify himself to the Complainant since he was trying to see whether the Complainant needed assistance. NE#1 said he was never asked to identify himself.

NE#1 said he conducted a traffic stop after the Complainant sped off. NE#1 said he wore a vest with a Homicide Unit logo when he approached the Complainant's vehicle. NE#1 said he identified himself as an SPD sergeant and told the Complainant why he pulled them over. When the Complainant did not provide identifying information, NE#1 said he requested a uniformed officer.

NE#1 said he initially stopped the Complainant for almost hitting a pedestrian, but he did not include that on the ticket because he never got the pedestrian's information.

Analysis and Conclusions:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties POL-8. On-Duty Officers in Civilian Attire Identify Themselves When Contacting Citizens

The Complainant alleged NE#1 failed to identify himself.

On-duty officers in civilian attire are required to identify themselves when contacting civilians. SPD Policy 5.001-POL-8. Officers are instructed to identify themselves verbally or by displaying their badge, department-issued identification, or both, except when identifying themselves would jeopardize an investigation, hinder a police function, or there are safety concerns. *Id.*

The Complainant alleged NE#1 failed to identify himself after repeated requests, which NE#1 denied. NE#1 admitted to not immediately identifying himself when contacting the Complainant but said he was never asked and did not intend to take police action. While NE#1's reasoning is understandable, SPD's policy requires on-duty plainclothes officers to identify themselves when "contacting" a citizen. The apparent aim is for citizens to understand that they are engaging with sworn law enforcement officers, someone authorized to take police action or otherwise exert control. Since NE#1 drove an unmarked vehicle and wore plain clothes, despite the small SPD logo, he was required to identify himself upon contacting the Complainant. While there may have been limited opportunity to identify himself during this brief interaction, the language in the policy suggests that on-duty officers are meant to identify themselves "immediately" unless an exception applies, which none do. Ultimately, NE#1 said he activated his siren and identified himself after initiating the traffic stop. However, it appeared NE#1's failure to appropriately and immediately identify himself contributed to the Complainant's distrust and led to a less-than-ideal interaction.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review SPD Policy 5.001-POL-8 with NE#1, and provide the appropriate retraining and counseling. Retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #2

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

The Complainant alleged NE#1 was rude and unprofessional.

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.*

The Complainant alleged that NE#1’s tone was rude and unprofessional, which NE#1 denied. However, there is no objective evidence corroborating either account.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #3

16.232 - Traffic Stops, 16.232-POL 2. Sworn Employees Will no Longer Treat the Following Portions of the Below Municipal Code as Primary Violations

The Complainant alleged NE#1 initiated a traffic stop for a traffic violation that did not constitute a “primary violation.”

Officers may not treat traffic offenses that “do not have a direct connection to the safety of other individuals on roads, paths, or sidewalks” as “primary violations.” See SPD Policy 16.232-POL-2.

NE#1’s incident report showed that he initially conducted a traffic stop because the Complainant failed to yield to a pedestrian and failed to signal, both of which are primary violations. The Complainant was ultimately cited for failure to signal. Additionally, the Complainant corroborated that a pedestrian appeared ready to cross the street when the Complainant drove through the intersection.

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

Recommended Finding: **Not Sustained - Unfounded (Expedited)**