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**Issued Date:** MARCH 22, 2024**From:** Director Gino Betts JR., Office of Police Accountability**Case Number:** 2023OPA-0435

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

### **Named Employee #1**

1. **Allegation #1:** 15.410 - Domestic Violence Investigation, 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents

**Finding:** Sustained

2. **Allegation #2:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional

**Finding:** Sustained

- **Imposed Discipline:** Written Reprimand and Re-training

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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:**

The Complainant alleged Named Employee #1 (NE#1) inadequately investigated a domestic violence (DV) incident. The Complainant also alleged NE#1 unprofessionally interacted with Community Member #1 (CM#1), the reported DV victim.

### **Administrative Note:**

During its investigation, OPA noted possible policy violations committed by Witness Employee #1 (WE#1) and Witness Employee #2 (WE#2). Specifically, WE#1 failed to report two community member complaints to a supervisor or OPA as required by policy, directing the community members to NE#1's supervisor instead. See SPD Policy 5.002-POL-2 – Employees Will Assist Any Person Who Wishes to File a Complaint. Next, WE#2—an acting sergeant—failed to ensure NE#1 submitted a DV supplemental report. See SPD Policy 5.100 – Operation Bureau Individual Responsibilities – III. Patrol Sergeant B. Field Supervision – 6. Reports. Both allegations were returned to the employees' chain of command to process as supervisor actions. A supervisor action "generally involves a minor policy violation or performance issue that is best addressed through training, communication, or coaching by the employee's supervisor." See OPA Internal

Operations and Training Manual, section 5.4(B)(ii). OPA may mandate the employee's chain of command to take "specific, relevant action with the employee." *Id.*

On February 29, 2024, the Office of Inspector General certified this investigation as thorough, timely, and objective.

### **Summary of the Investigation:**

On September 29, 2023, the Complainant filed an OPA complaint alleging NE#1 failed to thoroughly investigate a DV incident and interrupted and talked down to CM#1.

OPA opened an investigation, reviewing the OPA complaint, computer-aided dispatch (CAD) call report, incident report and supplements, body-worn video (BWV), and private security video. OPA interviewed the Complainant and NE#1. OPA made several unsuccessful attempts to contact CM#1 at various phone numbers. Accordingly, CM#1 was not interviewed.

## **1. OPA Complaint**

The Complainant filed an OPA complaint alleging:

NE#1 and WE#1 responded to a DV assault at a local university. When NE#1 arrived, he asked a university security officer, "Do I need to get out of the car?" University security said "yes" and pointed toward the involved parties— CM#1, the reported victim, and Community Member #2 (CM#2), the reported offender. NE#1 told CM#1, "You have one second to tell me what happened," despite CM#1's distress. Overall, NE#1 allegedly lacked compassion and overtalked CM#1.

NE#1 spoke with, but did not immediately handcuff, CM#2— "behaviors [that] indicated to both the victim and the [security officers] on the scene that he did not want to respond to the call."

NE#1 ultimately arrested CM#2 for Assault in the Fourth Degree—a misdemeanor—despite CM#1 alleging that CM#2 strangled her, constituting Assault in the Second Degree—a felony. NE#1's focus on interrupting, dismissing, and demeaning CM#1, like telling her, "You're not the only person this has happened to," resulted in a lackluster primary investigation. Specifically, NE#1 missed details, like CM#2 reportedly strangling CM#1, and critical evidence, including a video on CM#2's phone that purportedly captured CM#1 calling 9-1-1.

The Complainant stated university security officers "felt they had to apologize to the victim for [NE#1's] conduct and remind her that not all SPD [officers] act this way towards victims of domestic violence."

## **2. OPA Interview – Complainant**

The Complainant's OPA interview was consistent with her complaint.

The Complainant, a university security guard, said she responded to the incident location after learning about a reported assault in a parking lot. NE#1 and WE#1 were there when the

Complainant arrived. The Complainant described CM#1 as crying, upset, and “not making full sentences.”

The Complainant stood with CM#1 when NE#1 approached to provide and explain a “protection order pamphlet.” The Complainant stated NE#1 talked over CM#1, not allowing her to speak. The Complainant described NE#1 as insensitive to what CM#1 endured, including telling CM#1, “This happens to everyone.”

The Complainant noted that NE#1 failed to ask CM#1 open-ended questions that would have elicited greater details. The Complainant stated that NE#1’s dismissive attitude prevented NE#1 from learning that CM#2 allegedly strangled CM#1 until a university security officer mentioned it. The Complainant stated that when CM#1 confirmed that CM#2 strangled her, making her “woozy...for maybe ten seconds,” NE#1 responded, “You didn’t tell me that.” The Complainant also accused NE#1 of failing to seize CM#2’s cell phone as evidence.

The Complainant characterized NE#1 as “a little bit belligerent and seemed upset that he had to work with [CM#1’s] emotions” and acting like, “I just need to get through this spiel and leave the scene so I can just not be there anymore.” The Complainant also noted that CM#1 told police that CM#2 previously threatened to shoot and kill a coworker.

### **3. Computer-Aided Dispatch & Body-Worn Video**

NE#1, the primary officer, responded to a DV assault call. WE#1 responded as a secondary officer. WE#2 was also listed on the call. The computer-aided dispatch (CAD) call remarks noted, “[R EPORTING PARTY] CRYING, [REPORTING PARTY’S] EX HIT HER, BLEEDING FROM THE NOSE.” CAD notes later listed CM#1 as the complaining party, CM#2 as the offender, and an allegation that CM#2 “PUSHED HER AND PINNED HER TO THE GROUND.” A CAD note described CM#1 as crying and difficult to understand.

Body-worn video (BWV) recorded NE#1’s response, showing:

NE#1 arrived and asked university security, “Is this your jurisdiction, or what are we doing? ... I’m just trying to figure out [if] we need to be here, or y’all handling this...” NE#1 exited his vehicle and asked security, “What do you want from us?” A security officer said there was a DV assault, and, motioning toward CM#1, the “female victim here was bleeding,” and “the subject is over there.” NE#1 continued asking who would handle the matter, “Am I taking him to jail, or are you taking him to jail?” The security officer said he could not transport CM#2.

NE#1 asked CM#1, “What happened?” As CM#1 explained, NE#1 interrupted, “Short version.” CM#1 responded, “...We broke up...getting my stuff, I took out papers out of his car, so he thinks he can put [his] hands on me.” NE#1 asked CM#1 whether she and CM#2 were a “couple.” CM#1 responded, “No.” NE#1 replied, “You never dated?” CM#1 stated, “We broke up.” NE#1 responded, “Okay, you did date?” CM#1 said, “Yeah,” and NE#1 replied, “Okay. That’s all I need to know.” The exchange lasted about fourteen seconds.

NE#1 then spoke with CM#2 for about four minutes. NE#1 had CM#2 put his hands on the patrol car and then asked, "Tell me what's going on?" CM#2 said he and CM#1 met to exchange possessions after their breakup. CM#2 said there was "camera footage." CM#2 accused CM#1 of searching his car and throwing papers from the glovebox. CM#2 said he warned and then grabbed CM#1 to prevent her from damaging his car. CM#2 said CM#1 aggressively grabbed his chain and approached the car's driver's side. CM#2 thought CM#1 might try to drive and crash his car, so he "moved her." CM#2 said they got "into a little tussle. That's why she's bleeding." NE#1 told CM#2, "That's the problem...The thing is, she's injured, which makes it bad for you." NE#1 explained Washington's mandatory arrest DV laws, concluding, "That's just...and I hear everything you're saying. I'll get copies of the video, but with her being injured that's what causes the issue. So, you'll be out quickly, and it's a pain in the ass...Sometimes, it's easier just to let your girl be crazy. I'm serious...I'm going to have to cuff you up...You're going to go to the station. It's going to be really quick...You can get bailed out." NE#1 allowed CM#2 to use his phone to call his grandmother before he was handcuffed.

NE#1 spoke with CM#1 again for about two and a half minutes. As NE#1 spoke with CM#1, BWV captured what appeared to be blood splatches on clothing she held.



Apparent blood is circled in blue.

CM#1's account was primarily consistent with CM#2's. She admitted throwing CM#2's papers but denied touching him. CM#1 said, "I did not put [my] hands on him. And then he said, 'I'm going to start putting my hands on you...'" and he does. He grabs me, starts pushing me, [and] pins me to the ground. I'm bleeding." NE#1 confirmed that CM#1 had a nosebleed. He asked whether she wanted medical attention. She refused.

CM#1 expressed concern about CM#2 having “videos of [her] on his phone.” NE#1 asked, “Videos of what?” CM#1 responded, “Just me when I was on the phone.” CM#1 replied, “I swear, I think he’s gang-related and says he’s going to kill me, I mean, like, every other day. Like, I’m scared. He knows where I go to school.” CM#1 cried. A security guard said they would get CM#1 “the help you need.” NE#1 went to his patrol vehicle to get CM#1 a case number.

At his patrol car, NE#1 spoke with a security officer about jurisdiction over school crimes, noting that colleges typically had campus police. A security officer explained that they were “not commissioned” and “operate like a police department, but we’re not.” NE#1 replied, “...he’s gang-related. You dated him. You knew.” The security officer responded, “Yeah, it’s on you, ma’am.” NE#1 replied, “Yeah.”

NE#1 helped arrange for CM#2’s grandmother to retrieve his car and then returned to CM#1. CM#1 wanted to see CM#2’s phone. NE#1 said, “That’s not going to happen,” and, “All your further communication will be in court. Sorry to be, like, blunt with you, but no, you can’t talk to him.” NE#1 gave CM#1 a DV pamphlet and said, “My name is [NE#1]. This is your case number. This is your homework for the weekend...pages 12 and 13 are the most important pages. They’re your protection order pages.” CM#1 told NE#1 that CM#2’s cousin had a firearm. The Complainant told CM#1 she would help her with a “safety plan.” CM#1 verbally entertained leaving school. NE#1 replied, “Don’t let it change your life. You’re not the only person this has happened to. If you’re going to school, just go to school. Focus on that.”

NE#1 attempted to photograph CM#1, but CM#1 declined. The Complainant asked NE#1 if he needed CM#1’s bloody sweatshirt. NE#1 responded, “I don’t need anything, it’s an Assault 4.” The Complainant questioned NE#1’s crime assessment, “Four? For the neck?” NE#1 responded, “She didn’t tell me anything about that.” CM#1 insisted that CM#2 choked her, and NE#1 replied, “That changes everything.”

NE#1 told WE#1 about the choking allegation. NE#1 asked WE#1 to get a recorded statement from CM#1. NE#1 asked CM#2 about choking CM#1. CM#2 said, “I don’t really remember, but I grabbed her shoulders. We were in a tussle. So, I probably grabbed her neck, but just had to get her out [of]...the driver’s seat. I’m not choking her. You can see in the camera footage. I don’t know what else to say.”

NE#1 transported CM#2 to a precinct and later to the King County Jail (KCJ). On the way to KCJ, NE#1 told CM#2, “Do me a favor. I always tell people this: if police ever get involved in your relationship, it’s time to break up. There’s way too many of us going to jail man. And yours is mandatory. Even if she didn’t want to press charges, you’d still have to go to jail. I tell people, like, cops in a relationship? That [is] relationships done. Nah, I’m talking about, they call once, they’ll call again...even if she’s the aggressor, I mean, let’s say she’s the aggressor, she beats you up...be careful in this state, it’s mandatory arrest, you know, certain places where I’m back home, it’s like you go to your momma’s house, you go to this place, and it’s just...even simply like, even if you put your hands on her to push her out of your car, that still becomes an assault...in Washington.”

#### **4. Surveillance Video**

The university's surveillance video captured CM#2 pushing CM#1 and two points where CM#2's hand or hands appear near CM#1's neck area. The video also showed CM#1 appear to slap CM#2. At one point, CM#1 appears to be on the ground, but CM#2's vehicle obstructs a full view.

#### **5. Incident Report & Supplements**

NE#1's incident report was consistent with OPA's BWV review. NE#1 noted that CM#1 "suffered scraped on her knees and a bloody nose and has slight marks on her neck."

WE#1's supplemental statement documented his involvement, including speaking with CM#1 and her strangulation allegations, taking CM#1's recorded statement at NE#1's request, CM#1 and CM#2's DV history, CM#2's separate threats to kill CM#1 and a coworker, CM#2's access to a firearm, and follow-up with a possible witness.

#### **6. OPA Interview – Named Employee #1**

NE#1 told OPA he has worked at SPD for about five years and has over twenty years of law enforcement experience with the Houston Police Department.

NE#1's account was generally consistent with his BWV. NE#1 noted his confusion about whether the university security officers were commissioned police officers. NE#1 also said he was the primary officer on the call, responsible for the on-scene investigation and completing paperwork.

NE#1 explained that when he spoke with CM#1, he was hasty since he had no backup and needed to determine how to "engage" CM#2. NE#1 described his rapport with CM#1 as "not going well," which led him to direct WE#1 to take her recorded statement. NE#1 described CM#1 as limiting the information provided: she "wanted to focus on things other than the offense itself," like CM#2's cell phone. NE#1 said he interviewed CM#1 multiple times and felt they were sufficient. NE#1 acknowledged not asking follow-up questions concerning CM#2's attack but said it was because CM#2 admitted to putting his hands on CM#1 and CM#1 was bleeding. NE#1 denied hearing CM#1 accuse CM#2 of threatening to kill her. Also, NE#1 said he did not give much weight to CM#2 reportedly having access to firearms since "everyone has a relative who has a gun," and CM#2 did not threaten to use it.

NE#1 said that had he "had more units," he would have separated the parties and taken further investigative steps. NE#1 described his primary investigation as a "fair job."

Regarding comments made to CM#2, NE#1 said he needed to "build a friendly rapport" and provide advice.

## **Analysis and Conclusions:**

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

#### **15.410 - Domestic Violence Investigation, 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents**

The Complainant alleged that NE#1 failed to conduct a thorough DV primary investigation.

The department is committed to thorough DV primary investigations. SPD Policy 15.410-POL-5. In addition to the requirements outlined in SPD Policy 15.410-POL-3, officers must comply with the requirements outlined in SPD Policy 15.180 and tasks detailed in SPD Tasks 15.410-TSK-1 and 15.410-TSK-2. Moreover, officers responding to DV calls must “attempt to obtain the domestic violence history of the involved suspect,” “complete the Domestic Violence Supplement,” and “use the Sworn Affirmation...when taking a statement from a victim or witness.” *Id.*

NE#1’s primary investigation fell short of the department’s standards. Moreover, the evidence gathering that met SPD standards was prompted by the Complainant or due to WE#1’s initiative. SPD policy requires officers investigating DV incidents to complete or attempt to complete several investigative steps.

NE#1 missed important steps. NE#1 did not attempt to learn CM#2’s DV history, instruct CM#1 to photograph her injuries, complete an involved officer’s statement for a felony arrest, take CM#2’s recorded statement, or submit a DV supplemental report. While WE#1 took CM#1’s recorded statement at NE#1’s direction, WE#1, without instruction, fulfilled other primary officer responsibilities like taking photographs, requesting the Seattle Fire Department for CM#1’s injuries, and completing a detailed officer’s statement.

Further, NE#1’s manner of questioning CM#1 and CM#2 lacked follow-up on salient points, like detailing the scope of CM#1’s allegations and how CM#2 caused her injuries. This was apparent when NE#1 assumed it was only a misdemeanor assault. It was unreasonable for NE#1 to expect a recent victim of a violent crime to immediately volunteer all details without probing. The scene was not so uncontrolled or chaotic that NE#1 could not meaningfully interview CM#1, and CM#2—CM#2 was handcuffed and seated in the back of an SPD vehicle for most of this incident.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

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

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

The Complainant alleged that NE#1 was unprofessional in his interactions with CM#1.

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.*

NE#1 unprofessionally interacted with university security, CM#1, and CM#2.

Specifically, NE#1’s comments to the security guard— “He’s gang-related. You dated him. You knew”—were callous and inopportune given that CM#1, a recent DV victim, was bloody and crying.

Similarly, NE#1’s tone, cadence, and wording throughout his interaction with CM#1 was unprofessional. NE#1 appeared exasperated, impatient, and condescending. That attitude was further demonstrated by his response when he learned about CM#1’s strangulation allegation. Rather than apologizing for his unthorough questioning or probing for details, NE#1 blamed CM#1 for not immediately volunteering that information.

Finally, NE#1’s interactions with CM#2 were unprofessional. Whether intended to build rapport or offer advice, NE#1 made several comments that significantly minimized the seriousness of the felony allegations CM#2 faced. See RCW 9A.36.021. While NE#1 may have intended to divert CM#2 from a troubled path, his comments could have reasonably been interpreted as victim-blaming. After observing CM#1 bloodied and crying, NE#1 appeared to suggest that CM#2—who may have strangled CM#1 for throwing his papers and his theorizing that she would crash his car—was the actual victim of his “girl be[ing] crazy” and Washington’s strict DV laws.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**