
Issued Date: MAY 12, 2024

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



Case Number: 2023OPA-0508

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication
Finding: Not Sustained - Unfounded (Expedited)
- 2. Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited
Finding: Not Sustained - Unfounded (Expedited)
- 3. Allegation #3:** 8.100 – De-Escalation, 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 15, 2021)
Finding: Not Sustained - Unfounded (Expedited)
- 4. Allegation #4:** 5.001 – Standards and Duties, 5.001-POL-7. Employees Engaged in Department-Related Activities Identify Themselves When Requested
Finding: Not Sustained - Unfounded (Expedited)

Named Employee #2

- 1. Allegation #1:** 5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication
Finding: Not Sustained - Unfounded (Expedited)
- 2. Allegation #2:** 8.100 – De-Escalation, 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 15, 2021)
Finding: Not Sustained - Unfounded (Expedited)

Named Employee #3

1. **Allegation #1:** 5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations
Finding: Not Sustained - Unfounded (Expedited)

Named Employee #4

1. **Allegation #1:** 5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations
Finding: Not Sustained - Unfounded (Expedited)

Named Employee #6

1. **Allegation #1:** 5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged 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:

Named Employees #1 through #5 (NE#1, NE#2, NE#3, NE#4, and NE#5) responded to the Complainant's house for a possible assault call.

The Complainant alleged NE#1 was untruthful when NE#1 said officers responded for a welfare check, threatened to enter the Complainant's house based on exigent circumstances, failed to notify dispatch that the Complainant and CM#1 appeared calm, and failed to timely disclose that officers were uncertain about the assault's location. The Complainant alleged NE#1 retaliated by threatening to unlawfully enter the Complainant's house when the Complainant exercised his Fourth Amendment rights. The Complainant alleged NE#1 failed to de-escalate by threatening to unlawfully enter the Complainant's house, intending to strike fear in the Complainant. The Complainant alleged NE#1 failed to identify himself on the business card he handed to the Complainant.

The Complainant alleged NE#2 was untruthful when NE#2 failed to notify dispatch that the Complainant and CM#1 appeared calm and when NE#2 suggested the Complainant's refusal to open the front door was suspicious. The Complainant alleged NE#2 failed to de-escalate by placing his hand on his holstered firearm upon arriving at the Complainant's house.

The Complainant alleged NE#3, NE#4, and NE#5 failed to intervene during NE#1's and NE#2's alleged misconduct.

Administrative Note:

OPA's investigation uncovered NE#2 and NE#5 making unprofessional comments about the Complainant. OPA processed these allegations as a Supervisor Action. 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).

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees. As such, OPA did not interview the named employees involved in this case.

On January 24, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On November 14, 2023, the Complainant emailed an OPA complaint, writing that SPD officers responded to his house based on a 9-1-1 call generating an incorrect address. The Complainant wrote that SPD officers, without exigency, threatened and harassed him and Community Member #1 (CM#1)—his girlfriend—when no crime was committed. The Complainant's allegations were described above.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, 9-1-1 recording, security camera video, and body-worn video (BWV). The Complainant expressed no interest in an OPA interview.

On December 2, 2022, at 4:31 PM, CAD call remarks noted, "[TRANS]FER FROM KITSAP, ADDRESS FROM RAPID SOS, [REPORTING PARTY] WAS BREAKING UP COULD NOT GET AN ADDRESS, PER KITSAP CALLER SAID HE WAS BEING AS[SAU]LTED BEFORE [TRANS]FER, UNK[NOWN] [WEAPONS]."

According to a 9-1-1 recording, a Kitsap County dispatcher transferred a 9-1-1 caller to a Seattle dispatcher after the caller reported being assaulted in Seattle by two men. The Seattle dispatcher said she would send units to the rapid SOS address. A rapid SOS is generally a cell tower triangulation or GPS snapshot of a best guess for a cell phone call's location.

The named employees responded to the Complainant's house and activated their BWV, capturing the following:

NE#1 and NE#2—while placing his right hand on his holstered firearm—approached the Complainant's house. NE#1 knocked and announced a welfare check. The Complainant, through a security camera, said no one needed help and asked whether officers would force entry. NE#1 replied, "If needed. We just want to make sure everyone is okay, and we can walk away." NE#1 inserted a business card in the mail slot after the Complainant requested one, then NE#1 identified himself and his badge number. NE#1 clarified that the welfare check was time sensitive because it involved an alleged assault. The Complainant accused NE#1 of threatening to enter

without a warrant. NE#1 said he needed to see that everyone was okay before leaving, citing exigent circumstances and community caretaking. The Complainant called a 9-1-1 dispatcher and spoke about the officers' presence.

The Complainant and CM#1 appeared at a window. NE#1 explained that the 9-1-1 caller's cell phone was tracked to the Complainant's house. NE#1 said tracking was not always accurate, so officers needed to verify everyone's safety. The Complainant confirmed everyone was okay and told NE#1 to leave. The Complainant said he was being harassed, and NE#2 replied that the Complainant's behavior suggested he was concealing something. The Complainant said asserting his rights was not suspicious behavior. NE#1 asked to speak with CM#1 alone, and CM#1 went to a different window. CM#1 confirmed everyone was okay.

NE#3, NE#4, and NE#5 responded to the Complainant's house after NE#1 and NE#2 arrived but did not interact with the Complainant or CM#1. NE#4 conducted an area check the Complainant's house. NE#2 and NE#4 conducted an area check of a vacant house next to the Complainant's house. The named employees left the scene after CM#1 confirmed everyone was okay.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged that NE#1 was untruthful.

Department employees must be truthful and complete in all communications. SPD Policy 5.001-POL-11.

NE#1 responded to an address for a possible assault call. NE#1 contacted the Complainant and explained he was there for a welfare check based on a 9-1-1 call received. NE#1 explained that a 9-1-1 caller reported being assaulted, and a dispatcher traced the call to the Complainant's house. NE#1 wanted to ensure all parties were safe and uninjured before leaving. Based on the evidence provided, in review of the totality of the circumstances, nothing NE#1 said suggested NE#1 was dishonest or untruthful.

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

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

Named Employee #1 – Allegation #2

5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited

The Complainant alleged NE#1 retaliated by threatening to unlawfully enter the Complainant's house when the Complainant exercised his Fourth Amendment rights.

SPD policy precludes its employees from retaliating. SPD Policy 5.001-POL-14. SPD employees are specifically prohibited from retaliating against a person who engages in activities, including, but not limited to, opposing any practice that is reasonably believed to be unlawful or in violation of SPD policy, or who otherwise engages in lawful behavior. *Id.* Retaliatory acts are defined broadly under SPD's policy and include discouragement, intimidation, coercion, or adverse action against any person. *Id.*

NE#1 was motivated by ensuring all parties were safe and uninjured. NE#1 continually engaged the Complainant and refrained from entering the house. As soon as NE#1 verified that no assault occurred at the Complainant's house, NE#1 left. Based on the evidence provided, nothing suggested NE#1 retaliated against the Complainant for exercising his Fourth Amendment rights.

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

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

Named Employee #1 – Allegation #3

8.100 – De-Escalation, 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 15, 2021)

The Complainant alleged NE#1 failed to de-escalate by threatening to unlawfully enter the Complainant's house, intending to strike fear in the Complainant.

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force. SPD Policy 8.100-POL-1 (effective April 15, 2021). Officers are encouraged to use team approaches to consider whether any officer has successfully established a rapport with the subject. *Id.* De-escalation options should be guided by the totality of the circumstances. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

NE#1 engaged the Complainant calmly and explained the reasons for responding to the Complainant's house. NE#1's statement about entering the Complainant's house was motivated by wanting to ensure all parties were safe and uninjured. NE#1 explained that he just wanted to see the Complainant and CM#1 before he left. Based on the evidence provided, none of NE#1's statements or actions were escalatory.

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

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

Named Employee #1 – Allegation #4

5.001 – Standards and Duties, 5.001-POL-7. Employees Engaged in Department-Related Activities Identify Themselves When Requested

The Complainant alleged NE#1 failed to identify himself on the business card he handed to the Complainant.

Employees engaged in department-related activities must provide their name and Department serial number verbally or in writing if requested. SPD Policy 5.001-POL-7.

NE#1 inserted a business card in the mail slot after the Complainant requested one. Although that business card did not have NE#1's name or badge number on it, NE#1 verbally offered his name and badge number to the Complainant. Based on the evidence provided, NE#1 did not violate policy, as he provided this information verbally.

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

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

Named Employee #2 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged that NE#2 was untruthful.

NE#2 suggested the Complainant's conduct was suspicious and made officers' job difficult. NE#2's subjective determinations were based on his perception of the incident. It did not constitute dishonesty. Additionally, NE#2's failure to notify dispatch about the Complainant's and CM#1's demeanor did not constitute dishonesty. Based on the evidence provided, nothing NE#2 said throughout his encounter with the Complainant suggested dishonesty.

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

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

Named Employee #2 – Allegation #2

8.100 – De-Escalation, 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 15, 2021)

The Complainant alleged that NE#2 failed to de-escalate by placing his hand on his holstered firearm upon arriving at the Complainant's house.

NE#2 approached the Complainant's house with his right hand on his holstered firearm based on a 9-1-1 caller reporting that he was assaulted. NE#2 never drew his firearm. Based on the evidence provided, NE#2's conduct did not constitute a failure to de-escalate under the circumstances.

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

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

Named Employee #3 – Allegation #1

5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations

The Complainant alleged NE#3, NE#4, and NE#5 failed to intervene during NE#1's and NE#2's alleged misconduct.

Employees will report alleged violations. SPD Policy 5.002-POL-6. Employees will report any alleged minor policy violation to a supervisor. *Id.* Employees will report any alleged serious violations to a supervisor or directly to OPA. *Id.* Employees who witness or learn of a violation of public trust or an allegation of a violation of public trust will take action to prevent aggravation of the incident or loss of evidence that could prove or disprove the allegation. *Id.* Any employee who observes another employee engaged in dangerous or criminal conduct or abuse will take reasonable action to intervene. *Id.*

Based on the evidence provided, there was no misconduct warranting intervention or reporting to a supervisor or OPA. As described above, NE#1 and NE#2 violated no policy, so NE#3, NE#4, and NE#5 would have no duty to intervene or report policy violations.

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

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

Named Employee #4 – Allegation #1

5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations

For the reasons at Named Employee #3 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

Named Employee #5 – Allegation #1

5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-6. Employees Will Report Alleged Violations

For the reasons at Named Employee #3 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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