



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MARCH 31, 2020

CASE NUMBER: 2017OPA-1003

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

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	16.130 - Sick and Injured Persons 1. Employees Assist Sick & Injured Persons	Not Sustained (Lawful and Proper)
# 3	8.100 - De-Escalation 1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force	Allegation Removed
# 4	15.055 - Death Investigation 15.055-TSK-1 Primary Patrol Officer Responsibilities at Death Investigations	Not Sustained (Lawful and Proper)

***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, whose daughter was the victim of a homicide, alleged various acts of misconduct on the part of unknown SPD employees. The Complainant asserted that an SPD employee who responded to the scene failed to render aid, that SPD employees prevented her sons from entering the crime scene area and that a Taser was brandished at them, and that SPD employees viewed surveillance video at a hair salon in the presence of the public.

### **ADMINISTRATIVE NOTE:**

Given that no SPD employees were identified as the Named Employees in this case, the 180-day timelines imposed by the collective bargaining agreements between the City and its police unions were inapplicable to this case. As such, OPA has administratively set the date of this DCM as the 180-day deadline.

### **SUMMARY OF INVESTIGATION:**

On May 3, 2017, SPD officers responded to reports of woman who had been shot. At 1812 hours, an SPD officer – referred to here as Witness Officer #1 (WO#1) – arrived at the scene. According to the General Offense (GO) Report, WO#1 found the victim in the passenger seat of a vehicle driven by the Complainant, who was the victim's mother. According to the GO Report, WO#1 retrieved the first-aid kit from his vehicle and began providing medical assistance to the victim. The GO Report recorded that he cleared the scene to allow the Seattle Fire Department (SFD) to take over the medical care of the victim. SFD responded and ultimately pronounced the victim deceased at 1820 hours. Based on information in the GO Report, the victim's injuries occurred in the context of a drive-by shooting.



WO#1's ICV recorded the incident, but because of how his vehicle was parked it did not record video and only captured the audio of the incident. At 1812 hours, the ICV recorded WO#1 speaking with the Complainant. He asked the Complainant about the victim's wounds and stated that SFD was on the way to the scene. At 1813, the ICV showed an officer (likely WO#1) running in front of a patrol vehicle and retrieving the first-aid kit. At 1814, the Complainant could be heard asking officers "where are they [SFD]?" Seconds later, also at timestamp 1814, WO#1 could be heard asking for assistance getting the victim out of the Complainant's vehicle and he began to give directions and make statements consistent with performing first aid on the victim. The Complainant, who was distraught, demanded that officers assist the victim. At 1815, ICV recorded the Complainant screaming "help her," and WO#1 stating "I'm trying to, you need to back up." Subsequently, ICV recorded statements consistent with the continued provision of first aid. ICV showed multiple officers arriving between 1813 and 1816, as well as showed that an individual who stated that he was a doctor began to help. SFD personnel arrived at 1818. Based on statements in the GO Report, it appeared that, when SFD arrived, they took over all medical assistance until the victim's death.

The GO Report also contained statements from an SPD Lieutenant and Acting Captain who arrived at the scene at approximately 1845 hours. They described encountering the Complainant's two sons. According to the Acting Captain's statement, SPD blocked off all traffic on South College Street with yellow crime scene tape and patrol vehicles. Inside the crime scene, there was a smaller restricted area surrounding the victim and the Complainant's vehicle. According to the Acting Captain's statement, two men arrived and said they were the victim's brothers. They entered the outer restricted area and tried to run into the inner restricted area surrounding the victim. The Lieutenant stated that he stood in front of one of the men and caught him in his arms, stopping his forward momentum and causing him to "bounce" back. Backing officers arrived and escorted the men away from the inner restricted area. The Lieutenant's statement was consistent with that provided by the Acting Captain. The Lieutenant recounted that officers had to briefly restrain one of the brothers. Neither the Acting Captain nor the Lieutenant stated that they or any of the backing officers displayed a Taser.

Based on an examination of the ICV, OPA identified who it believed were the backing officers who escorted the two sons away from the inner crime scene area. Their vehicle was positioned to block traffic and did not record video of the incident. Consequently, and as with WO#1's ICV, only audio was captured. In the audio, a man could be heard saying that someone killed his sister. The man, who was distraught, shouted at the officers but did not make any statements regarding a Taser. A woman, who appeared to be the Complainant, told an officer to stop smirking and said that her daughter was dead. However, the Complainant also did not reference a Taser.

ICV of a second Witness Officer (WO#2) captured part of an interaction with three men, two of whom appeared to be the Complainant's sons. ICV showed a group of officers walking with three men into the field of view of the recording. One of the men inquired about the Complainant, and an officer said that he would go get her. An officer directed the men to stand near the outer crime scene tape. He said that the medics were trying to check on the medical condition of the Complainant and that, after the medics were done, the Complainant would be brought over to them. The officer explained that the scene had to be secured for investigative purposes. The men appeared to understand and walked out of the ICV's field of view toward the edge of the scene. No officers were shown touching the men and no officers displayed a Taser during this portion of the interaction.

On September 26, 2017, the Complainant contacted OPA. She alleged that, after arriving at the scene of the victims' murder, an unknown SPD officer stood by for "minutes" and did not provide first aid to the victim. She also alleged that an unknown SPD officer pointed a Taser at one of her sons and prevented them from joining her. She further



alleged that several unknown SPD officers made unprofessional statements to her sons. Finally, she said that she became aware of a Facebook post by a friend in a nearby hair salon in which the friend relayed that SPD employees viewed surveillance video in the salon in the presence of members of the public. The Complainant believed that this was inappropriate and potentially undermined the criminal investigation.

### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times***

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.) The policy further states the following: “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 that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

Based on its review of the incident, OPA finds that there is insufficient evidence to conclude that any SPD employee behaved unprofessionally. The ICV captured the audio of virtually the entirety of the interactions between the Complainant’s sons and the SPD officers who responded to the scene. While the ICV audio recorded the two sons becoming understandably distraught and shouting, it did not record any disrespectful or otherwise unprofessional statements made by any SPD employee. Moreover, there is no indication from the ICV audio or the later video-recorded interaction that officers unreasonably prevented the sons from seeing the Complainant, or that any officer used a Taser or other weapon to intimidate them. Rather, the recorded parts of the interaction indicated that officers spoke with them to answer their questions and explained why the scene had to remain secured.

In addition, while the Lieutenant acknowledged stopping one of the son’s from entering the scene, he only used de minimis force to do so and there is no evidence that the Lieutenant made unprofessional statements at that time. Moreover, the Lieutenant’s actions were justified to prevent the sons from entering a secure crime scene and potentially contaminating evidence.

OPA sympathizes with the Complainant and her sons, who had just lost a loved one. However, the totality of the evidence indicates that no SPD employee acted unprofessionally during this incident. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

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

##### ***16.130 - Sick and Injured Persons 1. Employees Assist Sick & Injured Persons***

SPD Policy 16.130-POL-1 concerns the obligation of Department employees to assist sick and injured persons. The policy requires that: “Employees assisting a sick and/or injured person will attempt to determine the nature and cause of the person’s injury or illness, provide first aid, and initiate Emergency Medical Services (EMS) as needed.”



The evidence indicates that WO#1, the first officer to respond, began providing medical assistance to the Complainant less than two minutes after he arrived. During that less than two minutes, he assessed the victim's medical condition, ran to his car to get his first aid kit, called for SFD, and extracted the victim from the vehicle. Moreover, SPD is not responsible for SFD's handling of this matter once they received a call to respond to the scene, including the length of time it took SFD to arrive.

Ultimately, and tragically, there were substantial limits on what aid WO#1 could have provided to the victim given the severe nature of her injury. WO#1 did his best under the circumstances and acted consistent with his training and the Department's expectations. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

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

***8.100 - De-Escalation 1. When Safe under the Totality of the Circumstances and Time and Circumstances Permit, Officers Shall Use De-Escalation Tactics in Order to Reduce the Need for Force***

OPA finds that this allegation is subsumed within Allegation #1 and, as such, recommends that it be removed.

Recommended Finding: **Allegation Removed**

**Named Employee #1 - Allegation #4**

***15.055 - Death Investigation 15.055-TSK-1 Primary Patrol Officer Responsibilities at Death Investigations***

SPD Policy 15.055-TSK-1 outlines the responsibilities of a patrol officer at the scene of a death investigation. Among other duties, the Department's expectation is that a patrol officer: "secures the scene; protects the evidence; isolates witnesses; and identifies suspects." (See SPD Policy 15.055-TSK-1.) In addition, patrol officers are responsible for "restrict[ing] access to other than essential personnel." (*Id.*)

OPA was unable to identify which, if any, officers entered the hair salon and viewed security video in the presence of others. However, OPA notes that, even had they done so, it is unclear that this would have violated policy. First, the officers would likely have lacked a legal basis to exclude individuals from the salon. Second, even had the officers viewed video while in the salon, it is speculative to assert that this would have notified a potential suspect of SPD's investigation. Notably, the occupants of the salon were almost certainly well aware that a shooting had just occurred and that it was being investigated by SPD.

Ultimately, OPA perceives no violation of policy and recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**