



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 4, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0384

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 5.001-POL 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded

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 that the Named Employees were unprofessional during their interactions with her. The Complainant further alleged that Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3



(NE#3) engaged in bias-based policing due to her mental health status and difficulties speaking. Finally, the Complainant alleged that NE#1 failed to identify herself while engaged in a department-related activity.

SUMMARY OF INVESTIGATION:

The Complainant left eight voicemail messages for OPA. Ultimately, OPA was unable to interview the Complainant, despite numerous requests. However, the Complainant stated her Complaint in her voicemails, which outlined three allegations concerning three separate events. Central to the Complainant's allegations is the disclosure—to OPA and, allegedly, all the Named Employees—that she had a medical condition that made it difficult for her to speak.

First, The Complainant alleged that she was attacked in Belltown after trying to save a puppy by offering to buy it. The Complainant stated that she recognized one of the responding officers, NE#1. The Complainant alleged that NE#1 was flirting with a passerby, but that NE#1 would not look at the Complainant. The Complainant stated that she was later informed by other people that the police who responded had said the Complainant was “crazy” and a “joke.” Finally, the Complainant also alleged that NE#1 did not write down her name and badge number when the Complainant requested.

Second, the Complainant alleged that she was assaulted another time and that the responding officers—NE#2 and NE#4—failed to arrest her assailant, despite knowing who the assailant was. The Complainant alleged that she was assaulted by an individual who sprayed her with pepper spray, which prevented her from seeing and made it difficult for her to breath. The Complainant stated that, in fear, she ran across the street and called 911. The Complainant stated that when officers arrived, NE#3 shined a light in her face and told her “we have all been there.” The Complainant also alleged that NE#2 stated that “you are speaking just fine.” The Complainant alleged that NE#3 called her a “crybaby.”

Third, the Complainant alleged that Named Employee #4 (NE#4) called her on the phone and screamed at her because, in a different case, NE#4 took the side of the Complainant's father with respect to a domestic violence allegation.

OPA opened this investigation. During its investigation, OPA reviewed the Complainant's voicemails to OPA, CAD Call Report, Incident Report and Supplements, and Body Worn Video (BWV). OPA also interviewed the Named Employees.

The entirety of the Complainant's interactions with NE#1, NE#2, and NE#3 were captured on BWV and, subsequently, documented in an Incident Report (completed by Witness Officer #1 or WO#1) and a supplement (completed by NE#3). The contents of the Incident Report and Supplement were consistent with objective BWV. As discussed more fully below, the facts of the first two underlying incidents differ substantially from the Complainant's allegations. However, there is no corroborating evidence for the interaction between the Complainant and NE#4.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that 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.) 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.*)

The Complainant alleged that NE#1 flirted with a passerby and acted disgusted by the Complainant. In her OPA interview, NE#1 explained that WO#1 was the primary officer for this call and that NE#1 was there as a backing officer. NE#1 also elaborated that the geographic area of the call normally required a three-officer response, but that no third officer was available, so NE#1 was doing the job of two officers. Accordingly, NE#1 stated her attention was focused on the surroundings for safety, and not on the Complainant. NE#1 denied that she was dismissive of the Complainant and OPA did not find evidence that NE#1 was dismissive of the Complainant. Additionally, BWV showed that a passerby did engage with NE#1 by approaching NE#1—completely on his own accord—and stating that she was the “finest” officer he ever saw. NE#1 responded by stating “thank you, we are on a call.” The Complainant then repeated accused NE#1 of “flirting” with the passerby.

Despite the Complainant’s perception to the contrary, NE#1’s interaction with the passerby appeared brief, unsolicited, and, more likely than not, unwelcome. NE#1 responded professionally and in a way that appeared intended to end the interaction with the passerby as quickly as possible. OPA did not observe any evidence that NE#1 acted “disgusted” by the Complainant.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in bias-based policing.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. (*See id.*)

The Complainant alleged that NE#1 disregarded the Complainant’s account of events based on the Complainant’s mental health and medical status. NE#1 told OPA that she is a former nurse who was aware of the Complainant’s disclosed medical condition. However, NE#1 denied that she treated the Complainant any differently due to the Complainant’s mental health or medical status. Instead, NE#1 stated, and BWV supports, that NE#1 participated in the investigation by taking photographs of the Complainant’s claimed injuries, assisting the primary officer, and conducting an area check for suspects. Moreover, the OPA did not uncover any evidence that NE#1’s response to this call was deficient or outside of policy.



Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #3

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

The Complainant alleged that NE#1 failed to provide her name and serial number in writing upon request.

SPD Policy 5.001-POL-7 requires that SPD employees engaged in department related activities “provide their name and Department serial number verbally, or in writing if requested.” (SPD Policy 5.001-POL-7.)

The Complainant alleged that she requested NE#1’s name and badge number on a business card, but that she only received a business card with WO#1’s information on it. In her OPA interview, NE#1 stated that she told the Complainant her name and badge number multiple times and that it appeared that the Complainant recorded this information on cell phone video. NE#1 also stated that she believed WO#1 gave the complainant a business card with both of their information on it. BWV confirmed that NE#1 provided her information to the Complainant verbally at least twice and that WO#1 gave a business card to the Complainant.

On this evidence, OPA cannot determine whether the business card WO#1 gave to the Complainant contained information for both WO#1 and NE#1, or just WO#1. Although the best practice would perhaps have been for NE#1 to provide a separate business card to the Complainant, NE#1 made a genuine effort to provide her information verbally and, on the facts here, it would be entirely reasonable for her to believe that the Complainant received her written information on the business card provided by WO#1 or recorded on her cell phone video.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #1

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

The Complainant alleged that NE#2 was unprofessional.

The Complainant alleged that NE#2 was dismissive of the Complainant’s statements and needs by telling the Complainant that she could not call her mother, despite the Complainant admitting that there was a protection order forbidding her from contacting her mother.

NE#1 stated that she and NE#3 were the primary unit that responded to the Complainant’s call, but that NE#3 mostly interacted with the Complainant. NE#2 state that she checked for witnesses to the assault the Complainant reported, called SFD, and asked for a sergeant to come to the scene when requested. Moreover, OPA did not find any other evidence that NE#2 acted unprofessionally towards the Complainant.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.



Recommended Finding: **Not Sustained - Unfounded**



Named Employee #2 - Allegation #2

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#2 engaged in bias-based policing.

The Complainant alleged that NE#2 disregarded her account of events based on the Complainant's mental health and medical status. In her OPA interview, NE#2 acknowledged that the Complainant appeared to experience some difficulty communicating but did not believe this was due to a medical condition. NE#2 denied treating the Complainant differently based on her mental health or medical status. To the contrary, BWV showed that NE#2 and NE#3 attempted repeatedly to interview the Complainant, but the Complainant was largely uncooperative and upset that all of the officers she had interacted with were not "doing their jobs." In its review of BWV, OPA was unable to identify any investigative actions that NE#2 did not pursue or evidence that she treated the Complainant differently based on her mental health or medical status.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #3 - Allegation #1

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

The Complainant alleged that NE#3 was unprofessional.

The Complainant's allegations against NE#3 appeared centered on her allegations that, (i) in response to the Complainant stating she had been pepper sprayed, NE#3 responded "we have all been there," (ii) NE#3 told her she was speaking just fine when she stated that she could not speak, and (iii) NE#3 called her a "crybaby."

BWV showed that, in response to the Complainant stating that her face felt like it was "on fire," NE#3 stated, "I know it sucks...we've all been there." When the Complainant stated that she had not, NE#3 elaborated that he meant, as police officers, they had experienced being pepper sprayed before. BWV also showed that when the Complainant repeatedly stated she could not speak, NE#3 responded "you have been speaking a lot since we have been here." OPA's review of BWV showed that NE#3 did not call the Complainant a "crybaby" at any point.

Although direct, NE#3's comments were not unprofessional. Instead, NE#3's comments appeared designed to redirect the Complainant's attention to provide him with information that he could act on. NE#3's comment "I know it sucks...we've all been there," if anything appeared to be an attempt to show understanding for the Complainant's situation and refocus her on providing the officers with a narrative of what had occurred. Similarly, the Complainant's repeated statements that she could not speak were inconsistent with the fact that she had been speaking since the officers arrived on scene. Calling attention to that inconsistency was an appropriate way of attempting to focus the Complainant on providing him with information and "slow down." The fact that the Complainant did not appreciate NE#3's approach did not, in itself, make it unprofessional.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



Named Employee #3 - Allegation #2

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#3 engaged in bias-based policing.

The Complainant alleged that NE#3 disregarded her account of events based on the Complainant's mental health and medical status. Specifically, the Complainant alleged that her assailant was across the street, but that NE#3 and NE#2 did not arrest her because of bias towards the Complainant's mental health and medical status. BWV showed that the Complainant did not provide NE#3 with enough information to have probable cause to arrest anyone. Instead, the Complainant repeatedly stated that she had been assaulted, gestured across the street, and said to arrest the "drug addicts." BWV showed that there were many people in the direction that the Complainant pointed. NE#3 explained that he could not just go arrest somebody "for no reason" and directed the Complainant to "slow down" and "walk [NE#3] through a story" so he could understand what happened. At this point, the Complainant stated that she could not speak and had a medical condition. After further inquiry, NE#3 was able to get a general description— apparent race, height, and gender—of the alleged assailant, but no one in the area matched the description.

NE#3 denied that he treated the Complainant differently based on her mental health and medical status. NE#3 admitted that the Complainant appeared to have some difficulty communicating but attributed it to the effects of pepper spray as opposed to a medical condition. Moreover, OPA did not find any evidence of NE#3 failing to perform any investigative functions during this call or engaging in bias-based policing.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Choose an item.**

Named Employee #4 - Allegation #1

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

The Complainant alleged that NE#4 was unprofessional.

The Complainant alleged that she spoke with NE#4 over the phone concerning a past incident. The Complainant alleged that NE#4 yelled at her and criticized her for filing a Complaint against an officer. The Complainant elaborated that NE#4 yelled at her because he believed the Complainant's father concerning a prior domestic violence call.

At the time of this investigation, NE#4 was no longer employed by SPD. Therefore, OPA could not compel NE#4 to provide a statement. However, NE#4 voluntarily agreed to provide a statement. NE#4 recalled speaking with the Complainant concerning a protection order with her parents and a dispute over a dog. NE#4 recalled that the Complainant was upset that a certain officer had responded to the 911 call because the Complainant had previously filed a complaint against that officer. NE#4 stated that the Complainant was under the impression that this officer was not permitted to be near her due to this Complaint. NE#4 stated that he told the Complainant that this was not the case. According to NE#4, the complainant was upset at the beginning of the call, but by the end of the call had calmed down. NE#4 stated he did not yell at the Complainant as there was no reason to.



There is no objective evidence regarding this allegation. However, under the totality of the evidence presented in this case, OPA finds that this allegation more likely than not either did not occur or did not occur as alleged. Given the lack of corroborative evidence, OPA makes this finding based on the credibility of the witnesses. The Complainant refused to be interviewed by OPA and, in her voicemails, made at least one allegation that was demonstrably false (allegation that NE#3 called her a “crybaby”) and another that was both false, mean spirited, and offensive (allegation that NE#1 was “flirting” with the passerby). Additionally, the balance of the Complainant’s other allegations were, viewed most generously, examples of the Complainant’s perception not being bourn out by objective evidence. Conversely, NE#4 voluntarily spoke with OPA and provided a plausible account of an innocuous interaction between himself and the Complainant. On these facts, OPA credits the account of NE#4.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**