



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 3, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0515

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Sustained
# 2	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 3	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity b. When Employees Record Activity	Not Sustained - Training Referral
# 4	16.090 - In-Car and Body-Worn Video 7. Employees Will Document the Existence of Video or Reason for Lack of Video	Not Sustained - Training Referral
# 5	5.001 - Standards and Duties 6. Employees May Use Discretion	Sustained

Named Employee #2

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

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Training Referral
# 2	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained - Training Referral

Named Employee #4

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Training Referral

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 the Named Employees failed to properly investigate an assault against her.



ADMINISTRATIVE NOTE:

OPA and the Seattle Police Officers' Guild (SPOG) agreed to bifurcate the case, so the investigation into Named Employee #1 (NE#1) and Named Employee #2 (NE#2) proceeded while Named Employee #3's (NE#3) and Named Employee #4's (NE#4) investigations were tolled. On June 9, 2022, OPA issued recommended findings for NE#1 and NE#2 without statements from NE#3 or NE#4. This DCM covers allegations against NE#3 and NE#4 since their investigations are no longer tolled.

SUMMARY OF INVESTIGATION:

The Complainant submitted an OPA complaint alleging the Named Employees responded to her reported assault and thereafter produced an inaccurate police report. OPA opened this investigation.

During its investigation, OPA reviewed the complaint, Computer-Aided Dispatch (CAD) data, incident report, and body-worn video (BWV). OPA also interviewed the Complainant and Named Employees. The Complainant gave OPA her medical reports. BWV captured NE#3's and NE#4's involvement in the incident in question.

On November 9, 2021, at 0100 hours, the Complainant's cousin called 9-1-1 to report an unknown male slammed the Complainant against a brick wall, causing her nose to break. Later, OPA reviewed the Complainant's medical records, which diagnosed her with a nasal bone fracture and closed head injury. The CAD report listed it as an assault call. NE#1 was the primary officer and NE#2 was a backing officer.

CAD also noted Community Member #1 (CM#1) threw a victim into a wall and attempted to leave. There were six participants in the fight with about 15 others gathered around. NE#1 requested two additional units due to the crowd. NE#3 and NE#4 were among those who responded. Five officers total were on the scene.

BWV showed witnesses gave accounts consistent with the 9-1-1 call. In brief, two males—one in a cowboy hat (CM#1)—had a verbal altercation that turned physical. The Complainant and others tried to separate them. A larger fight erupted, with CM#1 allegedly swinging fists at people. The Complainant faced CM#1 trying to separate him from the other male. CM#1 used both hands to forcefully pushed the Complainant, causing her face to connect with a brick wall.

NE#1 stated he interviewed CM#1, who alleged he and his wife (Community Member #2/CM#2) were drinking at a local bar. CM#1 alleged males in the Complainant's group called him names and made fun of him and CM#2's cowboy hats. CM#1 removed his hat and challenged a man in the group to settle the dispute. CM#1 alleged he engaged in a mutual fight against several men in the Complainant's group. During the fight, CM#1 alleged his arms were pinned behind his back. He alleged he inadvertently spun into the Complainant as he broke free from the hold, causing her to fly into a brick wall. CM#1 said he did not target the Complainant but was outnumbered and defending himself. An independent witness told the Named Employees that CM#2 convinced him to stay until the police arrived. That differed from the Complainant's account.

Initially, responding officers were told CM#1 was kicked out of the bar because he was drunk. However, later, a bar staffer told NE#2 that CM#1 was asked to leave for noncompliance with their facemask protocol. NE#3 relayed that information to NE#1.



OPA interviewed the Complainant, who stated a verbal altercation broke out between CM#1 and the Complainant's sister outside the bar. The Complainant alleged CM#2 pulled her sister's scarf. The Complainant stated her male cousins tried to intervene, but words were exchanged between the Complainant's family and CM#1. The Complainant stated CM#2 escalated the situation by pushing the Complainant's brother-in-law. The Complainant stated she did not want the police to be called, so she attempted to separate the parties. She alleged CM#1 looked her "square on," grabbed her throat, and pushed her into a brick wall, causing her to hit her face. The Complainant stated CM#1 and CM#2 attempted to leave before the police arrived.

BWV depicted CM#2 telling an officer the scarf grab occurred when three members of the Complainant's group attacked CM#1.

NE#3 separated from the Department on March 21, 2022, but voluntarily answered OPA's questions via email. She described the scene as involving several "highly intoxicated" people. NE#3 recalled speaking with the Complainant, whom she described as irritated and uncooperative. BWV captured NE#3 calling the Complainant "a hot mess." NE#3 told OPA the comment was not directed at the Complainant or any civilian, rather she was talking to another officer. NE#3 further stated the phrase was intended to relay her professional assessment to that officer:

Police officers use vernacular terms with one another where the terms are instantly recognizable to other officers. Rather than saying "Hey officer, that woman is disheveled and out of control, obviously intoxicated, her clothes are unkempt, and she is not wearing shoes, she is uncooperative and verbally rude, and so on", if I tell another officer that the woman is a "hot mess", the officer instantly is able to know what I mean. It was not intended as derogatory, contemptuous, or disrespectful, and was merely an observation that I conveyed to another officer.

On January 18, 2023, OPA interviewed NE#4. NE#4 worked at the Department about eight years. On the night in question, NE#4 responded as a backing officer. He arrived about 10 minutes after the primary officers, so the scene was largely contained. NE#4 recalled interviewing an uninvolved witness and collecting their information. He also recalled speaking with the Seattle Fire Department (SFD) about the Complainant's injury. SFD reported she possibly suffered a broken nose. NE#4 stated he intended to relay that information to NE#1, but it was standard practice to do that at the precinct. However, NE#4 presumed he did not give NE#1 the witness' information and account or tell NE#1 about the Complainant's possibly broken nose.

ANALYSIS AND CONCLUSIONS:

Named Employee #3 - Allegation #1

5.001 Standards and Duties 10. Employees Shall Strive to Remain Professional

The Complainant alleged NE#3 was unprofessional during an assault investigation.

SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Further: "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.*

Here, evidence showed NE#3 used questionable language. Specifically, BWV showed a male subject across the street yelling at officers. While his words were uncaptured, BWV showed NE#3 yell toward that subject: "Hey chippy, you're



not being helpful at all” while making a talking motion with her hand. Later, BWV captured NE#3 and NE#4’s discussion about the intoxication level of the Complainant’s group. Apparently referencing the Complainant, NE#3 stated, “this one looks like a hot mess.” Overall, NE#3’s yelling across the street to call a civilian “chippy,” while making a talking motion with her hand, was at minimum snarky. Similarly, referring to the Complainant as “a hot mess,” even in a private discussion with NE#4, given her significant and obvious injury was unnecessary. Although NE#3’s words did not rise to serious misconduct or “derogatory, contemptuous, or disrespectful” language, had she not separated from the Department, OPA would have recommended further training on courtesy and professionalism.

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

- **Training Referral:** If NE#3 were still with the Department, OPA would have recommended her chain of command discuss OPA’s findings with her and the expectations of SPD Policy 5.001-POL-10 and impose any training and counseling it deemed necessary. Retraining and counseling should be documented and maintained in Blue Team.

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

Named Employee #3 - Allegation #2

5.001 - Standards and Duties 6. Employees May Use Discretion

The Complainant alleged NE#3 failed to exercise discretion by discussing the investigation with an uninvolved party.

Employees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the Department and the duties of their office and assignment. SPD Policy 5.001-POL-6. Discretion is proportional to the severity of the crime or public safety issue being addressed. *Id.*

Here, BWV captured a man on crutches approach NE#3. He asked whether there was a misunderstanding. NE#3 indicated one of the groups was more intoxicated than the other. While pointing toward the Complainant’s group, the man asked, “The wedding party?” NE#3 described two ladies in the Complainant’s group falling and opined the Complainant’s injury was “collateral damage,” from her trying to separate those fighting. When OPA asked NE#3 about that discussion, she said she did not recall it and would have to review BWV to respond. However, NE#3 was not entitled to view BWV as a former employee. Overall, like allegation #1, OPA found NE#3’s casual discussion about the investigation with an uninvolved party inappropriate but not serious misconduct.

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

- **Training Referral:** If NE#3 were still with the Department, OPA would have recommended her chain of command discuss OPA’s findings with her and the expectations of SPD Policy 5.001-POL-6 and impose any training and counseling it deemed necessary. Retraining and counseling should be documented and maintained in Blue Team.

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



Named Employee #4 - Allegation #1

15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged NE#4 failed to report evidence to the primary officer.

A primary investigation begins when police action is initiated and is critical to the success of any subsequent investigative efforts. The scope of a primary investigation may be very restricted or may constitute the entire investigation of a crime. SPD Policy 15.180-POL. Officers shall conduct a thorough and complete search for evidence. SPD Policy 15.180-POL-1.

Here, NE#1 was the primary officer and NE#4 was a backing officer. In his supporting role, NE#4 interviewed a witness and collected that witness' contact information. NE#4 also learned from SFD the Complainant possibly had a broken nose. However, the evidence showed, and NE#4 admitted to OPA, he failed to relay that witness' account and SFD's assessment to the primary officer. While NE#4 told OPA standard practice was to relay that information at the precinct, that claim makes no sense where the primary officer needs all relevant information to make a probable cause determination (to decide whether an arrest will be made.)

- **Training Referral:** NE#4's chain of command should discuss OPA's findings with him and the expectations of SPD Policy 15.180-POL-1 and impose any training and counseling it deems necessary. Retraining and counseling should be documented and maintained in Blue Team.

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