



## ***CLOSED CASE SUMMARY***

ISSUED DATE: OCTOBER 31, 2022

FROM: DIRECTOR GINO BETTS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0125

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

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

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 15.180 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Training Referral
# 2	15.180 - Primary Investigations 15.180 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 3	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	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 the Named Employee (NE#1) failed to take proper police action for crimes against her because the offender was a Black man.

### **SUMMARY OF INVESTIGATION:**

On April 24, 2022, the Complainant submitted an online OPA complaint about NE#1's allegedly inadequate investigation of crimes against her and her property. OPA opened an investigation. That investigation included reviewing the OPA complaint, CAD call reports, BWV, and training records. OPA also interviewed the Complainant and NE#1. Evidence summaries are below:

#### ***Complaint***

On April 24, 2022 around 1:00 AM, the Complainant, a 72 year old 4'11" 90-pound White woman, worked a hotel front desk. A Subject, a 6'2" 200-pound Black male, sought to check-in. The Complainant told the Subject check-in began at 3:00 PM. In response, the Subject yelled, banged on windows and doors, and threatened<sup>1</sup> her. The Complainant "closed and locked the windows." The Subject broke into her office, damaging a door locking system. The Complainant called 911, while directing the Subject to leave. Police arrived, examined the damaged door, and spoke with the Subject. The Complainant expressed her desire to press charges. Officers joked with the Subject and allowed him to leave, rather than be arrested. An officer gave the Complainant a card with the incident number<sup>2</sup>. The Complainant was told "(she) would have to file charges separately." The officers took no further investigative steps

<sup>1</sup> Specific threats were not articulated in the complaint.

<sup>2</sup> 22-101992



before leaving, despite security cameras capturing the incident. The Complainant believed officers would have arrested the Subject if he was “a white or Asian male,” rather than a Black man.

*CAD call reports*

On April 24, 2022 around 1:16 AM, the Subject called 911 to report denied access to his booked hotel room. Specifically, he reported, despite paying \$114 for a room, hotel staff was ‘completely unreasonable’ and ‘rude as fuck.’ Around 1:24 AM, the Subject called 911 again. He stated it was a non-emergency situation, but explained he was denied access to a room he booked with his debit card. Hotel staff insisted he needed a credit card and refused to lookup the reservation. The dispatcher and the Subject discussed the situation being a civil matter, rather than something requiring officer assistance. The dispatcher asked about banging heard in the background. The Subject denied knowing the source of the noise, but it stopped thereafter. The dispatcher asked whether the Subject was pounding on something. He replied, “it sounds like someone is trying to break into this shit, I don’t know.” The dispatcher suggested he contact the hotel manager. The Subject thanked the dispatcher and hung up. Around 1:28 AM, the Complainant called 911. She reported a “very tall, large irate black man at my door trying to break in.” The Complainant said the Subject was banging on doors. She then said, “he has broken into my office. You have to come.” The Complainant and the Subject are heard arguing. Specifically, she repeatedly screamed “get out” and “you broke in.” The Subject is heard asking the Complainant to look at the reservation on his phone. She refused, insisting she did not care what he paid. The Complainant also accused the Subject of damaging a door. A CAD call note indicated NE#1 was the primary officer. NE#1 cleared the call as a Burglary with a written report.

*NE#1’s BWV*

On April 24, 2022 around 1:36 AM, officers arrived at the hotel. The Subject sat on a curb outside the office entrance. The Subject admitted to banging on the door but denied breaking into the office. Next, NE#1 spoke to the Complainant. She insisted the Subject broke the door and entered the office. The Complainant showed NE#1 the damaged door. NE#1’s BWV captured a sign on the door that read, “Office closed-reservations requires major credit cards only- must be 21 with valid ID- for assistance call...” NE#1 asked the Complainant for video of the incident, but she did not have access to it. She explained the Subject’s reservation began at 3:00 PM, but he insisted on accessing “the room now.” The Complainant also claimed the Subject took her mace. She wanted the Subject arrested. When asked again, the Complainant indicated she wanted the Subject gone and to pay for the door damage. NE#1 also spoke to the Subject’s girlfriend, who saw the Subject banging on the door but denied witnessing him damage it. NE#1 returned to the Subject. NE#1 told the Subject his reservation started at 3:00 PM. They shared a laugh when the Subject confirmed the mix-up. The Subject made other accommodation arrangements for the night and was allowed to leave. NE#1 returned to the Complainant, gave her a business card, and told her she was welcomed to press charges. The officers left.

*Witness Officer’s (WO#1) BWV*

WO#1 collected the Subject’s name, birthdate, and phone number. WO#1 told the Subject he needed a credit card to book and hotel room and explained the hotel was not obligated to honor the third-party online reservation. WO#1 also spoke with NE#1, who acknowledged door damage and the Complainant’s desire for the Subject’s arrest. NE#1 declined to arrest the Subject. WO#1 indicated he often responded to disturbances at that hotel and the Complainant was “just being a pain in the ass.”

*Witness Officer’s (WO#2) BWV*

WO#2 collected the Subject’s girlfriend’s name and birthdate. She declined to provide her address. WO#2 also described the Subject as “a little intoxicated.”



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*Complainant's OPA Interview*

On April 27, 2022, OPA interviewed the Complainant. Her interview was consistent with her OPA complaint. Additionally, the Complainant stated when the Subject "broke into" the hotel she grabbed her mace. The Subject raised his hands and said he would not hurt the Complainant. She said the police quickly arrived. The Complainant thought the officers' response was "totally inadequate." She claimed two White subjects previously broke into the hotel and were "arrested immediately," "but nothing happens to the (B)lack guy."

*NE#1's OPA Interview*

On August 11, 2022, OPA interviewed NE#1. NE#1 joined the Department five years prior. Prior to the interview, NE#1 reviewed his BWV. NE#1 recalled responding as the primary officer for the call in question. He recalled encountering the Subject, who was "clearly intoxicated" but "very compliant." NE#1 next encountered the Complainant. She said the Subject "broke down the door" when she could not find his reservation. NE#1 examined the door, which was "not broken down." He recalled the door closed flush but saw a broken "lock plate." NE#1 thought the damage was old, because the "ripped" lock plate would have required "a lot of force." NE#1 expected to find remnants of the lock plate and/or functional damage to the door had it recently occurred. NE#1 also noted an eyewitness, the Subject's girlfriend, denied he caused the damage. Ultimately, NE#1 did not believe there was probable cause for the Subject's arrest. He deemed the situation a "miscommunication" amounting to "more of a disturbance than any crime." NE#1 acknowledged the Subject admittedly entered the hotel office, but NE#1 understood that to mean he "opened the door," rather than used force. NE#1 did not recall the Complainant indicating the Subject threatened her. He "determined pretty quickly" the call was a disturbance.

NE#1 believed he conducted a thorough investigation by asking the parties relevant questions, examining the scene, and requesting video footage, which was inaccessible at the time. In hindsight, NE#1 acknowledged the situation warranted a written report: "There was no excuse. This was an incident where I should have done it. I didn't, and I don't have a reason for it." He did not realize his failure to write a report until he was notified about the OPA complaint. NE#1 also acknowledged not marking relevant points on his BWV or photographing potential evidence. He recalled WO#1, who had prior experiences with her, mentioning the Complainant often exaggerated situations.

**ANALYSIS AND CONCLUSIONS:**

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

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

Employees are responsible for knowing how to collect the most common physical evidence that might be encountered on a primary investigation. SPD Manual 15.180(1). Only evidence that is impractical to collect or submit to the Evidence Unit shall be retained by the owner. Id. Officers shall photograph all evidence retained by the owner. Id.

Here, NE#1 was the primary officer, charged with leading the primary investigation. That investigation consisted of speaking with the alleged victim (the Complainant), the alleged offender (the Subject), an eyewitness (the Subject's girlfriend), and examining available evidence (the broken lock plate). While NE#1 took significant investigative steps, he failed to photograph evidence retained by the owner, particularly the broken lock plate. NE#1 explained to OPA why he did not believe the Subject caused the door damage, but policy and prudence called for him to photograph all available evidence. Dissimilarly, the hotel surveillance video of the incident was unavailable during the primary investigation. NE#1's BWV captured him request that footage and the Complainant's explanation it was inaccessible at that time.



Where NE#1 admitted not photographing available evidence but took other significant investigative steps, there is insufficient evidence NE#1 willfully shirked his duties. OPA may recommend a training referral when “There was a potential, but not willful, violation of policy that does not amount to serious misconduct. The employee's chain of command will provide appropriate training and counseling.” OPA Manual 7.2-A-iv.

Accordingly, OPA recommends a Not Sustained - Training Referral finding:

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings and review SPD Policy 15.180-1 with NE#1. His chain of command should also provide any further retraining and counseling it deems appropriate. Any retraining and counseling conducted should be documented in Blue Team.

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

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

**15.180 - Primary Investigations 15.180 5. Officers Shall Document all Primary Investigations on a Report**

The Complainant alleged NE#1 failed to document a primary investigation.

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. Officers shall document all primary investigations on a report. See SPD Policy 15.180-POL-5. Further, officers shall document whether victims of non-custody incidents want to pursue charges, as feasible. *Id.*

Here, NE#1 classified the incident as a disturbance. Specifically, NE#1 told OPA, he assessed the situation as “a miscommunication” and “more of a disturbance than any crime.” NE#1’s apparent tunnel vision suggested it was a noncriminal matter. That perspective, coupled with WO#1’s<sup>3</sup> description of the Complainant as “a pain in the ass,” appeared to cause NE#1 to discredit her account. Although NE#1 cleared the call as a Burglary with a written report, he admittedly forgot to write a report. He made no excuses for the oversight but noted responding to a priority call after leaving the hotel, which likely distracted him from his duty to follow up with a report.

Accordingly, OPA recommends a Not Sustained- Training Referral finding:

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings and review SPD Policy 15.180-5 with NE#1. His chain of command should also provide any further retraining and counseling it deems appropriate. Any retraining and counseling conducted should be documented in Blue Team.

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

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

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

The Complainant alleged NE#1 engaged in bias-based policing by treating the Subject differently based on race.

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<sup>3</sup> WO#1 knew the Complainant from prior service calls to the hotel.



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Bias-based policing is “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. Race is among the listed discernible personal characteristics. *See id.*

Here, NE#1 maintained, from his BWV to his OPA interview, he did not arrest the Subject because he did not believe the available evidence amounted to probable cause. While the Complainant cites the arrests of White men who “broke into” the hotel as evidence of bias, there is no evidence NE#1 had any association with those prior arrests. Contrarily, the evidence suggests NE#1 had no prior contacts with the Complainant or the hotel. Moreover, OPA found no evidence NE#1 treated the Complainant or the Subject differently based on the Subject’s race.

Accordingly, OPA recommends a Not Sustained - Unfounded finding.

Recommended Finding: **Not Sustained - Unfounded**