




CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 23, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0090

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Unfounded (Expedited)

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 Named Employee #1 (NE#1) and Named Employee #2 (NE#2) conducted an inadequate primary investigation by failing to gather evidence at an assault scene.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means 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 involved employees. As such, OPA did not interview the involved employees in this case.

On June 16, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received a complaint and opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, closed-circuit television (CCTV) video, incident report, and body-worn video (BWV). OPA also interviewed the Complainant.

A. OPA Complaint

The Complainant submitted a complaint stating the following:



The Complainant wrote that he and Community Member #1 (CM#1)—the Complainant’s mother—entered a Department of Licensing (DOL) office. The Complainant wrote that Community Member #2 (CM#2) “started to get into our business,” causing an altercation where CM#2 “dropped [CM#1] to [the] ground and started to kill her. [CM#2] was going to kill her and was humping her.” The Complainant described it as an attempted rape and murder. The Complainant called 9-1-1 and screamed for help while everyone stood by and did nothing. The Complainant wrote that he pulled CM#2 off CM#1. The Complainant alleged CM#2 was allowed back in the DOL office two or three times and not ordered to leave. The Complainant said he tried to sit on a chair when CM#2 grabbed the chair and assaulted the Complainant before CM#2 “fled the crime scene.”

After Seattle Police Department (SPD) officers arrived, they photographed the Complainant’s leg and questioned CM#1. The Complainant alleged that officers refused to answer CM#1’s questions, treated CM#1’s injuries as unimportant, were uninterested in going after CM#2, did not search the area for CM#2, and failed to seize the chair as evidence. The Complainant described himself and CM#1 as victims. The Complainant wrote, “[Officers] failed to do their jobs.”

B. Computer-Aided Dispatch (CAD) Call Report

On November 7, 2022, at 1:51 p.m., CAD call remarks noted, “FEMALE IN THE DOL OFFICE, YELLING AND THROWING CHAIRS. FIGHTING ANOTHER CUSTOMER HERE, NO [WEAPONS] SEEN.”

C. Closed-Circuit Television (CCTV) Video

OPA reviewed the CCTV video that DOL provided. It had no audio. In summary, CCTV video captured the following:

The Complainant and CM#1 entered a DOL office. CM#2 sat in a chair. CM#2 stood up, CM#1 talked to CM#2, and CM#2 sat back down. CM#1 appeared to argue with CM#2. CM#1 put her hand close to CM#2’s face, then flipped CM#2 off. CM#2 swatted CM#1’s hand away, stood up and punched CM#1. The Complainant pulled CM#2 off CM#1. CM#2 left the DOL office.

CM#2 reentered the DOL office. CM#2 reached for the chair she previously sat in while the Complainant attempted to sit on it. The Complainant and CM#2 tugged at the chair. CM#1 approached and punched CM#2’s face during their struggle. CM#2 retrieved the chair and sat on it. CM#2 and CM#1 appeared to argue. CM#1 repeatedly pointed her finger closely at CM#2’s face, prompting CM#2 to swat CM#1’s hand away. CM#1, while standing, repeatedly approached CM#2, who remained sitting. They continued to point and swat at each other’s hands.

CM#2 stood up from the chair. CM#2 and CM#1 appeared to argue. CM#2 punched CM#1, which knocked CM#1 to the floor and stood over CM#1. CM#2 pulled CM#1’s hair while a struggle ensued. The Complainant grabbed CM#2 from behind, pulled her away from CM#1, and released CM#2 out the front door. As the Complainant held onto CM#2 to get her out the front door, CM#1 stood up, grabbed a chair, and raised it above her head but tossed it aside once CM#2 was out the front door.

D. Incident Report

NE#2 wrote an incident report documenting the following:



On November 7, 2022, at 1:51 p.m., DOL called 911 to report a fight. While officers responded, the call was updated, describing CM#1 as the primary aggressor. The call also indicated that CM#2 left the scene in a vehicle. Officers arrived and found CM#1 outside. CM#1 complained of head pain but had no visible injuries. The Seattle Fire Department (SFD) also evaluated CM#1.

CM#1 told NE#2 that she entered the DOL office, saw CM#2 stand up, and asked if CM#2 was done with the chair. CM#2 said no, sat down, and suddenly struck CM#1 in the head, knocking CM#1 to the ground. CM#1 said she was struck multiple times. CM#1 also said she defecated on herself during the altercation.

Community Member #3 (CM#3)—a witness—told NE#2 that CM#1 entered the DOL office, was agitated, and confronted other people in the DOL office. Community Member #4 (CM#4)—another witness—corroborated CM#3's account. CM#4 said CM#1 struck CM#2 first. CM#4 also said CM#1 purposefully defecated on herself and threatened to get feces on CM#2. NE#2 confirmed with the Complainant that CM#1 was agitated before entering the DOL office. The Complainant told NE#2 that CM#2 struck the Complainant's leg with a chair.

NE#2 wrote that officers called and left a message for the registered owner—presumably CM#2—of the vehicle that left but did not receive a callback. NE#2 asked the Complainant, who photographed CM#2, to email the photograph to NE#2. CM#1 grew angry with the officers' apparent inaction, so she filmed them, followed them into the parking lot, and insulted them. CM#1 refused to let officers photograph her face but allowed them to photograph the back of her head.

E. Body-Worn Video (BWV)

OPA reviewed NE#2's BWV and found it consistent with NE#2's incident report.

F. OPA Interview

OPA interviewed the Complainant and found his account consistent with his OPA complaint. The Complainant said he was confused by the officers' actions and believed they should have done more to investigate. Specifically, the Complainant said officers should have asked the Complainant to reenter the DOL office and describe the incident inside. He also said officers should have seized the chair as evidence and searched for CM#2.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence

For the reasons at Named Employee #2 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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



Named Employee #2 - Allegation #1

15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged that NE#2 did not conduct a thorough and complete search for evidence.

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. The policy further requires officers to collect evidence and states that only evidence impractical to collect shall be retained by the owner. SPD Policy 15.180-POL-1. Such evidence should be photographed. *Id.*

Here, BWV captured how responding officers conducted their investigation. NE#2—the primary officer—interviewed CM#1, the Complainant, and two witnesses. NE#1—a backing officer—and other officers interviewed other witnesses and requested the CCTV video from DOL. NE#2 arranged for CM#1's injuries to be photographed. NE#2 asked the Complainant to email him a photograph of CM#2. NE#2 called CM#2 and left a voicemail. The totality of NE#1's and NE#2's investigation suggests a thorough and complete search for evidence.

The Complainant expressed concern that officers did not seize the chair used in the assault to extract fingerprints. SPD Policy 15.180-POL-1 requires officers to be "responsible for knowing how to collect *the most common physical evidence* that might be encountered on a primary investigation." *Id.* (emphasis added). It does not require officers to collect all physical evidence. SPD Policy 15.180-POL-1 also requires officers to photograph evidence impractical to collect. *Id.* Although NE#1 or NE#2 did not seize or photograph the chair, other evidence collected—such as the CCTV video, photograph of CM#2, witness accounts, and CM#2's vehicle license plate number—limited the probative value that the chair could have provided. Moreover, given that this case involved a misdemeanor assault with a likely mutual combat defense, the named employees exercised reasonable discretion in the extent of their investigation. See SPD Policy 5.001-POL-6 (SPD officers are authorized and expected to use discretion consistent with SPD's mission and proportional to the severity of the crime).

The Complainant also alleged CM#2 attempted to murder and sexually assaulted CM#1 ("[CM#2] was going to kill her and was humping her"). While such serious allegations may have warranted additional investigative steps, the Complainant and CM#1 did not make those claims at the scene. Additionally, these allegations are inconsistent with the evidence collected. Officers investigated assault in the fourth degree (RCW 9A.36.041) and collected evidence based on that offense.

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

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