



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 18, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0173

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion	Not Sustained - Lawful and Proper

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion	Not Sustained - Lawful and Proper

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties, 5.001-POL 6. Employees May Use Discretion	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:

Named Employees #1, #2, and #3 (NE#1, NE#2, and NE#3) responded to a person in crisis call. The Complainant alleged that Community Member #1 (CM#1)—the Complainant's daughter—was in a "psychotic state," but the named employees failed to take CM#1 to a hospital.

ADMINISTRATIVE NOTE:

On September 20, 2023, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received a complaint on April 21, 2023, and opened an investigation. During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident reports. OPA also interviewed the named employees.



A. OPA Complaint

The Complainant wrote that CM#1 was “gravely disabled,” in a “psychotic state,” and a “harm to herself.” The Complainant wrote that the named employees told Community Member #2 (CM#2)—CM#1’s friend—that CM#1 would be taken to a hospital for an evaluation but was released to the streets instead. The Complainant wrote that CM#1 had no way to feed herself, clothe herself, or find shelter, which the Complainant described as a “life or death situation.”

B. Computer-Aided Dispatch (CAD) Call Report

On April 21, 2023, at 11:25 AM, CAD call remarks noted, “FEMALE IN CRISIS, MAKING RACIAL BIAS STATEMENTS TO [REPORTING PARTY], IS [REPORTING PARTY’S] FRIEND, APPEARS HIGH, RECENTLY RELEASED FROM HOSPITAL, NO [WEAPONS].”

C. Body-Worn Video (BWV) and Incident Report

NE#1’s BWV captured the following April 21, 2023, events. NE#1 and NE#3 were in a patrol car, responding to an apartment. While NE#3 drove, NE#1 called CM#2, who said CM#1 said racist things to him but did not assault him. CM#2 said CM#1 needed to leave his apartment to “go to the mental health.” CM#2 said CM#1 was heading down the elevator and that CM#2 would meet NE#1 outside. NE#1, NE#2, and NE#3 arrived and waited outside at the apartment’s front entrance.

CM#1 exited the front entrance barefoot and turned right, ignoring the named employees while saying something to herself. CM#2 met the named employees at the front entrance. CM#2 said CM#1 was at his apartment for three days. CM#2 said CM#1 screamed at him and said racist things. CM#2 attributed CM#1’s outbursts to her mental state. CM#2 said CM#1 threatened to kill herself and threatened him, but CM#2 did not feel personally threatened by CM#1. NE#1 asked, “You don’t feel any of your threats are credible?” CM#2 replied, “Nah, not even her racism.” NE#1 told CM#2 that officers would try to talk to CM#1. The named employees gave CM#2 their names and badge numbers before they left.

NE#1 and NE#3, in their patrol car, located CM#1 outside. NE#1 lowered his window and asked, “[CM#1], do you want some help? Do you want any help?” CM#1 said, “No, thank you.” NE#1 said, “Okay,” and NE#3 drove off.

NE#3 wrote an incident report. It was consistent with the events captured on BWV.

D. OPA Interviews

OPA contacted the Complainant on four separate days to arrange an interview. Although the Complainant initially expressed interest in an OPA interview, the Complainant stopped responding, so an interview did not occur.

OPA interviewed NE#1. NE#1 said he received training on responding to mental health calls and was experienced interacting with people with mental health conditions. NE#1 described the April 21, 2023, incident, consistent with his incident report and BWV. Additionally, NE#1 believed the situation was stable based on CM#2’s willingness to meet officers outside. OPA asked NE#1 how he interpreted CM#2’s statement that he did not believe CM#1’s threats were credible. NE#1 interpreted that to mean that CM#2 did not fear that CM#1 was suicidal or posed a danger to CM#2.



NE#1 did not believe a crime occurred and did not believe CM#1 met the Involuntary Treatment Act (ITA) criteria. NE#1 said ITA permits an officer to detain a person experiencing a mental health crisis when they are an imminent threat to themselves or will be gravely disabled without an officer's intervention.

NE#1 said a secondhand account of suicidal ideation did not constitute reasonable grounds to detain CM#1. NE#1 believed that after he contacted CM#1 from his patrol car, any additional contact could have escalated CM#1's state of mind. NE#1 said there must be a plan or a reasonable mechanism for a person to commit suicide before an officer could detain that person. NE#1 said CM#1 was dressed in a hospital gown, appeared unarmed, and muttered to herself, while CM#2 did not believe CM#1's threat of suicide was credible. NE#1 also said CM#1 was barefoot, but the conditions outside were temperate. NE#1 said he could not detain CM#1 under these circumstances.

OPA interviewed NE#2. NE#2 said he was experienced interacting with people with mental health conditions. NE#2 said that on April 21, 2023, he was a backing officer but was unaware of the phone conversation between NE#1 and CM#2 when he responded to the apartment. OPA asked NE#2 how he interpreted CM#2's statement that he did not believe CM#1's threats were credible. NE#2 interpreted that to mean CM#2 did not find credible both the threat of suicide and the threat to CM#2. NE#2 believed CM#1 did not meet the ITA criteria based on seeing CM#1 leave the apartment barefoot in a hospital gown. NE#2 said he was released from the call after the named employees finished interviewing CM#2.

OPA interviewed NE#3. NE#3's statements were consistent with NE#1's statements summarized above.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

The Complainant alleged that NE#1 used improper discretion by inadequately investigating and failing to have CM#1 hospitalized.

As indicated in SPD Policy 5.001-POL-6, "[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment." This policy further states, "Discretion is proportional to the severity of the crime or public safety issue being addressed." SPD Policy 5.001-POL-6. The ITA provides that an officer may take into custody a person and immediately deliver that person to a treatment facility or local hospital if that officer has "reasonable cause to believe that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled." RCW 71.05.153(2)(a).

Here, the named employees did not believe there were reasonable grounds for an ITA detainment based on several known facts. OPA finds that the named employees used discretion "in a reasonable manner" consistent with the duties of their assignment.

First, the named employees did not find CM#1's threats of suicide credible based on what CM#2 reported. Second, there was no evidence to suggest CM#1 was a danger to others. When NE#1 asked CM#2 if CM#1 assaulted him, CM#2 said no. NE#1 also noted that he did not believe a crime occurred. Third, NE#1 and NE#3 believed, based on their training and experience, that any further contact with CM#1 would have escalated her state of mind. They concluded



that terminating further contact was appropriate after CM#1 declined assistance from NE#1. Notably, CM#1 did not threaten or yell at the named employees during their contact. Fourth, CM#1's attire was not immediately concerning. The named employees saw CM#1 leave the apartment barefoot in a hospital gown, muttering to herself. However, NE#1 noted that weather conditions were temperate. BWV also captured CM#2 barefoot when he met with the named employees at the apartment's front entrance. Fifth, the named employees did not see any weapons on CM#1 or any plan or reasonable mechanism for her to commit suicide. They simply observed CM#1 muttering to herself as she left the apartment. Under these circumstances, there was an insufficient basis to believe that CM#1 suffered from a behavioral health disorder that presented an "imminent likelihood of serious harm or [was] in imminent danger because of being gravely disabled." RCW 71.05.153(2)(a). The named employees exercised reasonable discretion in terminating further contact with CM#1 after she said, "No, thank you" to NE#1.

Additionally, the complaint alleged that the named employees told CM#2 that CM#1 would be taken to a hospital for an evaluation. BWV conclusively disproved this allegation. The named employees did not say anything to that effect. Instead, NE#1 told CM#2 that officers would try to talk to CM#1.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #2 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

The Complainant alleged that NE#2 used improper discretion by inadequately investigating and failing to have CM#1 hospitalized.

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #3 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

The Complainant alleged that NE#3 used improper discretion by inadequately investigating and failing to have CM#1 hospitalized.

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**