



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 11, 2018

CASE NUMBER: 2017OPA-1327

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 3	15.410 - Domestic Violence Investigation 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident	Not Sustained (Training Referral)
# 4	15.410 - Domestic Violence Investigation 15.410-TSK-2 Officer’s GO Report and Narrative	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:

The Complainant alleged that Named Employee #1 was unprofessional and was biased against her and conducted an inadequate investigation based on the Complainant’s status as a Native American woman. During its intake investigation, OPA added allegations concerning the potential failure of Named Employee #1 to follow policy when conducting her investigation into this domestic violence incident.

STATEMENT OF FACTS:

The Complainant called 911 and reported that she needed assistance for an ongoing domestic violence situation. She stated that she was in the bathroom of her ex-boyfriend’s residence and could not speak freely. She reported that there were firearms in the residence. Six officers responded to the call, including Named Employee #1 (NE#1). A later update to the call indicated that the Complainant had been hit in the face by the ex-boyfriend and had possibly been sexually assaulted. The officers were further informed that the Complainant was her ex-boyfriend’s caregiver. The ex-boyfriend also called 911 and stated that the Complainant was in his bathroom, was possibly high, and was refusing to leave.

NE#1’s response to this incident and her interaction with the Complainant was captured by Body Worn Video (BWV). She further documented the incident at length in a General Offense Report. NE#1 reported that she first spoke to the ex-boyfriend who indicated that he believed that the Complainant was under the influence of narcotics. He stated that she apparently used the drugs in the bathroom and, when she came out, she began throwing items around the kitchen. The ex-boyfriend told NE#1 that he was unsure whether anything had been broken and NE#1 did not observe any damage. He stated that the Complainant then went back into the bathroom and refused to come out. He stated that he wanted her to leave his residence.



NE#1 then spoke to the Complainant. The Complainant told a different story. She alleged that her ex-boyfriend had chipped her tooth. The officers noticed a chip to her tooth, but, based on its appearance and the rounded edges of the chip, the officers believed it likely that it was from a previous incident. The Complainant also stated that her ex-boyfriend grabbed her breast and crotch. She further alleged that he put her in a headlock. When asked to expound on those allegations, the Complainant stated that the last time the sexual assault occurred was weeks ago and the last time the headlock occurred was days ago.

In her report, NE#1 noted that the Complainant changed her account of what had occurred several times. She further did not provide any explanation as to how her ex-boyfriend had chipped her tooth. NE#1 also noted that, based on the ex-boyfriend's limitations to his physical functioning from a prior stroke, it was unlikely that he engaged in some of the behavior described by the Complainant.

Lastly, NE#1 documented that the officers asked the Complainant to leave the apartment and she refused. Ultimately, they were able to convince the Complainant and her ex-boyfriend to remain in separate rooms until tensions subsided. No arrests were effectuated.

NE#1's BWV recorded her screening her decision to not make an arrest with her supervisor. During that approximately 10-minute screening conversation, NE#1 indicated that she did not believe that either the Complainant or her ex-boyfriend were telling the truth. She stated that there were no signs of injury, the Complainant's story "keeps changing," and that she ultimately did not feel that an arrest was warranted under the circumstances.

In her complaint to OPA, the Complainant stated that NE#1 was the officer whom she believed had acted inappropriately. She contended that NE#1 was unprofessional and treated her differently due to her status as a Native American woman. During its intake investigation, OPA added further allegations against NE#1 based on a potential inadequate domestic violence investigation.

Germane to the allegations herein, NE#1 admitted to OPA that she did not complete all of the requirements that were part of a domestic violence investigation. She additionally denied engaging in unprofessional behavior or engaging in biased policing towards the Complainant.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 requires that SPD employees "strive to be professional at all times." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers." (SPD Policy 5.001-POL-9.)

While the Complainant alleged that NE#1 was unprofessional in this instance, I do not believe that the evidence supports such a determination. First, from a review of the BWV, there is no evidence that NE#1 treated the Complainant dismissively, disrespectfully, or uncaringly. Second, while NE#1's investigation fell short of the strict standards set forth in SPD policy, I do not think this rose to the level of a lack of professionalism.



For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

5.140 - Bias-Free Policing 2. Officers Will Not Engage 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.) This includes different treatment based on the race of the subject. (*See id.*)

Based on my review of the evidentiary record, which included BWV, the reports generated, and the parties’ statements, I find no indication that NE#1 engaged in bias. I believe that NE#1’s actions in this case were based on the complicated circumstances facing her and had nothing to do with the Complainant’s race. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #3

15.410 - Domestic Violence Investigation 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident

SPD Policy 15.410-TSK-1 sets forth the requirements of officers performing primary investigations into domestic violence incidents. Specifically, the policy indicates the sixteen tasks that officers shall perform when investigating such cases.

While some of the tasks set forth in this policy were inapplicable to this case and while others were completed by NE#1, NE#1 admitted that there were a number of tasks that she failed to perform. For example, NE#1 did not: take a victim statement from the Complainant; complete a Domestic Violence Risk Assessment; or provide the Complainant with a Domestic Violence Resource Guide.

The failure to perform these tasks constituted a technical violation of policy. That being said, I feel that this is more a case of a newer officer failing to comply with the numerous and sometimes complicated elements of this policy rather than intentional misconduct. As such, I believe that the better and more impactful result would be to retrain and counsel NE#1 so that she learns from this case and does not repeat these mistakes in the future. Also supporting this determination is my understanding that, since this incident, NE#1 has taken affirmative steps to more closely adhere to the requirements of this policy. Specifically, she has worked on compiling a checklist for domestic violence investigations that is now used by others in her precinct. I commend her for taking the initiative to do so and believe that this is exactly what the Department should encourage and promote in its officers. For these reasons, I recommend that NE#1 receive a Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1 should receive additional training concerning the Department’s expectations for investigations into domestic violence incidents. She should be retrained as to elements of SPD Policy 15.140



and, specifically, as to the requirements of SPD Policies 15.410-TSK-1 and 15.410-TSK-2. NE#1 should receive counseling from her chain of command concerning the importance to the Department of appropriately handling domestic violence incidents and the fact that this is a priority for the Department. She should further be commended by her chain of command for the steps that she has affirmatively taken to ensure that this does not occur again. This re-training and associated counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #4

15.410 - Domestic Violence Investigation 15.410-TSK-2 Officer's GO Report and Narrative

Similar to SPD Policy 15.410-TSK-1, SPD Policy 15.410-TSK-2 sets forth the requirements for domestic violence investigations and, specifically, for the General Offense Reports generated as part of those investigations.

While there were some minor deficiencies with NE#1's report, I find that it was generally complete, thorough, and thoughtful. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**