



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 14, 2019

CASE NUMBER: 2017OPA-1321

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 that she was assaulted by the Named Employee and that the Named Employee’s conduct towards her was unprofessional.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

On December 28, 2017, both Named Employee #1 (NE#1) and his then girlfriend called 911 to report that the other had committed a domestic violence (DV) assault. The Renton Police Department (RPD) responded to the scene, which was the parties’ shared residence. The girlfriend contended at the time that NE#1 assaulted her while she was in the bathroom. She stated that he punched her in the eye and struck her on the head with a small mirror, causing it to break. RPD officers documented that she had a bruise below her eye but did not observe an injury consistent with the girlfriend being struck in the head with the mirror. The girlfriend further asserted that, several days prior, NE#1 grabbed her arm causing her to suffer an injury. The RPD officers noted that she also had bruising consistent with that allegation. Lastly, the girlfriend claimed that, approximately one year prior, NE#1 punched her in the jaw, which caused her to lose consciousness. These other alleged DV assaults were not reported to the police. NE#1 contended that he, not the girlfriend, was the victim of a DV assault. He stated that he forced his way into the bathroom but that, once he did so, the girlfriend punched and bit him. The officers reported that they did not believe that NE#1 had injuries consistent with the assault that he had reported. However, it was later documented that a nurse at the jail informed them that NE#1 did present with facial swelling and bruising and also had scratches on his body. These injuries were photographed. The officers noted the strong smell of alcohol on both the girlfriend and NE#1. Both acknowledged that they had been drinking. Based on their evaluation of the evidence, the RPD officers determined that there was probable cause to arrest NE#1 for DV assault.



On December 29, 2017, NE#1's chain of command was notified of his arrest. The chain of command made a referral to OPA and this investigation ensued. This matter was also referred to the King County Prosecuting Attorney's Office (KCPAO) and NE#1 was criminally charged. This caused OPA's investigation deadlines to toll.

Around three months after the incident, the girlfriend indicated to the KCPAO that she wished to recant her statement. She later reported to RPD that the KCPAO prosecutor told her that he did not believe her. She further stated that the prosecutor told her that, if she wanted to recant, she would have to do so by making a formal report with RPD. The officer who took the report from the girlfriend provided her with Miranda warnings and notified her that she would be making the statement under penalty of perjury. The officer documented that the girlfriend indicated that she still wanted to make formal statement. In the statement, she recanted her previous allegation that NE#1 had assaulted her. The girlfriend said that both she and NE#1 were intoxicated at the time and had taken sleeping medication. She stated that she accidentally broke the bathroom mirror and falsely claimed that NE#1 struck her with it. She also reported that she struck herself in the face, causing the bruising. The girlfriend explained that she was "aware that if the police came to a domestic violence call that one of us would go to jail." She stated that, because of this, she "falsely reported" to avoid getting into trouble.

On February 19, 2019, approximately one year after the girlfriend recanted her allegations, the prosecution against NE#1 was dismissed with prejudice. There was no detail concerning the basis for this disposition in the Order of Dismissal.

After the case was dismissed, OPA began its investigation. As part of that investigation, OPA reviewed the underlying investigation documents and the court documents. OPA attempted to contact the girlfriend on multiple occasions to set up her interview. The girlfriend responded to one email from OPA and set a time for a phone call. However, she did not answer the phone on that occasion and did not respond to further attempts by OPA to contact her. OPA did interview NE#1. He denied assaulting the girlfriend on December 28, 2017, or on any other occasion. He stated that the girlfriend informed him personally, as well as notified his criminal defense attorney, that she was going to recant. He said that she informed him that she struck herself in the face, causing the bruising.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

Based on a review of the entirety of the record, OPA finds that the evidence is insufficient to establish that NE#1 assaulted the girlfriend. While the girlfriend did have injuries consistent with the assaultive behavior that she initially alleged, she later recanted her claims under penalty of perjury. Given that she knowingly and voluntarily recanted and due to the lack of any information suggesting that this was done because of duress, I find this to be dispositive as to NE#1's culpability. As such, I recommend that this allegation be Not Sustained – Unfounded.

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



Named Employee #1 - Allegation #2

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

As discussed above, the totality of the evidence supports a finding that NE#1 did not assault the girlfriend. Accordingly, I similarly find that the evidence is insufficient to establish that NE#1 engaged in unprofessional conduct and I recommend that this allegation be Not Sustained – Unfounded.

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