



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 18, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0343

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Shall Strive to be Professional	Not Sustained (Management Action)
# 2	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Not Sustained (Inconclusive)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Shall Strive to be Professional	Not Sustained (Management Action)
# 2	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Not Sustained (Inconclusive)

**Named Employee #3**

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 5.001-POL 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 the Named Employees were unprofessional and engaged in retaliation in relation to their response to a low-priority call at a business.

**SUMMARY OF INVESTIGATION:**

An anonymous Complainant alleged that the Named Employees were marked “en route” to a call at business franchise (Franchise) at a time when the Named Employees were, instead, parked at the Ballard Library. The Complainant alleged that the Named Employees “did not appear to move from that location for at least 45 minutes.” The Complainant more broadly alleged that “[n]early every day, Boy sector units are located at 22 AV NW and NW 56 ST while assigned to calls they have long since left the location of, or while they are marked en route to calls 10’s of blocks away.” OPA initiated this investigation.



As part of its investigation, OPA reviewed the Complaint, MDT messages, CAD reports, and GPS data. OPA also interviewed Named Employee #1 (NE#1) and Named Employee #2 (NE#2).

The CAD report for this incident shows that a request for service was made on July 15, 2021 at about 7:34 A.M. stating the following:

*“CHK for occupied veh parked outside busn on stroud av N in load/unload zone 0700-1800. Male lives inside veh, frequently parked here until late morning/early afternoon. Male has been a frequent nuisance to this business, has threatened to aslt employees in past. Does not want to report threats, just veh to move along. No known wps.”*

This call was classified as a priority three call. At about 7:46 A.M., NE#2 was dispatched to the call along with a unit from another sector. However, at about 7:47 A.M., NE#1 cleared the out-of-sector unit from the call and assigned herself to the call. Both NE#1 and NE#2 marked themselves as having arrived at the Franchise at about 9:07 A.M. and 9:08 A.M., respectively. At 9:12 A.M., NE#2 marked the call as cleared, noting “SUB WOKE UP AND MOVED ALONG.”

NE#1 and NE#2 both sent MDT messages around this time. Prior to the call for service at the Franchise, NE#1 sent a message indicating they needed to use the restroom. At about 7:48 A.M., an out-of-sector officer sent a message to both NE#1 and NE#2 asking “(Business name) the place where the employee refused SPD service?” At about 7:56 A.M., NE#2 responded “yes.” The out-of-sector officer replied “Hmmm.” NE#2 responded “diff location tho.” No further messages of note were recovered.

OPA interviewed NE#1. NE#1 stated that she heard the call for service at the Franchise get dispatched as a “Priority 3 call,” which NE#1 described as “on the lower side” in the order of priority. NE#1 stated that the call was for an occupied car parked in a load/unload zone, but that there was a person who was known to live in a car that frequents that area. NE#1 stated that person has been known to make threats in the past. NE#1 stated that her squad mate, NE#2, was dispatched as primary. NE#1 stated that since she and NE#2 “had planned to get breakfast or eat breakfast together,” she decide to back NE#2 on the call and had herself reassigned. NE#1 recalled that the caller did not want police contact and that the call was for a parking infraction. NE#1 stated that, after getting herself reassigned to the call, she and NE#2 got food and met at the Ballard library. NE#1 described the Ballard library as their “mini precinct” because it had secure internet that SPD officers used to complete reports. NE#1 stated that, at the library, she completed a theft report for a prior call. NE#1 confirmed that she and NE#2 arrived at the Franchise call at about 9:07 A.M. and “move[d] the subject along without incident.”

During her OPA interview, NE#1 also described that it was common practice for her squad to try to respond to things together as they are more familiar with each other. NE#1 also described her practice of accepting lower-priority calls going “right away” if she had nothing else to do “like reports,” but that otherwise she would “finish paperwork ... and then go.” NE#1 admitted that she had heard that another location of the Franchise business had “refused service to one of the SPD officers,” but NE#1 denied that this knowledge or the MDT messages delayed her response to the Franchise for this incident. Instead, NE#1 stated that the only delay was occasioned by finishing her theft report “while finished my breakfast at the same time.”

OPA also interviewed NE#2. NE#2 stated that his delayed response was as a direct result of how he processed low-priority calls in the area. NE#2 stated that these types of low-level calls often rectified themselves before police attend. NE#2 denied knowing whether any other assigned officer was “doing anything” during the course of the delay.



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NE#2 also stated that as a matter of “beat integrity” officers try to handle their assigned area to “prevent other people from needlessly traveling long distances to come into your area.” NE#2 stated that he was aware of the previous media story relating to the refusal of service of an SPD officer. However, NE#2 denied that this led him to delay his response. NE#2 stated that when he did arrive at the call location, the subject of the call was still at the location. NE#2 knocked on the window of the car and asked the person to move their car and they complied.

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

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

The complaint alleged that NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.)

In her interview, NE#1 stated that she had herself reassigned to this low-level call but completed an unrelated auto theft report while eating breakfast with NE#2—the primary officer assigned to the call—before responding. While the practice of accepting, then not immediately responding, to low-priority calls may be a tolerated method of spacing out paperwork and calls for service, it is not ideal for service delivery or public perception. OPA is acutely aware of the current staffing shortages at SPD, but this practice has the potential to erode public trust in the department. Moreover, as here, officers employing this practice may face complaints that they are prioritizing their preferences over a prompt response to a dispatched call for service. Finally, the practice carries with it an additional risk that an intervening, higher-priority call further delays a department response to a dispatched call even longer than occurred here.

However, considering the nature of the Complainant’s allegation that this occurs “nearly every day,” the Named Employees’ description of their response to low-priority calls, and a Seattle Police Officers’ Guild representative’s explanation to OPA that “[s]ometimes an officer’s delayed response to a call can be a form of de-escalation,” OPA believes that this issue would be best addressed through a Management Action Recommendation (MAR).

Accordingly, OPA recommends that this allegation be Not Sustained (Management Action).

Recommended Finding: **Not Sustained (Management Action)**

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

**5.001 - Standards and Duties 14. Retaliation is prohibited**

It was alleged that NE#1 engaged in prohibited retaliation by delaying her response to the Franchise.

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) SPD employees are specifically prohibited from retaliating against a person who engage in activities including, but not limited to, “oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy” or “who otherwise engages in lawful behavior.” (*Id.*) Retaliatory acts are defined broadly under SPD’s policy and include “discouragement, intimidation, coercion, or adverse action against any person. (*Id.*)



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NE#1 admitted that she was aware that a Franchise location had refused service to an SPD officer, but denied that this knowledge affected her response to the Franchise location involved in this incident. Instead, NE#1 attributed her delay in attending to her recognition that the dispatched call was a low-priority call, that the complainant on the call did not want Police contact, and she was completing an auto theft report while finishing breakfast with NE#2. OPA finds NE#2's explanation of low-level call stacking, although less than ideal, to be a credible explanation of the realities of how officers often operate on a daily basis. However, given the MDT messages and the length of the delay, OPA cannot conclude that NE#2's response was not impacted by improper bias against a business for engaging in lawful behavior.

Accordingly, OPA recommends that this allegation be Not Sustained (Inconclusive).

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

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

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

The Complainant alleged that NE#2 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.)

NE#2 had no recollection of what he or NE#1 were doing during the time they failed to respond to the call. NE#2 stated that the reason for his delay in responding to the call was because, *"these calls, where there's often a person sleeping in a car, it's essentially a parking complaint. Often they resolve themselves prior to police ever responding, and so my intent with that was that he would, you know, probably wake up if we just gave him a little bit more..."* In essence, NE#2 explained his delayed response as a form of de-escalation. De-escalation is reviewed and evaluated under the totality of the circumstances present at the time of the incident. The difficulty with the NE#2's explanation of de-escalation is that the call included information to the effect of, *"Male has been a frequent nuisance to this business, has threatened to aslt employees in past."* OPA questions NE#2's decision to de-escalate in this case without personally observing the situation at the Franchise.

However, for the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained (Management Action).

Recommended Finding: **Not Sustained (Management Action)**

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

**5.001 - Standards and Duties 14. Retaliation is prohibited**

It was alleged that NE#2 retaliated against the Franchise by delaying his response.

NE#2 responded to an MDT comment which questioned whether the call they were dispatched to was for a business that previously refused service to an SPD officer. NE#2 clarified on the MDT that the dispatched call was for the same franchise but at a different franchise location. In his OPA interview, NE#2 denied that his delayed response had



anything to do with retaliation. However, NE#2 could not recall what he or NE#1 had been doing during the time of the delay.

Accordingly, for the same reasons set forth in Named Employee #1, Allegation #2, OPA recommends that this allegation be Not Sustained (Inconclusive).

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

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

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

The Complainant alleged that Named Employee #3 (NE#3) was unprofessional.

Available evidence, namely CAD and GPS analysis, determined that that misconduct against NE#3 did not occur as alleged. Although NE#3 was originally in the area of the Ballard Library where NE#2 and NE#3 were parked, he then travelled to an unrelated incident location before returning to the Ballard Library where he wrote up a report pertaining to the incident to which he had just responded. As such, NE#3 did not fail to comply with this policy and OPA recommends that this allegation be Not Sustained (Unfounded).

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