




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 1, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0276

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 – Standards & Duties 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Inconclusive

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 Named Employee #1 (NE#1) was dishonest during an EEO investigation.

ADMINISTRATIVE NOTE:

The Office of Inspector General (OIG) certified this case as thorough and objective but found it untimely. OIG noted, under Article 3.6(A) of the Seattle Police Officers’ Guild collective bargaining agreement (SPOG CBA), “the OPA shall furnish the employee and the Guild with a classification report no later than thirty (30) days after receipt of the complaint by the OPA.” Here, OIG found the classification report was due September 25, 2022, but OPA sent it September 26, 2022.

OPA acknowledges the classification report was a day late. However, OPA respectfully disagrees that an administrative error should render the entire investigation untimely. Particularly where the investigation was completed within the 180-day timeframe. Further, OPA submits the one-day delay, over a weekend, in no way prejudiced the employee or the Guild. Finally, unlike the 180-day timeline, the SPOG CBA does not prescribe a penalty for failing to meet the 30-day classification timeline. Overall, OPA acknowledges the procedural oversight, but notes it did not prejudice any party or warrant the entire investigation to be found untimely.

SUMMARY OF INVESTIGATION:

NE#1 was the complainant in EEO and OPA complaints¹ filed on her behalf. Both complaints resulted in Not Sustained findings for the subject of those investigations (Subject Officer #1/ SO#1).

The Complainant in this case—a member of SO#1’s chain of command—alleged, she, along with SPD’s EEO Investigator (Witness Employee #1/ WE#1) and human resources director, reviewed the EEO investigation and

¹ The OPA complaint was 2022OPA-0014.



collectively determined NE#1 made dishonest representations. Specifically, the Complainant alleged NE#1 told her Sergeant and WE#1, during two EEO interviews, misinformation constituting her harassment allegations against SO#1.

OPA opened an investigation. During its investigation, OPA reviewed the complaint, EEO investigation, and OPA investigation (2022OPA-0014). OPA also interviewed WE#1 and NE#1.

a. EEO Investigation

OPA reviewed WE#1's EEO investigation.

That investigation examined whether SO#1 "engaged in [sexually] harassing and/or harassing conduct" against NE#1 when he allegedly: (1) "gave her unwanted attention after she stated she was [uninterested] in a [romantic] relationship with him;" (2) "exerted unwanted influence over her work assignments; and/or (3) "requested to work shifts with her after she stated she wanted to work alone." It was also alleged that other SPD employees retaliated against NE#1 for making the EEO complaint against SO#1 by filing an OPA complaint against her.²

The EEO investigation resulted in "Not Sustained" findings, where WE#1 concluded the evidence failed to meet the burden of proof. The EEO Investigation involved sixteen interviews—two with NE#1—and reviews of memoranda, emails, text messages, an OPA complaint, Computer-Aided Dispatch (CAD) data, and personnel records.

The Complainant's allegations against NE#1 were based on "significant factual discrepancies" between NE#1's statements to her sergeant (Witness Employee #2/WE#2), NE#1's January 11, 2022 EEO interview, and NE#1's May 23, 2022 EEO interview. Additionally, the Complainant noted 291 pages of text message screenshots, which SO#1 gave WE#1 before his May 13, 2022 EEO interview, disproved the Complainant's accounts.

i. NE#1's Statements to WE#2

WE#2 documented his recollection of NE#1's statements in a January 4, 2022 email to WE#1. In that email, WE#2 wrote he asked NE#1 whether SO#1 gave her "unwanted attention," to which NE#1 responded, "yes." WE#2 wrote NE#1 told him she felt like SO#1 stalked her and her "creep-o-meter" was triggered. WE#2 wrote NE#1 said she told SO#1 she was in a relationship and was romantically uninterested in him. WE#2 wrote NE#1 said she tried to stop riding with SO#1 to avoid his attention. WE#2 also documented that NE#1 told him she previously asked WE#2 to remain near her because SO#1's behavior made her uncomfortable. WE#2 also wrote NE#1 reportedly thought SO#1 drove by her residence.

On April 7, 2022, WE#1 interviewed WE#2. WE#2 recalled, around December 31, 2021, SO#1 requested to ride with NE#1. WE#2 stated he told SO#1, "Well, I'll talk to her. She said she just wants to ride solo nowadays, but I'll talk to her and see what she wants to do." WE#2 stated he spoke with NE#1, and she was ambivalent about the proposition. WE#2 said he told NE#1, "you guys figure out what you want to do and just let me know." WE#2 recalled seeing NE#1 and SO#1 partnered after a roll call, so he "figured they made their decision."

² 2022OPA-0124.



WE#2 described speaking with NE#1 on January 1, 2022. WE#2 said he asked NE#1, "Have you been getting any unwanted attention from somebody?" To which NE#1 responded, "yes." WE#2 recalled asking, "Is it from [SO#1]?" and NE#1 responded, "yes." WE#2 described NE#1 saying she told SO#1 repeatedly on January 1, 2022 she was uninterested in a romantic relationship. WE#2 also described NE#1 saying SO#1 made her uncomfortable by showing up at her work location which "set off" NE#1's "creep-o-meter." WE#2 recalled NE#1 using the phrase "stalk-ish feeling."

ii. Named Employee #1 EEO Interview – January 11, 2022

On January 2, 2022, WE#2 sent WE#1 a memo via the chain of command. On January 11, 2022, WE#1 conducted an intake interview with NE#1.

In that interview, NE#1 said SO#1 "started augmenting" in her sector around July 2021. She said thereafter and SO#1 "started working there quite frequently on a weekly basis." NE#1 said SO#1 asked to partner with her, although NE#1 generally worked alone. NE#1 said, around October 2021, she asked WE#2 "to not put me with [SO#1.] I just had this weird feeling. Plus, I just wanted to ride by myself, like, handling calls on my own." NE#1 also described having dinner with SO#1 while on duty, followed by SO#1 asking her out. NE#1 recalled responding "I have, I'm taken, I'm not you know, I'm with somebody and I'm not interested in having dinner."

NE#1 stated she was again assigned to partner with SO#1 in late October 2021. NE#1 recalled SO#1 asking, "Can I give you a ride home?" NE#1 said she responded, "No. I'm you know, I don't need a ride home... In fact, I'm taken... I'm not interested in any type of relationship." NE#1 said, the next day, she told WE#2 "I do not want to ride with [SO#1] again." NE#1 said WE#2 indicated they would continue to partner, and NE#1 "insisted not to at that point."

NE#1 also described an incident where SO#1 "...drove down, parked right next to me, and got out of his car while I was in my car. And he said, 'Hey I didn't mean to make you feel uncomfortable or anything, you know. I was kind of just seeing if you wanted to have dinner.'" NE#1 reportedly told SO#1 again she was uninterested in him outside of work. NE#1 described SO#1 continuing to augment in her precinct and "come to the calls that I was on at some point. Sometimes I would see him in, while I was on a call like, in an alleyway waiting for me to clear the call."

NE#1 further described being out on leave for a period, during which SO#1 reached out to human resources on her behalf and got leave forms for her. NE#1 said SO#1 sent her a "flurry of text messages" thereafter. NE#1 said the messages were "so much I just stopped reading them. I would just delete them because it was maybe five, six, seven, eight texts that would pop up at like within a matter of minutes."

NE#1 also described a time when she considered requesting a transfer, due to an unrelated personal concern. NE#1 said, during that period, SO#1 reached out to say he arranged a temporary unit reassignment for her. NE#1 said she texted SO#1 asking to put the unit reassignment "on pause."



NE#1 said, "I think the final thing that, kind of, just really creeped me out was New Year's Eve." NE#1 described two detectives approaching her in a locker room to report how much SO#1 talked about her. NE#1 also described WE#2 stating SO#1 was scheduled to partner with her that night. NE#1 said she initially replied, "No." NE#1 said, "In fact, [SO#1] had sent [the Complainant] a message saying that he was riding with me, and I had said I think [another] sector is short and why aren't you riding with [another unit]?" NE#1 stated she ultimately relented and, that shift, she and SO#1 "mostly did regular police work, but he insisted on taking me to headquarters and to [meet people in various units]." NE#1 said, "I just felt... that kind of just made me feel weird." NE#1 alleged SO#1 tried talking with her at the end of the shift, but she "just wanted to get home. I felt awkward. I was annoyed at that point."

NE#1 also described a January 1, 2022 encounter she had with SO#1. NE#1 said SO#1 was in her precinct's kitchen and "I was so annoyed, and I kind of just looked down and kept walking and didn't say anything." NE#1 said she later walked down a dark hallway and saw SO#1 "halfway down the hall, with his head kind of sticking out the gym, dark gym entry door... waving to me like come here, come here, I need to talk to you." NE#1 said she told SO#1 they did not have anything to talk about. NE#1 stated SO#1 asked her about the temporary reassignment, to which she replied, "No. I have nothing to discuss with you." NE#1 stated, "he kind of walked a few steps towards me, but never, it was still the dark hallway and said 'No. I need to talk to you. Do you think that will work?'" NE#1 said she replied, "No. Please leave." Later that shift, NE#1 stated she found a letter SO#1 wrote to NE#1's father outlining her SPD accomplishments.

NE#1 described a January 1, 2022 conversation with WE#2. NE#1 recalled WE#2 asking, "Can you just tell me what's going on?" NE#1 described WE#2 asking about the encounter between NE#1 and SO#1 that day. NE#1 replied, "Look I'm very, I feel very creeped out right now." NE#1 elaborated:

You know, here's the thing, if somebody was going to write a letter to my dad, you know, recognizing any accomplishments that I've had here, I think you, it would have been better for him to walk out of a dark hallway and contact me in a lit hallway or the lit kitchen that he was standing and talking to other people. The fact that you're standing in a dark hallway, in a dark entryway to the gym, just made me feel very uncomfortable, and it put me in a situation now that my supervisors had seen that and wondered what was going on. Because there was nothing ever happened with [SO#1] and I, or will ever, and that made me feel just very uncomfortable. And at that point, I had asked for no more contact with him during work hours. If I had to work with him, then I would prefer to have a supervisor with me, because I no longer feel comfortable in that situation.

During NE#1's January 11, 2022 EEO interview, she gave WE#1 text message correspondence between her and SO#1 but stated they were not all-inclusive since her phone only saved messages for thirty days.

iii. Text Message Screenshots from Subject Officer #1



Before his May 13, 2022 EEO interview, SO#1 gave WE#1 291 pages of screenshots from his phone. Those screenshots captured text messages between SO#1 and NE#1 (July 31, 2021 - January 1, 2022.)

On July 31, 2022, SO#1 sent NE#1 the first text (his contact information). The last texts were undated, but appeared immediately after Friday, December 31, 2021, and listed the day sent as Saturday—apparently sent January 1, 2022. NE#1 and SO#1 regularly texted. Most of the messages related to work, but the tone was familiar and friendly. The messages included discussions about partnering on shifts and a temporary reassignment for SO#1. Several messages also discussed personal matters, principally difficulties in NE#1's personal life.

On October 26, 2021, SO#1 sent NE#1 several texts, one of which asked NE#1 "to dinner." NE#1 replied later that day but did not address the dinner invite. After a series of texts from SO#1, NE#1 responded the next day, apologizing for the delay and explaining she had "family issues."

After October 26, 2021, SO#1 and NE#1 texted about, among other things, human resources paperwork and the possibility of NE#1 taking a temporary unit reassignment. In those texts, SO#1 told NE#1 he had the temporary reassignment approved by NE#1's precinct command and he prepared a formal request for her to review and sign. NE#1 expressed appreciation to SO#1. SO#1 and NE#1 discussed possible start dates for the temporary reassignment.

On December 25, 2021, SO#1 and NE#1 texted about a Christmas present NE#1 gave SO#1.

On December 28, 2021, NE#1 texted SO#1 "if you're working NYE I'll partner." SO#1 replied, "Let's do that for sure."

iv. Named Employee #1 EEO Interview – May 23, 2022

During NE#1's May 23, 2022 EEO interview, WE#1 focused her questions on the text messages SO#1 provided. Specifically, WE#1 asked NE#1 about text messages that indicated she was interested in accepting a temporary transfer and actively discussed the possibility with SO#1. WE#1 directly asked NE#1 whether she was interested in the temporary reassignment. NE#1 replied "I'm not quite sure what you're trying to get like right now. It feels like you're trying, I just feel like you're targeting me at this moment." NE#1 elaborated, "I was interested. I would be. Who wouldn't want to be interested in taking a thirty-day or two-week?"

December 7th-8th, 2021, NE#1 and SO#1 texted about the proposed two-week temporary reassignment. On December 19, 2021, NE#1 texted SO#1, "I hope you're doing well. I'm back. How do I find out about the two-week and if you have any OT I can work the 22nd to the 23rd?" In her second EEO interview, NE#1 acknowledged she was accepting of SO#1's assistance in securing a two-week reassignment.

On December 27, 2021, NE#1 again expressed interest in a two-week temporary reassignment, texting SO#1: "I would take that opportunity in second. I love Patrol, but I started to realize I love investigations too. I like digging for info." NE#1 and SO#1 continued to text about the two-week reassignment until December 31, 2021. That day, NE#1 texted



SO#1, "I may have to leave in a week or so. I don't want to rush the two-week [reassignment unit]. Hopefully, that can be paused." When SO#1 indicated it could, NE#1 responded, "Thank you. I need to put that on pause for now."

When asked why she wanted to pause the reassignment, NE#1 told WE#1 she was "reading into something you shouldn't be reading into" and that the EEO investigation failed to account for difficulties in NE#1's personal life. NE#1 also told WE#1, "You're looking for a reason to find him guilty of something that he didn't do. I put a pause on it because [of a personal situation], period." WE#1 asked NE#1 whether SO#1 did anything inappropriate. NE#1 responded, "he didn't because he didn't." NE#1 also described SO#1's assistance with obtaining leave documents as "helpful" and "there was no hidden intention behind it. It was a gesture of kindness which I said thank you for."

On October 19, 2021, NE#1 texted SO#1, "You can partner [in my sector] as long as you don't take one round from the next gun we recover," and "I'll save you a seat as [NE#1's call sign]." When asked about those texts, NE#1 replied, "I don't know what. I think there is a typo in there. I don't remember, but yes, I sent that." NE#1 elaborated "Because he has more, he's a veteran."

On October 21, 2021, SO#1 texted NE#1, "I want to be the [call sign when partnered with NE#1] whenever I can. If you're working Friday night, I will text you to pick me up." NE#1 and SO#1 texted back and forth coordinating their uniform for an October 22, 2021 shift. NE#1 told WE#1 she was fine partnering with SO#1 at that time.

On October 23, 2021, NE#1 texted SO#1, "I am very grateful you are my partner and the better half of [call sign]." When asked about that text message, NE#1 said, "Yeah, he's the veteran." When WE#1 asked whether NE#1 was fine partnering with SO#1 at that time, NE#1 responded, "I believe I was going back and forth with [WE#2], and at one point I had just said, 'Hey look, if you're going to ride with me you have to do that through [WE#2]. I'm obviously not a sergeant, and I can't tell you whether or not we were riding together.'"

On October 26, 2021, NE#1 texted SO#1 "Thank you [call sign] for the lift and dinner. My treat next time."

On October 27, 2021, NE#1 texted SO#1 about a personal concern. SO#1 responded with condolences and, "Thank you for our [call sign] time together. It meant a lot to me." NE#1 replied, "I'm not going anywhere yet, [call sign]." When asked whether she had reservations about SO#1 at that point, NE#1 told WE#1, "Sure, I was just fine with everything there."

On October 31, 2021, SO#1 texted NE#1, "Guess who my partner is? It's [another officer]." NE#1 responded, "Sorry I missed it I can't compete with [the other officer]." NE#1 also said, "I'm very disappointed that you chose [the other officer] over me." NE#1 told WE#1, in her second interview, she was fine working with SO#1 at that point.

From December 4, 2021, through December 6, 2021, NE#1 texted SO#1 the following:

- "Thanks so much for everything you do for me I really appreciate you."
- "I had a great time talking with the ATF yesterday. Thank you very much for including me."



- “It would be great to join you on an op. I didn’t get a chance to reply to all your messages. Things have been a disaster right now.”

When questioned about those texts, NE#1 told WE#1, “I didn’t have a problem working with [SO#1], no.”

On December 28, 2021, NE#1 texted SO#1 asking, “Are you working tonight?” SO#1 responded, “I’m saving my energy for later this week.” NE#1 replied, “I was going to see if they needed anyone, but wanted to ride a partner car,” and “If you’re working NYE I’ll partner.” NE#1 told WE#1 she sent those texts, “because we were told that we were riding partner cars on New Year’s Eve.”

WE#1 asked NE#1 why, in her EEO intake interview, she said in October 2021 she told WE#2 she did not want to ride with SO#1 again. NE#1 responded:

The reason that I has said that was as I mentioned earlier, I don’t ride a partner car with anybody unless I’m assigned to a partner car... I had mentioned to [WE#2] that I did not want to ride with him again, him being just in general, was because that’s the only person I ever rode a partner car with that [WE#2] was aware of. So, it was again, not directed towards him, being to [SO#1], because of something happened between the two of us... So, it wasn’t a matter of him being inappropriate. It wasn’t a matter of anything that he did. It was a matter of me not wanting to ride a partner car simply because I was not personable at the moment and wanted to be alone in a car.

WE#1 asked NE#1 why, in her EEO intake interview, did she state she refused when WE#2 told her she was scheduled to partner with SO#1 on December 31, 2021. NE#1 stated:

I knew we had planned, we had talked about, I should say. I’m going to choose my words carefully. We had spoke about us riding together as partner car, because I sent the messages, ‘Hey, I’ll ride with you as a partner,’ because we were told we were doubling up in cars for New Year’s Eve. So, I sent the message of, ‘Hey, if you’re working, I’ll partner with you.’ However, that doesn’t mean that’s what’s going to happen. I’m not a sergeant. I’m not going to be the one who is making the decision about where somebody is going to work... I didn’t know I was going to ride with him because we hadn’t left roll call yet.

WE#1 asked NE#1 to explain her statement, in her EEO intake interview, “I had asked for no more contact with him during work hours. If I had to work with him, then I would prefer to have a supervisor with me, because I no longer feel comfortable in that situation.” NE#1 responded:

This whole incident started over a supervisor being uncomfortable with the look on my face. This is why this started. Because I didn’t walk into an office and say, ‘Hey, I’m filing a complaint against somebody.’ This all started over one supervisor walking past me in a hallway saying that I look like I was, I looked awkward, I looked uncomfortable, or whatever his exact words were that he used. Okay, so now I have a supervisor who is claiming he’s uncomfortable with the look on my face. I have an entire kitchen full of people who hear [WE#2] talk about this complaint... Then I have [SO#1], who is my friend, involved. So, I have all this going on, and this is all revolving around one person’s, no me, uncomfortable look on my face. So, yes at this



point I'm uncomfortable even to have [SO#1] around, [SO#1] around because people are uncomfortable simply for seeing him in a hallway and the look on my face.

NE#1 stated she told WE#2, on January 1, 2022, she did not want to file a complaint and would handle it on her own. Regarding her January 11, 2022 EEO intake interview, NE#1 stated, "I understand it was voluntary, but the complaint was being filed regardless of what I wanted... If they are going to file this complaint anyway, then I'm going to show up and express why I didn't want a complaint filed."

On April 9, 2022, NE#1 met with a lieutenant to ask that restrictions imposed on SO#1 because of the EEO case be lifted because, according to NE#1, "I wasn't the one who implemented these rules of him not being at the precinct or working at [the precinct]. That was not me. I did not take part in that."

NE#1 characterized her text messaging with SO#1 as professional and said SO#1 did not send her anything inappropriate. NE#1 denied SO#1's efforts to help her with leave paperwork and a temporary assignment were unwanted. NE#1 also denied that SO#1 sexually or generally harassed her.

b. OPA Interview – Witness Employee #1

OPA interviewed WE#1. WE#1 stated NE#1's chain of command initially contacted her about a possible EEO violation. WE#1 scheduled an interview with NE#1.

WE#1 stated she often gets EEO complaints from the chain of command, but that ultimately it is the affected employee who determines whether they come forward with their story. WE#1 described arranging a voluntary intake interview with NE#1. WE#1 stated the notice for the interview stated it was voluntary. WE#1 also stated, before both interviews, WE#1 ensured NE#1 understood it was voluntary.

WE#1 described NE#1's intake interview. WE#1 recalled NE#1 stated she received voluminous text messages from SO#1. WE#1 also recalled NE#1 stated SO#1 wanted to partner with her, but NE#1 did not want to partner with him. WE#1 recalled NE#1 said she communicated that to WE#2 around October or November 2021. WE#1 also recalled NE#1 described how SO#1 arranged to partner with her on New Year's Eve when she did not want to ride with him. Specifically, WE#1 recalled NE#1 said the New Year's Eve situation "creeped her out" and annoyed her. WE#1 remembered NE#1 stated she wanted no contact with SO#1 during work hours without a supervisor present because she was uncomfortable.

WE#1 told OPA NE#1 clearly described receiving unwanted attention from SO#1, which constituted harassment. WE#1 stated, after that interview, a full EEO investigation was opened. WE#1 said even if NE#1 did not use the word "harassment" during her EEO intake interview, she clearly described harassing behavior.

WE#1 scheduled a follow-up interview with NE#1. WE#1 stated, SO#1 provided text messages that contradicted NE#1's intake interview account. WE#1 said that, during her intake interview, NE#1 provided about twelve screenshots of text messages, whereas SO#1 provided about 291 pages of text messages. WE#1 stated the text messages SO#1 provided demonstrated reciprocated and non-offensive communication. WE#1 stated she noticed NE#1 never tried to cease communication with SO#1 and initiated occasions for them to partner. WE#1 also mentioned the text messages showed NE#1 welcomed SO#1's efforts to help her secure a temporary reassignment. WE#1 said the



purpose of NE#1's second interview was to ascertain when SO#1's contacts became unwanted. WE#1 said the second interview was for clarification, rather than confrontation.

WE#1 described "a big change" in how NE#1 felt about SO#1 between her intake and second interviews. WE#1 stated, in the second interview, NE#1 characterized SO#1 as having done nothing wrong. WE#1 also described NE#1's attitude towards her as shifting, especially after she presented the text messages SO#1 provided.

WE#1 recounted asking NE#1 during her second interview "was there anything that [SO#1] did from August 2021 through January 2022 that was unwanted." WE#1 continued, "And she stated, no. And that was quite different than what she had expressed in her first interview." WE#1 recalled asking NE#1 if she understood her first interview was voluntary. WE#1 recalled NE#1 saying she understood, but "she was going to show up and express why she didn't want the complaint filed." WE#1 stated, "But, in our first interview, she didn't really express that she didn't feel that there was no complaint."

WE#1 described concerns about the differences between NE#1's intake and second interviews. WE#1 said she met with SPD's human resources director about it, but ultimately, they decided HR/EEO would not file a complaint against an employee who participated in an EEO intake interview as that would discourage reporting. WE#1 stated the complaint was ultimately filed by the Complainant.

WE#1 believed NE#1's story changed between her first and second interviews. WE#1 stated NE#1 had every opportunity during her intake interview to say exactly what she said in her second interview, but that did not happen. WE#1 stated, had NE#1 said in her intake interview what she said in her second interview, the EEO full investigation would not have happened.

WE#1 also described a meeting between herself, OPA's former interim director, the SPOG president, a labor relations representative, and SPD's HR director. WE#1 stated, during that meeting, the SPOG president stated NE#1 no longer wanted the EEO investigation to go forward.

c. OPA Interview – Named Employee #1

OPA interviewed NE#1. During the interview, NE#1 described her intake interview with WE#1. NE#1 stated WE#1 was investigating "the alleged sexual harassment/harassment that [WE#2] and [another sergeant] believed was occurring." NE#1 said she understood it was a voluntary interview but did not understand that if she had not shown up the complaint would not have moved forward. NE#1 acknowledged WE#1 admonished her before both interviews that she was required to respond, "truthfully and completely."

NE#1 stated, during the EEO intake interview, she intended to explain "my side of the story that it – it wasn't what it seemed to be what they were trying to explain because specifically I was asked specific questions that I didn't even realize that were even occurring – or that I had talked about." NE#1 stated her goal during the initial EEO interview was to "clear the air."

NE#1 was asked to clarify what she meant in her EEO intake interview when she described telling WE#2 not to partner her with SO#1 because she "had this weird feeling." NE#1 stated "I didn't have a weird feeling as far as, like, I didn't feel awkward in any way. The weird feeling is because I'm asked – being asked by a sergeant what going on, which



started to make things... weird to me.” NE#1 said she did not remember clarifying what she meant by that during her EEO intake interview.

NE#1 also stated she did not clarify with WE#1 that the reason she did not want to partner with SO#1 was that NE#1 preferred to ride alone.

NE#1 was also asked about stating, in her EEO intake interview, New Year’s Eve was the “final thing that kind of just really creeped me out.” NE#1 responded “well, I shouldn’t have used the word creep. The reason I did use creep was because [SO#1] and I had discussed riding together because we were informed that we were going to be riding partner cars before that.” NE#1 stated that if she had to ride a partner car with somebody, she “had no problem riding with [SO#1].” NE#1 stated the issue of partnering with SO#1 on New Year’s Eve “became weird” because she was “caught in the middle of somebody riding with me but not asking permission [from WE#2].” NE#1 said she “told both [SO#1] as well as [WE#2] you guys need to work it out.”

NE#1 explained she felt “weird” because WE#2 “started looking at me like why are you riding with this person that has 20 – 29 years experience, and suddenly he’s riding in your car whenever you never really rode a partner car? Because I didn’t. So, it did. It put me in an awkward position between me and my sergeants. And I didn’t do a good job of explaining anything to [WE#1].”

NE#1 was also asked why she told WE#1 that SO#1 got her a temporary reassignment before she agreed to it and that she did not understand it was extraordinary to get the temporary reassignment. Specifically, NE#1 was asked to clarify the text messages that suggested she was in favor of the transfer and was aware it required special permissions. NE#1 said she was “always in favor of, you know, doing a 15-day or even a 30-day.” But “at one point,” NE#1 knew she did not want to “move forward” with it because of a personal situation. NE#1 stated she did not “do a very good job apparently of explaining to [WE#1] the specifics behind this transfer.” NE#1 stated she did not know the process required special permissions at the assistant chief level because it was her first transfer request.

NE#1 was asked why, in her intake EEO interview, she told WE#1 she was “creeped out” by SO#1’s behavior, but in her second EEO interview stated she was creeped out by coworkers’ looks when SO#1 was nearby. NE#1 replied, “I probably should have clarified it” but the “process to me, it was scary.” NE#1 stated WE#1 could have asked more clarifying questions but admitted she “did not do a good job explaining” and she “should have probably not used certain words.” NE#1 stated she understood how, based on her EEO intake interview, WE#1 inferred she was being harassed. NE#1 said, “I should have been more clear in the... first interview that – like I was in the second.”

NE#1 closed by saying, “I need to be more specific. I did not do a good job of explaining things. I used a poor choice of words throughout.” NE#1 continued “I didn’t even think about what I was saying. I probably should have been more clear on the words I used.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards & Duties 11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged NE#1 made dishonest accusations against SO#1.



Department employees must be truthful and complete in all communications. SPD Policy 5.001-POL-11. Under the SPOG CBA, a sustained complaint involving dishonesty during an officer's official duties carries a "presumption of termination." SPOG CBA, at § 3.1. For termination cases where the allegation is stigmatizing to a law enforcement officer, the standard of review is elevated (i.e. – more than a preponderance of the evidence). *Id.*

Where dishonesty allegations during an officer's official duties are among the most stigmatizing allegations, OPA is careful to consider whether the evidence establishes—by the requisite elevated standard—that the named employee either provided false information, which the officer knew to be false or intentionally provided incomplete responses to specific questions about material facts. *See* SPOG CBA 3.1.

Here, the Complainant found "significant factual discrepancies between the information provided [by NE#1] at the three stages of the investigation." OPA shares the Complainant's concerns, where logical inferences from NE#1's statements triggered a serious EEO investigation with significant consequences for SO#1 and NE#1's accounts materially shifted as the investigation progressed. NE#1's documented statements to WE#2 and an acting lieutenant, as well as her recorded statements at the EEO intake interview, suggested her concern was SO#1's behavior. However, at her follow-up EEO interview, NE#1 stated her concern was some combination of her personal issues and coworkers' and supervisors' reactions to her interactions with SO#1, rather than SO#1's behavior.

To the extent NE#1's goal during her EEO intake interview was to "clear the air" and provide a version of events that resembled her second EEO interview, she was unsuccessful. Specifically, OPA flagged and analyzed the following statements from NE#1:

- **NE#1 Statement:** When asked whether she "normally" replied to SO#1's texts, NE#1 said: "Um, initially when there was you know when we had stuff going on that um, I would text him back um but there was a time where I just stopped messaging, I mean it got to the point where it was so many text messages I just didn't care anymore."
 - *OPA Analysis:* The question was qualified with the word "normally" and NE#1 was not asked to clarify how long she "stopped messaging." Moreover, there was at least one instance where SO#1 sent a series of text messages to NE#1 that she did not immediately respond, eventually texting: "I didn't get a chance to reply to all your messages. Things have been a disaster right now."
- **NE#1 Statement:** In October 2021, NE#1 asked WE#2 not to partner her with SO#1 because she had a "weird feeling um plus I just wanted to ride by myself uh handling my calls on my own."
 - *OPA Analysis:* Subsequently, NE#1 explained that "weird feeling" referred to the reactions of coworkers and supervisors, not SO#1's behavior. Moreover, the second part of her statement, that NE#1 "just wanted to ride by [herself]," was consistent with her later statement that she wanted to ride alone because she was not feeling "personable" at that time.
- **NE#1 Statement:** "I think the final thing that kind of just really creeped me out was New Year's Eve of...last year...[WE#2] had said 'I heard he's riding with you.' And I said no. In fact, he had sent a message saying that he was riding with me and I had said I think [another] sector is short and why aren't you riding with [another unit]."
 - *OPA Analysis:* Although in context, OPA understands why WE#1 reasonably understood the phrasing "creeped out" to refer to SO#1's behavior, it was not clarified at the EEO intake interview. Considering NE#1's explanation at her OPA interview, NE#1 plausibly meant she was "creeped out" by WE#2's response to the situation.



- **NE#1 Statement:** After returning to work in January 2022, SO#1 texted that he got her a temporary reassignment before she “had even said yes that I would want to do that because truthfully I didn’t know if I could do that because of [an unrelated personal situation] or if I would be beneficial in that role.”
 - *OPA Analysis:* The text messages between NE#1 and SO#1 clearly showed NE#1 participated in the discussion around the temporary reassignment and expressed enthusiasm for it. However, that was not necessarily inconsistent with NE#1’s statement at her EEO intake interview that she had not said “yes, I want to do that,” due to a time-consuming unrelated personal situation. In short, a person can *desire* an opportunity without agreeing to participate at a specific moment.
- **NE#1 Statement:** She told WE#2 she felt “creeped out right now you know, here’s the thing, if somebody was going to write a letter to my dad um you know recognizing any accomplishments that I’ve had here I think it would have been better for him to not walk out of a dark hallway and contact me in a lit hallway or the lit uh kitchen that he was standing and talking to other people. The fact that your standing in a dark hallway in a dark entryway to the gym just made me feel very uncomfortable and it put me in a situation now that my supervisors had seen that and wondered what was going on um because there was nothing ever happened with [SO#1] and I or will ever and that made me feel just very uncomfortable and at that point um I had asked for no more contact uh with him during work hours if I had to work with him then I would prefer to have a supervisor with me uh because I no longer feel comfortable um in that situation and that’s where it kind of ended.”
 - *OPA Analysis:* Again, while OPA understands how WE#1 reasonably interpreted those statements as a complaint about SO#1’s behavior, taken in connection with NE#1’s statements at her second interview, NE#1 plausibly referenced being “creeped out” by her supervisors’ attention to her contacts with SO#1. Resaid, it’s plausible that NE#1 was “very uncomfortable” with her supervisors’ or coworkers’ misimpression about her relationship with SO#1.

Considering NE#1’s explanations at her second EEO interview and the varying interpretations of the above statements, OPA cannot conclude NE#1 gave knowingly false or intentionally incomplete responses to specific questions. Moreover, on April 9, 2022, before her second EEO interview where she was presented with text messages provided by SO#1, NE#1 tried to walk back the EEO complaint through SPOG and a lieutenant at her precinct. That supports her claim that she felt misunderstood at the EEO intake interview.

EEO allegations are serious matters that can carry personal and professional consequences. Accordingly, OPA agrees with NE#1’s assessment that she should have been “more specific” and “more clear on the words [NE#1] used.” OPA also found the Complainant’s concerns reasonable and legitimate. However, OPA cannot conclude by an elevated burden of proof NE#1 was dishonest as defined by the SPOG CBA.

Further, OPA shares WE#1’s and the Department’s HR director’s purported concerns about sustaining this allegation against an EEO complainant. Particularly where it could discourage legitimate EEO complaints and would be counterproductive to OPA’s goal of empowering actual misconduct victims. Accountability relies on complainants’ trust. If the threat of an OPA complaint loomed over their heads, they would be far less inclined to report misconduct or cooperate with investigations. Although NE#1 was undeniably inconsistent, due to the policy implications, OPA declines to set precedent here.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**