




CLOSED CASE SUMMARY

ISSUED DATE: MARCH 17, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0300

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 Will Strive to Be Professional	Not Sustained - Unfounded
# 2	5.100 - Operations Bureau Individual Responsibilities I. Patrol Officers A. Responsibilities 2. Monitor and Take Appropriate Action Regarding Criminal Activity in the Assigned Area	Not Sustained - Training Referral

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to Be Professional	Not Sustained - Unfounded
# 2	5.100 - Operations Bureau Individual Responsibilities I. Patrol Officers A. Responsibilities 2. Monitor and Take Appropriate Action Regarding Criminal Activity in the Assigned Area	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 Named Employee #1 (NE#1) and Named Employee #2 (NE#2) failed to investigate his assault.

SUMMARY OF INVESTIGATION:

The Complainant emailed OPA. He alleged "a group of [five] young [Black] males" "violently attacked" him. The Complainant further alleged the Named Employees declined to assist him because "in the heat of the moment [the Complainant] called the assailants 'N-words.'" The Complainant expressed regret over his word choice but insisted it should not have disqualified him from public service: "The rules aren't limited to victims who are polite."

OPA opened an investigation. During its investigation, OPA reviewed the complaint, Computer-Aided Dispatch data, global positioning systems data, incident report, body-worn video, and in-car video. OPA also interviewed the Complainant and the Named Employees.

BWV captured the Named Employees' interaction with the Complainant. In summary, it showed:



A 9-1-1 dispatcher radioed, “[the Complainant was] walking his dog when he was attacked.” In their patrol car, the Named Employees approached the Complainant. Named Employee #1 (NE#1) was the front passenger, and Named Employee #2, a Black man, drove the patrol car. NE#1 spoke to the Complainant through a lowered window on his side of the patrol car. As the Complainant started to tell NE#1 about his attack, he stopped and said, “We’re allowed to have Black people here?” NE#2 replied, “What?” The Complainant stated, “Got a conflict of interest. They attacked me because they yelled at my dog, calling my dog a nigger. And I said, don’t call him that. And that’s why they hit me. So why is he here?¹” NE#1 asked whether the Complainant wanted the Seattle Fire Department to provide medical assistance. The Complainant replied, “I got a drone running. I don’t know what I’m injured about, but I just know that Black people in this fucking neighborhood are violent.” NE#1 again asked whether the Complainant required medical assistance, and the Complainant declined. NE#1 asked whether the Complainant wanted the officers to canvass the neighborhood for his offenders, and the Complainant said yes. The Complainant screamed, “Fucking niggers!” The Named Employees drove off. While driving, the Named Employees discussed the Complainant’s apparent intoxication. They also discussed whether the Complainant expected them to return after their search. NE#2 stated, “Not sure he wants me to come back.” NE#1 replied, “Yeah, I know,” and radioed that the Complainant was “highly intoxicated” and “[he just told us to do an area search, so you probably can just clear [the Named Employees’ call sign].”

OPA interviewed the Complainant. In summary, he told OPA a group of African American males attacked him on the night in question. The Complainant said the assailants ran as he called 9-1-1. The Complainant admitted to repeatedly using “the N-word” while talking to the call taker because he was upset about being attacked. When NE#2 arrived at the scene, he thought, “Oh, this guy isn’t going to do anything.” The Complainant also stated the officers offered medical assistance, which he declined, and to search the area, which he accepted. The Complainant said he never heard from the officers after they drove off. He said he called 9-1-1 again, again using “the N-word,” and the call taker replied, “I’m not going to listen to this,” before hanging up.

OPA also interviewed NE#2 twice, first on February 1, 2023, and again on March 15, 2023. NE#2’s account was consistent with BWV. Additionally, NE#2 stated after speaking with the Complainant, the Named Employees searched the street where the assailants were reportedly last seen. Specifically, he said they looked for a group of five Black males. He said although the description was generic, a match would have stood out due to the location and late hour². NE#2 stated had they found a group matching the description, they would have transported the Complainant for an in-person identification since they lacked legal grounds to detain the suspects. NE#2 also stated his law enforcement duties are the same regardless of the community member’s behavior, even if the community member is derogatory. NE#2 further stated it was impractical and unnecessary to have an acceptable officer to the Complainant respond. NE#2 said the officers did not write a report because they believed the Complainant only wanted them to search the area.

OPA interviewed NE#1 twice, first on February 1, 2023, and again on March 15, 2023. His account was also consistent with BWV. Additionally, he stated while responding to the call, the Named Employees were on alert for a group of Black males, as described by the Complainant. NE#1 said when they arrived, the Complainant was intoxicated, preoccupied with NE#2’s race, and repeatedly used “the N-word.” NE#1 said his standard practice is determining whether medical assistance is necessary and asking basic investigative questions. However, NE#1 admitted he was disturbed by the Complainant’s treatment of NE#2. He also admitted the Complainant’s behavior distracted him from asking further investigative questions, like a detailed description of the assailants. Further, NE#1 stated given the

¹ That question apparently referenced NE#2’s presence.

² The 9-1-1 call was made at 9:54 PM and the Named Employees arrived around 10:01 PM.



location and late hour, any group walking would have stood out. NE#1 said he did not follow up with the Complainant after canvassing the area because he did not think the Complainant wanted or expected it.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to Be Professional

The Complainant alleged NE#1 and NE#2's failure to follow up with him was unprofessional.

SPD employees must "strive to be professional." SPD Policy 5.001-POL-10. Further, "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers...." *Id.*

Here, the Named Employees encountered an angered, intoxicated, and apparently bigoted Complainant. BWV showed NE#1 did not mirror the Complainant's negative disposition. Instead, he inquired whether the Complainant required medical assistance and whether he wanted the officers to canvass for his attackers. Despite the Complainant's vitriol, neither Named Employee engaged "in behavior that undermines public trust in the Department, the officer, or other officers...." Contrarily, the Named Employees exhibited great restraint and professionalism during their encounter with the Complainant. Moreover, any diminished confidence in the department the Complainant suffered following the Named Employees' response was caused by his behavior rather than theirs.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

5.100 - Operations Bureau Individual Responsibilities I. Patrol Officers A. Responsibilities 2. Monitor and Take Appropriate Action Regarding Criminal Activity in Assigned Area

The Complainant alleged NE#1 and NE#2 failed to take appropriate action for a crime committed against him.

Patrol Officers must monitor and take appropriate action regarding criminal activity in their assigned area. SPD Policy 5.100-POL-I(A)(2). A primary investigation requires a thorough and complete search for evidence. SPD Policy 15.180-POL-1.

Here, NE#1 told OPA the Named Employees shared responsibility for writing reports on the night in question. However, NE#2 told OPA that since he drove, NE#1 was the "paper officer" responsible for report writing. NE#1 described his responsibilities as looking at the CAD call, updating the dispatcher, and "maybe [making] first contact [with the 9-1-1 caller] when we arrived there." Although NE#1 did not describe himself to OPA as the primary officer, BWV and NE#2 suggested he was the primary officer. See SPD Policy 15.180-POL ("A primary investigation begins when police action is initiated and is critical to the success of any subsequent investigative efforts.") Here, NE#1 made initial contact with the Complainant, was the only officer who questioned the Complainant, determined whether medical assistance was needed and whether the Complainant wanted the officers to canvas for the assailants. Although the Complainant's behavior understandably and undoubtedly derailed NE#1's primary investigation, it did not absolve him of that duty. For that reason, NE#1 should have probed for a better description of the assailants,



beyond them being five Black males, and searched for surveillance footage. Moreover, NE#1 should have documented the Complainant's assault in a police report. Although NE#1 suggested the Complainant only requested a search for the assailants, his role as the primary officer required greater diligence, including following up with the intoxicated and belligerent Complainant.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with him, review SPD Policy 5.100-POL-I(A)(2) with NE#1, and provide any retraining and/or counseling it deems appropriate. All retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to Be Professional

For the reasons at Named Employee #1 - Allegation #1, where NE#2 had less culpability as the backing officer, OPA recommends this allegation be Not Sustained – Unfounded.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #2 - Allegation #2

5.001 - Standards and Duties, 5.001-POL-10 Employees Will Strive to Be Professional

For the reasons at Named Employee #1 - Allegation #2, where NE#2 had less culpability as the backing officer, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**