



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 8, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0357

### Allegations of Misconduct & Director’s Findings

#### Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.100 - Operations Bureau Individual Responsibilities III. Patrol Sergeant B. Field Supervision 6. Reports: a. Ensure Accuracy and Completeness.	Not Sustained - Unfounded
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations.	Sustained

#### Imposed Discipline

Oral Reprimand

#### Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy.	Not Sustained - Inconclusive
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional.	Sustained

#### Proposed Discipline

Written Reprimand to 20 hours Suspension Without Pay

#### Imposed Discipline

9 hours Suspension Without Pay (1-Day)

***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.***

#### **ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee’s chain of command and the department’s human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*

#### **EXECUTIVE SUMMARY:**

It was alleged that on July 20, 2022, while off-duty at a bar, Named Employee #2 (NE#2) was intoxicated, verbally abusive, and attempted to assault Community Member #1 (CM#1)—another patron. It was alleged that Named Employee #3 (NE#3) inadequately investigated that incident. It was also alleged that Named Employee #1 (NE#1)—a



sergeant—failed to ensure the completeness of NE#3’s investigation and report NE#2’s alleged misconduct. Further, it was alleged that on October 12, 2022, while off-duty at home, NE#2 was intoxicated and assaulted Community Member #2 (CM#2)—NE#2’s domestic partner.

**ADMINISTRATIVE NOTE:**

The Office of Inspector General (OIG) certified OPA’s investigation as thorough, timely, and objective. OPA also referred this case to the Seattle Police Department (SPD) for criminal investigation. After its investigation, SPD referred it to the City Attorney’s Office (CAO) for prosecutorial consideration. However, citing “proof issues,” CAO declined to prosecute it.

**SUMMARY OF INVESTIGATION:**

July 20, 2022

On July 20, 2022, at 4:05 PM, a 9-1-1 caller reported that an intoxicated couple refused to leave Bar #1—a local bar. Computer-aided dispatch (CAD) records noted:

*Initial Remarks: [TRESPASSING], REMOVE 1 MALE AND 1 FEMALE REFUSING TO LEAVE, INTOXICATED AND TRYING TO INSTIGATE OTHERS IN THE [sic] BAR, NO [WEAPONS] SEEN. HAS A BIG LEASHED PITBULL WITH THEM*

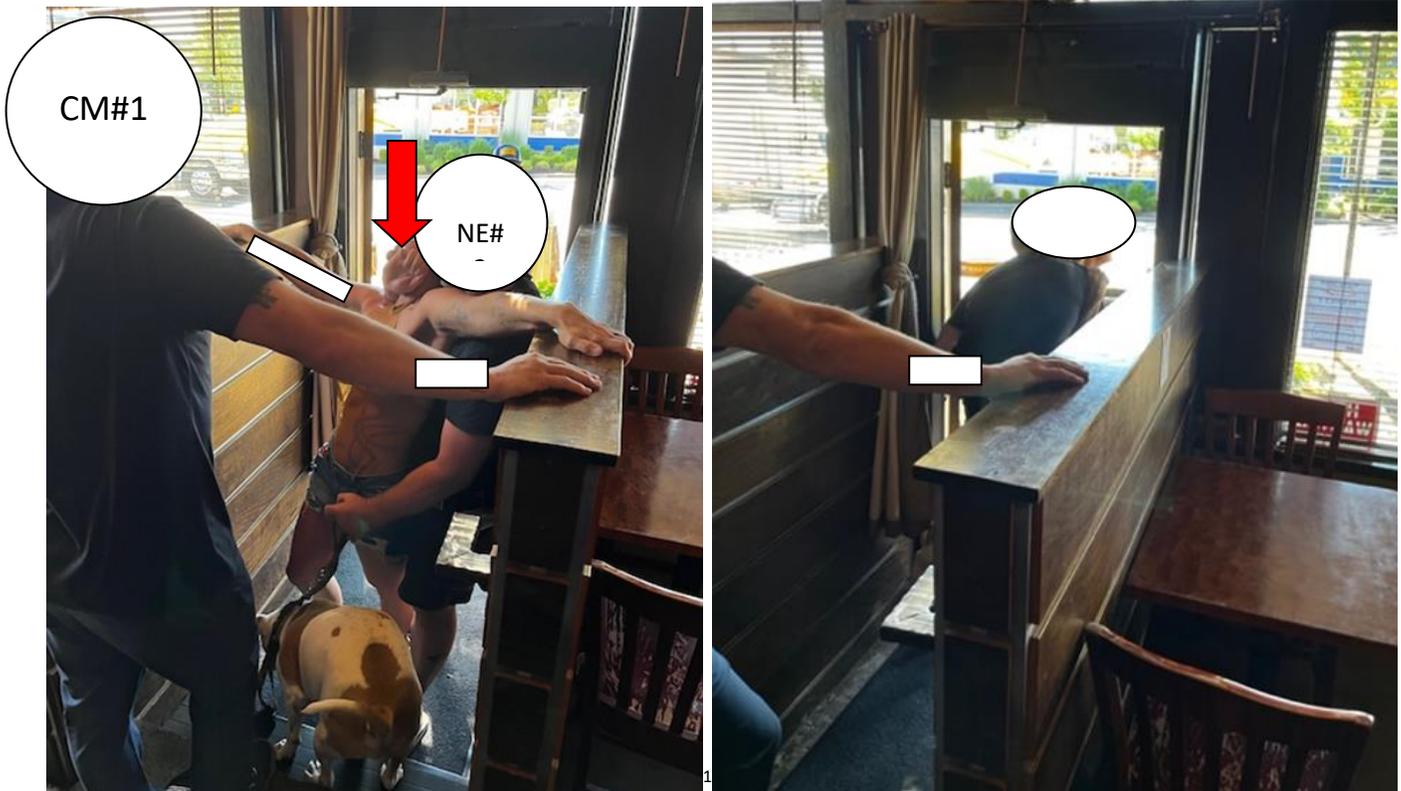
The caller described one offender as a blonde white woman around 40 years old wearing a yellow shirt and jean shorts. The other was described as a white man in his 40s with a heavy build wearing a black shirt and gray shorts. An update to the call indicated the woman blocked Bar #1’s entry door and argued with staff, and the man relocated to a nearby coffee shop. Another update indicated the woman pushed a Bar #1 patron and argued outside with someone else. NE#1, NE#3, and Witness Employee #1 (WE#1) arrived at the scene. About eight minutes later, a CAD update noted that officers gave the man and woman a “courtesy transport” to their home.

NE#3 wrote the related incident report, coded as a “Disturbance-Other.” It listed NE#2 as the involved man and CM#2 as the involved woman. NE#3’s report noted that before receiving the Bar #1 call, he and WE#1 responded to the couple’s reported disturbance at Bar #2—located two doors from Bar #1. Community Member #3 (CM#3), Bar #2’s owner, said NE#2 and CM#2 were intoxicated, used foul language, and antagonized Bar #2 patrons. CM#3 asked that both be trespassed from Bar #2. NE#3’s report suggested that CM#3 and Bar #2 patrons indicated that neither CM#2 nor NE#2 committed a crime. The report stated that officers contacted CM#2 about a half block from Bar #2 and told her she could not return there. NE#3 wrote that CM#3 was satisfied with the outcome, so the officers left. Minutes later, the call came in about CM#2 and NE#2’s behavior at Bar #1. Similarly, that call described CM#2 as causing a disturbance and refusing to leave. Officers spoke with Community Member #4 (CM#4)—Bar #1’s manager—who said that after CM#2 was kicked out of Bar #2, she relocated to Bar #1. CM#4 said he saw the disturbance CM#2 created at Bar #2, so he refused her entry at Bar #1. CM#4 reported that CM#2 tried to enter forcefully, so CM#1 stood in front of her. NE#3’s report also described Community Member #5 (CM#5)—an unidentified man—approaching NE#2 from behind while yelling. NE#3 wrote that NE#2 swiped at CM#5 and pulled CM#2 out of Bar #1. CM#4 showed the officers a video of the encounter.

In summary, it showed CM#1 standing about four feet in front of CM#2, blocking her from entering Bar #1. CM#2 repeatedly called CM#1 a “pussy” and threatened to “fuck [him] up.” NE#2 held CM#2 from behind. NE#2 and CM#2



talked for several minutes before CM#2 broke away and slapped CM#1's torso. NE#2 put his arm across CM#2's neck and turned her toward and out the door, causing CM#2 to stumble.



CM#3 gave OPA a log created by a Bar #2 employee describing CM#2 and NE#2's July 20<sup>th</sup> actions. In summary, it stated the couple entered Bar #2 with a dog and sat at the bar. They drank, paid the bill, and left. CM#2 returned and said she lost her sunglasses. While Bar #2's staff looked for CM#2's sunglasses, CM#2 and NE#2 sat at another patron's table and became aggressive and provocative. Specifically, they repeatedly called the other patron a "cunt," "rapist," and "coward." A Bar #2 employee ordered them to leave. NE#2 continued calling other patrons cowards while trying to get CM#2 to leave.

Body-worn video (BWV) captured NE#1, WE#1, and NE#3's responses on July 20<sup>th</sup>. In summary, BWV showed:

NE#3 and WE#1 responded to the initial call to remove CM#2 and NE#2 from Bar #2. Upon arrival, the officers walked past CM#2 and NE#2, who sat on nearby steps with their dog, and into Bar #2. They spoke with CM#3, who described the couples' behavior and said, "I'd like them to never return [to Bar #2]." The officers and CM#3 exited and located CM#2, but NE#2 was no longer there. NE#3 told CM#2 she was barred from Bar #2. CM#2 replied, "So this is the thing. They were rude to us. I'm Sergeant [NE#2's last name] that works for y'all, girlfriend...You get it. He's getting coffee." NE#3 said, "Honestly, it doesn't really matter, he..." before CM#2 interrupted. NE#3 reiterated that the couple was banned from Bar #2. CM#2 replied, "Yeah, got it. Got it. Got it. I don't give a fuck about their stupid business. Got it. We already left. We already left. We previously left before you got here. Sergeant [NE#2's last name] is way over here."

<sup>1</sup> The red arrow points to NE#2's forearm across CM#2's neck area. OPA added white boxes to cover tattoos.



I'm over here. We're, we left." CM#2 told CM#3, who stood nearby, "You're a dick. You don't like women. You don't like women who have eye problems. You're a cunt." CM#2 also refused to give the officers her name. NE#3 and WE#1 again advised her against returning to Bar #2. NE#3 spoke with CM#3, who relocated to a nearby bench. NE#3 said CM#2 was "clearly very intoxicated," that he instructed her not to return to Bar #2, and that they would "make an issue of it" if she came back. The officers then left.

NE#1, NE#3, and WE#1 responded to the Bar #1 disturbance call. They spoke with CM#3 and CM#4. CM#4 said, "Now she's trying to come into my bar." CM#4 explained he denied CM#2 entry into Bar #1 based on her behavior at Bar #2. CM#4 said, "A customer blocked her. She laid her hands on him, and the husband or boyfriend laid hands on him as well. And they got video of it. One of the staff members says he's packing heat." NE#3 asked to see the video. WE#1 asked patrons, "Who, uh, who got hands on 'em?" CM#1 raised his hand, and other patrons motioned toward him. A patron showed NE#3 a cell phone video recording of the altercation. He also narrated it: "[NE#2] actually threw a punch at [CM#1]. But it was a very weak punch" and "[CM#1] actually, at one point, was arguing with the girl. And so, [NE#2] actually kind of threw a short jab, but it wasn't controlled." CM#4 also showed NE#1 and NE#3 a video of the altercation. The officers narrated while watching:

- NE#1: "So he's trying to get her back out of the store."
- NE#3: "He's trying to get her out...So, she pushes or tries to hit him."
- CM#4: "Mm, hmm."
- NE#1: "So you guys want them trespassed from the store? You want them trespassed?"
- CM#4: "Yeah."
- NE#1: "No assault?"
- NE#3: "Doesn't look like it. So that's good...It looks like at one point she maybe gave the guy a push, but he's...he's walking away."

Minutes later, NE#3 asked CM#1, "You're not the victim of a crime, or nothing happened to ya? It is what it is?" CM#1 replied, "Not...not today." WE#1, who interviewed CM#1, briefed NE#3. CM#1 described the incident as inconsequential: "This is a teensy-weensy scuffle, but they're fucking assholes. They need to be put in check somehow. Like a scare tactic or something, right?" WE#1 and NE#3 determined that CM#2 put her hands on CM#1, but he was uninjured and uninterested in criminal charges.<sup>2</sup> Regarding NE#2's involvement, NE#3 said, "It looks like the male half just was restraining her the whole time, saying, like talking to her, like, we need to leave. You know, her presumed partner or whatever that is, so." He also said, "[The video] didn't show the male half throw any punches. Nothing, nothing like that, so. I think this is just, I think it's just a trespass."

NE#1's BWV captured his response. NE#1 interviewed NE#2.<sup>3</sup> NE#2 suggested that CM#1 raped CM#2 four years ago. He also said CM#1 told CM#2, "You're a blind bitch. You're a fucking cunt." NE#2 said he had to "protect [his] family. At some point. Especially when somebody has done something so bad. And... she's my family. So, you know." NE#1's BWV also captured his conversation with NE#2 and CM#2, including:

<sup>2</sup> WE#1's BWV showed CM#1, explaining he grabbed CM#2's hands to prevent her forceful entry into Bar #1 when NE#2 took "a couple of good swings, not really anything." CM#1 also told WE#1, "So, you know, I don't want anyone to go to fucking jail. I don't really care." Further, CM#1 said, "She's like, he's a sergeant in the police force, and da da da. I'm like, really, and guess what, I'll tell you right now, I've trained with a lot of police officers in my day, and they don't act like this."

<sup>3</sup> There was no sound for the first minute of the interview, before NE#2 manipulated NE#1's BWV device.



- NE#1: "They are trespassing you both from both locations."
- NE#2: "Okay, we're good."
- NE#1: "I'm going to coordinate a ride home for you."
- NE#2: "Uh, we're going to walk. We're good."
- NE#1: "I'm going to coordinate a ride home for you guys."
- NE#2: "Okay."
- NE#1: "And you'll get there and reset."
- NE#2: "Yup. Okay."
- NE#1: "I watched the video on it. It doesn't look good."
- CM#2: "It doesn't, but they were being rude to me."
- NE#1: "So, yeah, their business, their prerogative."
- CM#2: "I get it, I get it."

During the discussion, NE#1 told NE#2, "I think we can handle this one with a simple report and be done." NE#1 then drove NE#2, CM#2, and their dog home. Before leaving, NE#1 said, "Okay. Just so you guys know, you're both trespassed from those two locations. Please do not return. I'll get you a card with the case number."

October 12, 2022

On October 12, 2022, at 6:43 PM, a 9-1-1 caller reported a disturbance at NE#2 and CM#2's home. The call taker noted:

*Initial Remarks: [REPORTING PARTY] HAS BEEN ARGUING WITH HER [BOYFRIEND], HE GOT A KNIFE AND TRIED TO STAB HIMSELF...HAS NOW LEFT THE HOME. NO LONGER HAS A KNIFE.*

A CAD update indicated the reporting party said the subject worked at SPD. An update also identified, by name, birth date, and physical description, NE#2 as the subject. Another update indicated the reporting party said she and NE#2 drank but were not drunk and that NE#2 grabbed her arm during their altercation. Before officers cleared the call, an update indicated that NE#2 returned home, and SPD drove him to a hotel.

Witness Employee #2 (WE#2) wrote the related incident report. It was generally consistent with the CAD updates. Additionally, it noted that CM#2, the reporting party, said during an argument with NE#2, he grabbed her left wrist and said, "Please don't leave" as she walked away. CM#2 said she told NE#2 to release her, and he complied. WE#2's report noted that officers saw red discoloration on CM#2's left wrist, but CM#2 claimed she easily got bruised and discolored.



NE#2 told officers the couple was intoxicated before the altercation. NE#2 also had a laceration toward the inside middle of his left arm but said he was too drunk to recall how it happened.



BWV was consistent with WE#2's report and the CAD updates. It showed that when the officers encountered CM#2, she immediately said, "So, let me say first. He hasn't assaulted me. He hasn't done any of that." Further, BWV captured CM#2 repeatedly describing NE#2 as aggressive during their argument but denied he was abusive:

*Like you can take your hands and do this (pressing her arm), and I'll have three finger bruises on my arm. I bruise easily. It's not him, but I just said look, you grabbed me too hard. All I was trying to tell him is, like, you're being a little too aggressive. I, I, not abusive. He was just being too aggressive.*

BWV also captured an acting sergeant and a lieutenant discussing whether NE#2 grabbing CM#2's wrist constituted an assault and if NE#2 was a danger to himself before deciding against both.

<sup>4</sup> OPA added the white box to hide CM#2's tattoos.



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**ANALYSIS AND CONCLUSIONS:**

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

***5.100 - Operations Bureau Individual Responsibilities III. Patrol Sergeant B. Field Supervision 6. Reports: a. Ensure Accuracy and Completeness.***

The Complainant alleged that NE#1 failed to ensure NE#3's report was accurate and complete.

Patrol sergeants must ensure that reports are accurate and complete. SPD Policy 5.100-POL-III(B)(6).

Here, as discussed at Named Employee #3 – Allegation #1, NE#3's investigation was adequate, and his report was accurate and complete.

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

Recommended Finding: **Not Sustained - Unfounded**

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

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations.***

The Complainant alleged that NE#1 failed to report NE#2's alleged misconduct.

Supervisors must investigate or refer allegations of policy violations depending on the severity of the violation. SPD Policy 5.002-POL-5. Allegations involving serious policy violations must be referred to OPA. *Id.* Serious allegations include reckless policy violations and potentially criminal acts. *Id.* If the severity of the violation is unclear, the lieutenant or civilian equivalent will consult OPA. *Id.*

Here, on July 20, 2022, NE#1 learned about NE#2's alleged behaviors at Bar #1 and Bar #2. At Bar #1, NE#2 was allegedly highly intoxicated and swung at CM#5<sup>5</sup> and CM#1<sup>6</sup>. A video also captured him placing his forearm across CM#2's neck before turning her and pushing her out of Bar #1's door, causing CM#2 to fall. At Bar #2, NE#2 allegedly cursed and antagonized patrons. CM#3 also reported that NE#2 and CM#2 tried to "bring [his staff] into a fight." While the determination that there was no probable cause for NE#2's arrest was not unreasonable, NE#1's failure to report NE#2's reckless violations of the department's professionalism policy was. An intoxicated supervising officer being trespassed at two bars in one day is clearly worthy of an OPA referral. Particularly where the incidents required back-to-back police responses. However, if that was unclear, NE#1 should have reported NE#2's behavior to a lieutenant, who could have sought OPA's guidance. Instead, the matter went unaddressed for nearly three months until the Complainant—NE#1's captain—directed him to refer NE#2's July 20<sup>th</sup> and October 12<sup>th</sup> incidents to OPA.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

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<sup>5</sup> Per NE#3's report.

<sup>6</sup> Per CM#1 and a witness.



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

***5.001-POL 2. Employees Must Adhere to Laws, City Policy and Department Policy.***

The Complainant alleged that NE#2 violated department policy and state laws by assaulting CM#1 and CM#2.

Here, CM#1 and a witness suggested that NE#2 was assaultive. Specifically, both said NE#2 threw a weak jab at CM#1. However, CM#1 insisted he would not participate in a criminal investigation. Further, the alleged punch was not captured on video. Without a cooperative victim or independent evidence, there was insufficient evidence to establish that NE#2 struck CM#1. Conversely, NE#2 grabbing CM#2 from behind and forcing her out of Bar #1 was captured on video. However, as the CAO concluded, NE#2 had a reasonable defense that he acted to protect CM#2 and CM#1, whom she appeared intent on attacking.

Further, when officers responded to CM#2's October 12<sup>th</sup> 9-1-1 call, she insisted the redness resulting from NE#2's wrist grabbed was due to her susceptibility to easily bruise and discolor rather than NE#2's abuse. CM#2 also said NE#2 immediately released her wrist when she told him to.

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

Recommended Finding: **Not Sustained - Inconclusive**

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

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

The Complainant alleged that NE#2 exhibited unprofessional behaviors, leading to police responses.

Regardless of duty status, employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers. SPD Policy 5.001-POL-10. Employees will avoid unnecessary escalation of events even if those events do not end in reportable uses of force. *Id.* Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person. *Id.*

Here, NE#2—an SPD sergeant—fell woefully short of the department's professionalism standards. Where the department's "...guiding principle is to treat everyone with respect and courtesy, guarding against employing an officious or overbearing attitude and refraining from language, demeanor, and actions that may cause the individual feeling belittled, ridiculed, or intimidated," several accounts indicated NE#2 failed to meet those expectations. See SPD Policy 5.001-POL. On July 20<sup>th</sup>, he presented as highly intoxicated, aggressive, and provoking, causing him to get banned from two bars and requiring two police responses and a courtesy transport home. While there is no evidence that NE#2 identified himself to community members as an SPD officer during either July 20<sup>th</sup> incident, CM#2 apparently did. CM#1 told officers and OPA that CM#2 identified NE#2 as a sergeant during their encounter. It was also among the first things CM#2 told NE#3 and WE#1 during their initial response. CM#2's repeated references to NE#2's law enforcement affiliation and rank should have triggered him to remember his professional standards rather than provoking drunken confrontations. Even though NE#2 was off duty, the department's professionalism expectations were the same as if he was working. Although the October 12<sup>th</sup> incident occurred at NE#2's home and



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did not involve community members, it too involved NE#2's intoxication preceding a police response and courtesy transport. Without question, NE#2's actions on both dates undermined public trust in NE#2 and SPD.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

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

***15.180 - Primary Investigations, 15.180-POL-5 Officers Shall Document all Primary Investigations on a Report.***

The Complainant alleged that NE#3 conducted an inadequate primary investigation by not requesting available videos of NE#2's July 20<sup>th</sup> Bar #1 altercation.

Officers shall conduct a thorough and complete search for evidence. SPD Policy 15.18-POL-5. All sworn personnel are responsible for knowing how to collect the most common physical evidence that might be encountered in a primary investigation. *Id.*

Here, NE#3 told OPA he did not request or collect the videos he observed because the investigation was not criminal. NE#3 believed the videos lacked probative value since criminal charges were not sought. However, given that an SPD employee was the subject of the investigation, the videos would benefit a subsequent administrative investigation, whether conducted by OPA or the chain of command. Moreover, had CM#1 later changed his mind and decided to pursue criminal charges, the videos could have been unavailable. Overall, collecting or at least requesting the videos would have been prudent. Still, OPA also acknowledges that NE#1—NE#3's superior—was actively involved in the investigation and could have directed him to collect the videos if he deemed it necessary.

Further, other than not collecting the videos, NE#3 solidly investigated the allegations against NE#2. He ensured the involved parties and witnesses were interviewed, documented those interviews and officer actions in a report, watched available videos and transcribed the contents in a report, and conferred with other officers before clearing the call.

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

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #3 - Allegation #2**

***15.180 - Primary Investigations, 15.180-POL-1 Officer Shall Conduct a Thorough and Complete Search for Evidence.***

The Complainant alleged that NE#3 conducted inadequate investigations into NE#2's assaults.

For the reasons at Named Employee #3 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**