




CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 18, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0081

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Sustained
# 2	5.140-POL-2 Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 3	15.180-POL-5 Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 4	5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy	Allegation Removed

Imposed Discipline

Written Reprimand

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 Named Employee #1 (NE#1) was unprofessional for dismissing her 9-1-1 call as a civil issue without speaking with the Complainant. The Complainant also alleged that NE#1 engaged in bias-based policing based on her status as a tenant and that NE#1 failed to document a primary investigation in a report. It was also alleged that NE#1 failed to adhere to a Seattle Police Department (SPD) training digest concerning landlord-tenant complaints.

ADMINISTRATIVE NOTE:

On June 28, 2023, the Office of Inspector General (OIG) certified OPA’s investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA received two complaints and opened an investigation. During its investigation, OPA reviewed the complaints, computer-aided dispatch (CAD) call reports, incident reports, and body-worn video (BWV). OPA also interviewed NE#1. The Complainant did not respond to OPA’s interview requests, so she was not interviewed.



A. OPA Complaints

The Complainant submitted two OPA complaints. The Complainant's first complaint stated:

On November 17, 2022, the Complainant and Community Member #1 (CM#1)—the Complainant's mother—called 9-1-1 after their alarm activated and showed Community Member #2 (CM#2)—a maintenance person—“trespassing” inside their home. The dispatcher indicated an officer would respond, but hours passed without a response. The Complainant and CM#1 waited in their car due to toxic fumes in their home. They called 9-1-1 several times for an update and were assured someone would respond, but no one responded. They called 9-1-1 again between 10:00 to 11:00 p.m., and the dispatcher told them that “the officer had canceled the call, noting that it was a civil issue.” The Complainant identified NE#1 as the officer who “never even spoke to us.”

On November 18, 2022, the Complainant and CM#1 reported the November 17th incident to a sergeant. The Complainant wrote, “[NE#1] decided against the facts that because we are who we are and [as] tenants, he made his biased judgment against us and didn't take the criminal incident seriously.” The Complainant also wrote that CM#2 reentered her home without authorization on November 18th. An officer responded and wrote a report. According to the Complainant, CM#2 was charged with criminal trespass.

The Complainant's second complaint documented the following:

On November 30, 2022, CM#2 blocked the Complainant's and CM#1's entryway to perform unauthorized work. The Complainant called 9-1-1 to report the “vandalism.” The Complainant believed the responding officer “wrote [this incident] off as well.”

On December 5, 2022, CM#2 blocked the Complainant's and CM#1's entryway with a ladder and removed their avocado tree. The Complainant told CM#2 to stop damaging their personal property and leave. CM#2 refused, saying he could remove the tree because it was a fire hazard. The Complainant called 9-1-1, and NE#1 arrived. The Complainant identified NE#1 as the officer who “ignored and wrote off the criminal trespass on [November 17th].” NE#1 suggested that the Complainant and CM#1 move out and told them about his experience as a tenant. The Complainant believed NE#1 did not take the incident seriously, brushed it off as a civil issue, and did not write a report.

B. Computer-Aided Dispatch (CAD) Call Reports

On November 17, 2022, at 4:35 p.m., CAD call remarks, in summary, noted the following: check for and remove the maintenance man from the Complainant's apartment; maintenance does not have permission to enter. The call was coded as trespass. NE#1 was dispatched at 5:33 p.m. and cleared the call at 5:37 p.m. CAD call remarks noted that no police action was possible or necessary, the incident was a “civil issue, not a police matter,” and the incident was screened and did not require responding.

On November 18, 2022, at 5:41 p.m., CAD call remarks noted, “Follow up to [the November 17th incident].” Witness Employee #1 (WE#1) was dispatched at 5:42 p.m. and arrived at 6:13 p.m. CAD call remarks noted that a report was written without arrest.

On November 30, 2022, at 4:23 p.m., CAD call remarks, in summary, noted: investigative damage; two suspects removed a landscaping rock, damaged an avocado tree, and left behind no evidence; callback policy advised. The call



was initially coded as property destruction and damage. It was re-coded as assault, harassment, and threats. Witness Employee #2 (WE#2) called the Complainant at 4:56 p.m. CAD call remarks noted that a report was written without arrest.

On December 5, 2022, at 11:38 a.m., CAD call remarks, in summary, noted: that there was ongoing harassment and circumstantial property damage to the Complainant's avocado tree; maintenance worker came onto the Complainant's property "without posting intent to enter" and moved the tree to get some work done, causing further damage to the tree; the Complainant believed she was targeted by the maintenance worker, who said the tree was a fire hazard; callback policy advised. The call was coded as harassment. NE#1 was dispatched at 12:48 p.m. and arrived at 1:17 p.m. CAD call remarks noted that NE#1 spoke to the Complainant regarding ongoing landlord-tenant issues, but there was nothing to report that was not documented by prior responding officers. The Complainant wanted information about seeking a civil remedy, and NE#1 advised the building owner that the incident was "all civil."

C. Incident Report – Witness Employee #1 (WE#1)

WE#1 responded to the November 18th 9-1-1 call. WE#1 wrote an incident report documenting the following:

The Complainant and CM#1 reported escalating incidents with CM#2, who routinely entered their property without notice or permission. After they confronted CM#2, CM#2's behavior escalated to threats. CM#2 was also angered that the Complainant reported CM#2 to the Seattle Department of Construction and Inspection (SDCI). CM#2 and Community Member #3 (CM#3)—the landlord—wanted the Complainant and CM#1 to move out. CM#2 was always around, even though he did not live at that property, in what appeared to be an effort to engage the Complainant and CM#1.

The Complainant and CM#1 reported that CM#2 scowled at them, communicated aggressively, pounded on their door loudly and incessantly until they opened it, left notices advising of plans for same-day entry, and attempted entry without their permission. They expressed feeling unsafe, so they installed security cameras at the front and rear doors. They also chain-locked their back entrance.

The Complaint and CM#1 also discussed the incident that prompted the November 18th 9-1-1 call. They said workers, including CM#2, were permitted to enter the residence to perform work between 12 p.m. to 4 p.m. The Complainant and CM#1 left their home due to toxic fumes. At 4:30 p.m., their security camera captured CM#2 entering their home. Another clip showed CM#2 exiting their home. They also said CM#2 performed unannounced work in their attic for several hours that afternoon. They noticed a large block in the middle of the stairs leading from their unit to the communal driveway, posing a tripping hazard.

D. Incident Report – Witness Employee #2 (WE#2)

WE#2 responded to the November 30th 9-1-1 call. WE#2 wrote an incident report documenting the following:

The Complainant and CM#1 reported ongoing issues with CM#2 and CM#3. They said CM#2 and CM#3 arrived at the Complainant's and CM#1's residence unannounced and performed work on the front porch, during which they moved several landscaping rocks, damaged an avocado tree, and left paint drippings around the front porch area. They gave no advanced notice. The Complainant and CM#1 believed CM#2 and CM#3 intentionally harassed them and were



concerned that CM#2 and CM#3 would continue to visit without prior notice and cause further damage to their property to escalate the situation.

E. Body-Worn Video (BWV)

OPA reviewed NE#1's BWV. In summary, BWV captured the following:

On December 5, 2022, NE#1 drove to the Complainant's and CM#1's residence. CM#3 approached NE#1, who remained in his patrol car. NE#1 told CM#3 that the dispute was not a police matter. NE#1 said he could only provide resources. CM#3 said she notified the Complainant and CM#1 about planned maintenance.

NE#1 went inside the Complainant's and CM#1's residence. They reported that CM#3 continually harassed and retaliated against them after they alerted SDCI about landlord violations. They described feeling unsafe due to CM#2's trespasses and requested safety assistance. The Complainant said she called 9-1-1 because CM#2 acted aggressively toward her when she attempted to move a tree back to its original location. NE#1 told them that the dispute was a civil matter and that he could not assist beyond the reports already written.

NE#1 walked to his patrol car with CM#3 and told CM#3 that the dispute was "all civil." CM#2 approached and asked whether he was allowed to enter the Complainant's residence for repairs. NE#1 advised no.

F. OPA Interview

OPA interviewed NE#1. NE#1 said he cleared the November 17th call without responding because higher-priority calls were awaiting police responses. NE#1 said resources were limited. NE#1 believed the dispute was a civil issue that should have gone to the Telephone Reporting Unit. NE#1 said trespassing was not a bookable offense. NE#1 believed he handled the call professionally, asserting that sergeants and lieutenants cleared calls the same way and that it was the "new normal." Although NE#1 was unsure whether the "new normal" undermined public trust, he said he cleared the call without bias. NE#1 said it was "an attempt to be efficient because the workload was so egregious that day." NE#1 also did not document the call in a report but said he was counseled by a sergeant after the Complainant's complaint. NE#1 said he would handle calls differently moving forward. NE#1 also acknowledged that there was more to the Complainant's story than what CAD described but attributed that to the dispatcher's failure to provide complete information rather than his failure to conduct a primary investigation.

Regarding the December 5th incident, NE#1 recalled reviewing WE#1's and WE#2's incident reports before responding to the incident location. He described those reports as thorough. After meeting with the Complainant and CM#1, NE#1 did not write an incident report because there was "nothing new to report that has not been documented by other officers." NE#1 said they wanted information about civil remedies. NE#1 said he wanted to help them through their problem but did not have solutions. NE#1 said resources other than SPD could better assist. NE#1 said he would have documented the incident if there were no other incident reports or if they reported something new. NE#1 also indicated that all calls did not "deserve paperwork," only those that reached a certain threshold.

OPA asked NE#1 why he did not document the Complainant and CM#1 feeling harassed and retaliated against by CM#2 and CM#3. NE#1 said WE#3 already documented that in his report, so "it was nothing new." NE#1 said, "It was the same stuff. The same thing." NE#1 was unsure whether he was required to write a supplemental report but mentioned that doing so would take time, which he did not have. NE#1 believed they called 9-1-1 on December 5th



because they wanted an in-person interaction with an officer. NE#1 thought he thoroughly documented the incident with CAD call notes.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 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,” whether on or off duty. *Id.* Additionally, employees must “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.* Last, “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#1 did not respond to the November 17th call and cleared it as a civil issue instead. NE#1 did not notify the Complainant—who called 9-1-1 multiple times for assistance—of that decision. It was coded in CAD as a “trespass,” and call remarks noted that CM#2 did not have permission to enter the Complainant’s residence. NE#1’s conclusion that it was a civil issue may have been predicated on the “maintenance man” entering the home. Still, NE #1 failed to appreciate that CAD call remarks noted possible criminal activity. Moreover, a person’s status as a maintenance man does not convert a criminal trespass into a purely civil matter. *See, e.g.,* SMC 22.206.180 (an owner’s entry into a tenant’s premises is unlawful except in specific circumstances). NE#1 cleared the call four minutes after he was dispatched and sixty-two minutes after the call was placed. NE#1 did not notify the callers of the disposition or call them to gather information. Instead, a dispatcher, rather than NE#1, notified the Complainant that the call was cleared when she called 9-1-1 again hours later.

NE#1 explained his nonresponse as prioritizing other calls given limited resources. Even still, having been dispatched to the call, NE#1 was responsible for responding. The Communications Section determines resource deployment, not NE#1. *See* SPD Policy 12.010-POL-1(3). Moreover, where took it upon himself to decide that the Complainant and CM#1’s call was less important than others, the public’s trust would have been better served by—at a minimum—calling them before clearing the call or asking the dispatcher to refer it to another unit, like the Telephone Reporting Unit or another officer. Instead, NE#1 told OPA that, despite him knowing the “call had been holding for a few hours:”

There were other priority calls holding out there that warranted, you know, police action, and so I – I just cleared it out, so if she wanted to call back and make a report with TRU [Telephone Reporting Unit] or something like that, she is more than welcome to do that.

However, there is no indication that the Complainant or CM#1 knew that making a report with TRU was an option. Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**



Named Employee #1 - Allegation #2

5.140-POL-2 Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 engaged in biased-based policing.

SPD prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. This includes different treatments based on a discernible personal characteristic of an individual. *See id.*

Here, the Complainant alleged NE#1 “made his biased judgment against [her and CM#1]” because they are tenants. SPD Policy 5.140-POL provides a non-exclusive list of “discernible personal characteristics,” but “tenant status” is not included. Tenant status could be a “discernible personal characteristic” when known to an officer or, arguably, could relate to a subject’s “economic status.” However, OPA finds that NE#1 did not engage in bias-based policing based on the Complainant’s status as a tenant.

Although NE#1’s response and documentation of the November 17th and December 5th incidents may have been lacking, no evidence suggests it was due to the Complainant’s and CM#1’s status as tenants. NE#1 said he cleared the call because of higher-priority calls. NE#1 also attributed his nonresponse to limited resources. NE#1 believed the call concerned a civil issue rather than a criminal matter requiring SPD’s involvement.

NE#1’s explanation is consistent with his response to the December 5th incident recorded on BWV. BWV captured NE#1’s interactions with the landlord and tenants during his December 5th response. NE#1 listened to both parties and treated them respectfully. BWV also captured the Complainant and CM#1 expressing appreciation for NE#1 responding and speaking with them. NE#1 treated both sides fairly throughout the interaction.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #3

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

The Complainant alleged that NE#1 did not document a primary investigation on a report.

Officers must document all primary investigations on a report. *See* SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. *Id.*

Here, NE#1 responded to the December 5th call but did not write an incident report. Instead, NE#1 made a CAD entry stating that there was nothing to report beyond what was previously documented by other officers. NE#1 reviewed WE#1’s and WE#2’s incident reports before arriving at the incident location and considered them thoroughly written. NE#1 also believed he thoroughly documented the incident with CAD updates.

A primary investigation begins when “police action is initiated and is critical to the success of *any subsequent investigative efforts.*” SPD Policy 15.180-POL (emphasis added). The scope of a primary investigation may be restricted



or constitute the entire investigation of a crime. *Id.* The Complainant called 9-1-1 on December 5th to report CM#2's harassment, aggressive behavior, unauthorized entry, and property damage. NE#1 believed WE#1's and WE#2's incident reports adequately captured those allegations, so an additional incident report was unnecessary. While NE#1 may have believed in good faith that there was nothing new to document, NE#1 responded on December 5th to a new incident between the parties related to the prior reports. Although NE#1 made CAD updates, NE#1 should have written a supplemental report to WE#1's and WE#2's prior incident reports.

Based on these facts, OPA believes there was a potential, but not willful, violation of policy that does not amount to misconduct. Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 15.180-POL-5 with NE#1, and provide retraining or counseling deemed appropriate. The retraining and counseling should be documented and maintained in Blue Team.

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

Named Employee #1 - Allegation #4

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

It was alleged that NE#1 did not adhere to an SPD training digest.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. SPD Policy 5.001-POL-2 also requires that employees adhere to published directives, special orders, applicable collective bargaining agreements, and relevant labor laws.

Here, the training digest, TD14-00013, at issue concerns landlord-tenant complaints. Training digests are not enumerated in SPD Policy 5.001-POL-2 and are neither published directives nor special orders. Moreover, even if NE#1 failed to adhere to an element of the digest, "Not following training, in itself, is not a policy violation." SPD Policy 5.001-POL-3.

Accordingly, this allegation was improperly classified against NE#1. It is removed.

Recommended Finding: **Allegation Removed**