




## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 1, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0197

### Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed
# 2	5.100 - Operations Bureau Individual Responsibilities I. Patrol Officers A. Responsibilities 2. Monitor and take appropriate action regarding criminal activity in assigned area	Not Sustained - Training Referral

***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) did not immediately respond to a call for a vehicle prowl and, instead, remained at a police station for about forty minutes. It was also alleged this conduct occurred in front of a student officer (Witness Officer #1 or WO#1), setting an unprofessional example.

### ADMINISTRATIVE NOTE:

On August 10, 2023, the Office of Inspector General (OIG) certified this investigation as thorough, timely, and objective.

During its intake investigation, OPA identified that WO#1 was a student officer at the time of this incident. WO#1’s Field Training Officer (FTO) was NE#1. In accordance with past OPA practice for student officers in a similar period of training (Rotation 2, Phase 2), OPA classified appropriate allegations against NE#1 and interviewed WO#1 as a witness.

### SUMMARY OF INVESTIGATION:

The Complainant filed a complaint by leaving a voicemail with OPA. OPA opened an investigation. In addition to the complaint, OPA reviewed the computer aided dispatch (CAD) call report, CAD GPS tracking, and body-worn video (BWV). OPA also interviewed the Complainant, WO#1, and NE#1.

#### ***a. OPA Complaint and Complainant Interview***

The Complainant filed their complaint by leaving a voicemail message for OPA. On their message, the Complainant noted someone broke into a vehicle below their apartment balcony, prompting them to call 9-1-1. The Complainant



stated it took “over an hour” for the police to show up and, in the intervening time, three or four people—unrelated to the vehicle break in—showed up below his balcony and began using drugs. The Complainant stated one of these people shot “something” at him, possible a slingshot or “makeshift gun.” The Complainant alleged the officers who arrived did not “seem to care one little bit about any of the situation.”

OPA conducted an audio-recorded interview with the Complainant. The Complainant elaborated in his interview that he lives in an apartment one level above the street. On the night of the incident, the Complainant observed one person break into a vehicle and another person “going back and forth” in a vehicle who looked like a “getaway driver.” The Complainant stated he tried to video record the incident, but did not record the vehicle break in. The Complainant stated a tree obstructed him from recording the person who broke into the vehicle. The Complainant stated he called 9-1-1 about three times, but officers arrived about an hour and a half later. The Complainant stated the responding officers did not care and gave him a, “mind your own business attitude.”

***b. CAD Call Report and GPS Tracking***

The CAD call report noted that a call was generated on May 3, 2023, at about 8:42 PM with a remark that, two or three minutes ago, the 9-1-1 caller observed a male prowling a parked vehicle by breaking a window and the 9-1-1 caller had a video of a possibly involved subject. The call was broadcast at about 8:48 PM. At about 8:59 PM, a call remark noted the 9-1-1 caller was, “very angry about the time delay.” At about 9:21 PM, NE#1 and WO#1 unit—the two officers were riding in the same vehicle—was dispatched to the call along with two other units. The other units cleared the call, but NE#1 and WO#1 remained assigned. At about 9:21 PM, the CAD call report updated with a remark that the 9-1-1 caller was “rambling” and had called at least twice previously. At about 10:09 PM, the CAD call report updated with a remark that the 9-1-1 caller reported throwing water on four or five people below him five minutes prior and that one of the people shot a slingshot at him but missed. NE#1 and WO#1 were marked “arrived” at about 10:12 PM. NE#1 and WO#1 went back into service at about 10:45 PM and, at about 11:18 PM, marked the call as a suspicious circumstance with assistance rendered without a report.

The CAD GPS tracking system showed the call appear at about 8:45 PM. Around 9:21 PM, NE#1 and WO#1 logged to the call. Two other units logged to the call, but then logged off. NE#1’s and WO#1’s vehicle mapped to their precinct station. Around 10:01 PM, GPS showed NE#1 and WO#1 began heading to the call, arriving about eleven minutes later at 10:12 PM. NE#1 and WO#1 left the scene around 10:25 PM.

***c. BWV***

OPA reviewed NE#1 and WO#1’s BWV. Collectively the BWV showed the following.

NE#1 and WO#1 arrived on scene in front of the Complainant’s multiunit apartment building. WO#1 exited the vehicle, then returned to check the vehicle’s laptop, stating, “Let’s see if there’s any...anything on [unintelligible] I didn’t see anything.” NE#1 responded, “No. I would...we’re not going to make it easy for him. Like, he’s going to come down and talk to us if he’s gonna [unintelligible].” WO#1 returned to the building door, advising radio he was there.



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The Complainant exited the building and showed WO#1 a silver vehicle with a broken front passenger-side window. The Complainant explained he lived directly above the location, heard someone break the car window, and that the Complainant tried to video record the situation but had his phone off. The Complainant also explained he started recording after the window was broken and that he also observed another individual who was “obviously part of the whole situation” because he “started driving back and forth right when this started happening.” WO#1 asked the Complainant if he knew who owned the vehicle. The Complainant stated he did not. The Complainant also stated that a tree along the sidewalk blocked his view and recording angle of the incident. The Complainant stated, “I had a couple beers also, so I apologize for that.”

WO#1 and the Complainant watched the Complainant’s video, which was visible on WO#1’s BWV. The Complainant explained he was unable to record a clear picture of the person who broke the vehicle window, nor could he get a clear picture of the license plate of the person he saw driving back and forth. However, the driver of this vehicle briefly exited his vehicle, which the Complainant did appear to record on his phone. The Complainant explained that the driver then, “gets back in his vehicle. And he ends up driving off. But I swear to god he had something to do with this. I swear to god. It was so obvious, just on the whole situation.” WO#1 stated, “it’s tough for us to do much with this. ... But I appreciate the effort.”

The Complainant then explained that, sometime later, he observed people in a doorway under his apartment balcony. The Complainant stated the people were doing drugs, so he threw water on them. WO#1 responded, “I don’t think that’s really going to help the issue. I think, if anything, that could make things worse.” The Complainant replied, “Of course its going to make things worse.” WO#1 stated, “I don’t think that you’re [unintelligible]. Right, you don’t want to make things worse?” The Complainant explained he found the situation was “already worse” and needed to get “cleaned up.” WO#1 noted the people were no longer present in the area. The Complainant stated, “Obviously not. But, ah, so, one of them threatened me. Shot something at me. I don’t know if it was a makeshift gun or like a sling shot or something. But something...I don’t know and then it hit...hit something.” WO#1 asked where the people went, and the Complainant indicated down the street and that one of the people stated he lived at the location. The Complainant noted he did not have video of the people. The Complainant stated he felt his “life is probably at risk.” WO#1 responded that, if he felt in danger, he should call the police back.

WO#1 then attempted to return the conversation to the car with the broken window, stating, “if we could find the owner of it.” The Complainant continued discussing his frustration with the situation of people using drugs below his window.

During the interaction, WO#1 did all the speaking with the Complainant. NE#1 stood away at some distance and did not speak with the Complainant.

WO#1 reentered the police vehicle with NE#1. WO#1 stated, “I don’t know why he had to start drinking.” NE#1 responded, “just drive.” WO#1 stated something unclear that sounded like, “it’s like a Wednesday, dude.” NE#1 stated something unclear that sounded like, “probably an alcoholic now.”



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**d. OPA Interview – WO#1**

WO#1 explained he became aware of this call when dispatch assigned him and NE#1 to the call. WO#1 stated he believed he was working on a report at the precinct at that time. WO#1 noted he and NE#1 “eventually” got in their vehicle and made their way to the scene. WO#1 recalled asking questions that would be typical of a student officer regarding how to approach the call.

WO#1 recalled speaking with the Complainant outside the building and that it was “apparent” the Complainant had been drinking prior to their arrival. WO#1 described the Complainant being “very excited” to quickly show him pictures of “possible” involved individuals, but remarked the pictures were difficult to see given obstructions such as blinds and a tree in the line of sight. WO#1 stated there was “no information” to be gained from the pictures.

WO#1 also stated the Complainant was upset about individuals using drugs under his balcony. WO#1 described the Complainant stating he dumped water on the people. WO#1 recalled the people were gone, but the Complainant wanted to know what the officers would do about the situation. WO#1 recalled providing the Complainant with a business card and leaving.

When asked about the length of time to respond to the call, WO#1 noted he recalled working on a report when the call was dispatched. WO#1 described being short staffed around this time period and the difficulty of being able to respond quickly to lower priority calls, such as Priority Three calls. WO#1 also stated NE#1, his FTO, was “big on sector integrity and making sure that nobody came into our area of responsibility.” WO#1 described NE#1 requesting calls to make sure other officers did not have to cover for their area of responsibility. WO#1 stated he felt their response times were “adequate” depending on the nature of the call and that NE#1 was a “great example” concerning responding to calls and managing their area of responsibility.

**e. OPA Interview – NE#1**

NE#1 recalled the incident and described this call as one he assessed could be handled by himself and WO#1, his student officer. NE#1 described his desire to take a student officer on “as many calls as I can.” NE#1 noted this call was a witness providing evidence of a past crime and that no suspect or victim was reported on scene. NE#1 describe wanting to free other officers to take other calls. NE#1 stated, due to the nature of the call, he told WO#1 to finish what he was working on before they responded, as the caller could “wait a few minutes.” However, NE#1 acknowledged a delay in responding to the call as student officer reports sometimes take longer than anticipated.

NE#1 could not recall if he spoke with the Complainant but noted most of the investigation as done by WO#1. NE#1 stated he assessed WO#1 as performing ahead of his level, so he wanted to let him handle the call on his own but be nearby in case WO#1 needed him. NE#1 said he sought to allow WO#1 to “figure it out himself.”

NE#1 was asked about his comment about not making it “easy” for the Complainant. NE#1 responded that the building was a “lockout building” and that WO#1 was trying to figure out a way to go up to the Complainant’s apartment. NE#1



explained that a car prowling would happen on the street. NE#1 stated, he was, “not really sure why I phrased it that way. I guess I just wanted the caller to come down and talk to us if he wanted to call to report a car prowling. ... [S]how us where the cars at.”

NE#1 was asked about the delay in response times, NE#1 acknowledged it took him longer than anticipated to respond to this call. NE#1 stated his intent was to have WO#1 finish his report and that the call could hold for a few minutes. NE#1 stated he, “maybe bit off more than I could chew, I guess.” NE#1 stated he volunteered for the call and thought it may take ten to fifteen minutes for him and WO#1 to leave, but it ended up taking longer than half an hour. NE#1 felt he was setting a good example by clearing other units to handle other calls and volunteering for this call.

### **ANALYSIS AND CONCLUSIONS:**

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

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

It was alleged NE#1 set an unprofessional example for his student officer by not timely responding to this call.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10. Additionally, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.*

Evaluating the factual circumstances and classifications, OPA has determined this allegation is duplicative of allegation #2. SPD Policy 5.100(I)(A) separately requires patrol officers “remain professional at all times.” This language would fully cover the alleged conduct, which is evaluated below (see Named Employee #1, Allegation #2).

Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

#### **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***

It was alleged NE#1 did not timely respond to this call.

SPD Policy 5.100(I)(A) requires that patrol officers’ performance meet certain standards. This includes that they: “Monitor and take appropriate action regarding criminal activity in assigned area”; “Maintain close contact with the community”; “Display...necessary interpersonal skills...”; “Demonstrate consistent work habits which reflect a high standard of performance and initiative”; and “Remain professional at all times.”

NE#1’s decision to instruct WO#1 to finish his report before responding to this call was, perhaps, misguided from a work management perspective and may have technically violated policy, but it did not constitute serious misconduct. Overall, the evidence shows NE#1 was attempting to balance the competing needs of seeing one task through to



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completion (WO#1's paperwork), while accepting responsibility for covering calls within his area of responsibility (sector integrity), selecting appropriate calls for evaluating his student officer, and providing adequate service to the public. OPA recognizes the significant discretion—and challenge—posed to field training officers such as NE#1. Here, more likely than not, NE#1 misjudged how long it would take WO#1 to complete his paperwork, resulting in a slower than expected response time. That said, the Complainant initially reported witnessing a past, nonviolent property crime in which neither the victim nor suspect remained on scene. The call was marked as a "Priority 2"—a mid-level priority—and NE#1 and WO#1 were enroute to the scene eight minutes before the Complainant reported any attempted violence, which, again, occurred in the past. Considering this, OPA issues a training referral in this instance.

Separately, OPA observed some of NE#1's and WO#1's verbal commentary—which was recorded on BWV—to be imprecise and unnecessary. OPA appreciated that NE#1 acknowledged his phrasing was imprecise concerning whether the officers should "make it easy" on the Complainant. OPA also found it unnecessary for NE#1 and WO#1 to comment on the fact that the Complainant had apparently been drinking, although this was said out of the Complainant's earshot. OPA's training referral addresses these issues as well.

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 Policies 5.001-POL-10 and 5.100(I)(A)(2) & (10) with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

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