



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 30, 2019

CASE NUMBER: 2019OPA-0420

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Training Referral)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Training Referral)

Named Employee #3

Allegation(s):		Director's Findings
# 1	12.010-POL-2 Deployment 3. Sergeants and Lieutenants Will Monitor and Supervise the Status of Their Assigned Personnel	Not Sustained (Management Action)
# 2	12.010-POL-2 Deployment 4. Supervisors Will Monitor and Supervise the Status of Calls and Ensure the Prompt Handling of High Precedence Calls	Not Sustained (Management Action)

Named Employee #4

Allegation(s):		Director's Findings
# 1	12.010-POL-2 Deployment 3. Sergeants and Lieutenants Will Monitor and Supervise the Status of Their Assigned Personnel	Not Sustained (Management Action)
# 2	12.010-POL-2 Deployment 4. Supervisors Will Monitor and Supervise the Status of Calls and Ensure the Prompt Handling of High Precedence Calls	Not Sustained (Management Action)

Named Employee #5

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Unfounded)

Named Employee #6

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 6. Employees May Use Discretion	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:

It was alleged that Named Employee #1, Named Employee #2, Named Employee #5, and Named Employee #6 may have violated policy by taking nearly 50 minutes to respond to a dispatched priority 2 call for service. It was further



alleged that the officers' supervisors, Named Employee #3 and Named Employee #4, may have violated policy by failing to monitor their officers and ensure the officers prompt responses.

SUMMARY OF INVESTIGATION:

During an investigation into an officer-involved shooting, the Department's Force Investigation Team (FIT) determined that the subject in the shooting may have been involved in two other incidents the night before. When reviewing the CAD Call Reports for those incidents, FIT determined that the two units (comprised of four officers) that were dispatched took an unreasonably long time to respond. This issue was flagged for the chain of command for these four officers, who are Named Employee #1 (NE#1), Named Employee #2 (NE#2), Named Employee #5 (NE#5), and Named Employee #6 (NE#6). While the chain of command attempted to determine why their responses were so delayed, it could do so because of its lack of access to GPS data. As a result, the Assistant Chief of Patrol – the Complainant in this case – referred this matter to OPA based on the possibility that the officers violated policy.

During its intake investigation, OPA reviewed the GPS records. This indicated that the two units did not respond to the priority 2 calls for nearly 50 minutes in each incidence. The GPS data further reflected that, for the majority of the nearly 50 minutes, the officers remained in their respective locations without moving. OPA further determined that the officers' supervisors at that time – Named Employee #3 (NE#3) and Named Employee #4 (NE#4) – may have failed to monitor their officers appropriately and, as such, did not address the prolonged responses.

As part of its investigation, OPA reviewed the CAD Call Reports, the officers' Remote Logs, and conducted interviews of the Named Employees.

NE#1 and NE#2 were assigned to the same unit. NE#1 remembered the call. He said that, at around the time his call was dispatched, he heard a call in another section that he believed could involve his same subject. He stated that he believed his response may have been delayed because he was trying to figure out if the calls were connected and if he still needed to respond. However, he did not remember if he contacted the officers in the other sector to determine whether the calls were connected. He stated, however, that he may have talked to them if they were at the precinct. NE#1 acknowledged that a 50-minute response was not reasonable or consistent with the proper exercise of his discretion. NE#1 further stated that, moving forward, he would take affirmative steps to confirm whether calls were connected rather than making assumptions. NE#1 denied, however, that he was trying to avoid work.

NE#2 was aware that he was dispatched to locate a suspicious individual who was seeking police assistance. He did not remember why it took him and NE#1 50 minutes to respond to that call. He did not remember what he was doing at the precinct during this time. NE#2, like NE#1, acknowledged that a 50-minute response was not reasonable or consistent with the proper exercise of his discretion.

NE#5 and NE#6 were assigned to the same unit. Both officers explained that NE#5 mistakenly turned off his patrol vehicle's Idle Right system, which caused the patrol vehicle's battery to die. The officers were required to jump start the battery. Once they did so, they logged back onto the MDT system. They then responded to the call. This explained the delay in response. Both officers acknowledged that, had the battery not died, they would have responded to the call immediately.



NE#3 told OPA that, on the evening in question, he was one of three Acting Sergeants for Third Watch, but no hard-bar Sergeants and no Lieutenant were available. As such, NE#3, NE#4, and the other Acting Sergeant were doing their best to monitor the calls their officers were responding to. NE#3 said that he was generally aware of the call at issue but did not believe it was sufficiently urgent or important to warrant his immediate response. He said that he was not aware whether NE#1 and NE#2 were in the precinct when the call was dispatched and that he was probably working on other assignments at the time. NE#3 stated that, during the approximately two years he had been an Acting Sergeant, he had not received any training on how to best monitor his officers' responses to calls and, as such, how to ensure compliance with SPD Policies 12.010-POL-2(3) and 12.010-POL-2(4).

NE#4 stated that he was informed that he would be an Acting Sergeant when he reported for duty that evening. He said that he had little experience in that role. He told OPA that he preferred to monitor his officers' work and respond to calls from the field. NE#4 said that he was not aware of the mechanical issues that prevented NE#5 and NE#6 from timely responding to their call until it was discussed at the following roll call. Like NE#3, NE#4 explained that he had not received any training on how to best monitor his officers' responses to call and, as such, how to ensure compliance with SPD Policies 12.010-POL-2(3) and 12.010-POL-2(4). Specifically, NE#4 said that he had recently attended the Sergeants' training and that this issue was not discussed.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

As indicated in SPD Policy 5.001-POL-5, "[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment." This policy further states that "[t]he scope of discretion is proportional to the severity of the crime or public safety issue being addressed." (SPD Policy 5.001-POL-5.)

NE#1 and NE#2 should have responded more promptly to the dispatched call. As they acknowledged, responding in 50 minutes was inconsistent with the Department's expectations of their conduct. While NE#1 offered an explanation for the late response, he was correct that he should have followed up with other officers to determine whether the calls were connected rather than simply making assumptions and not responding in a timely fashion.

While the officers technically failed to properly exercise their discretion during this incident, both recognized that they failed to do so and indicated that they would not repeat this again in the future. As such, OPA believes that a Training Referral rather than a Sustained finding is the appropriate result for both officers.

- **Training Referral.** NE#1 and NE#2 should be counseled concerning their delayed response to this dispatched call and should be directed to avoid engaging in such conduct in the future. NE#1 and NE#2 should be informed that, to the extent they repeat this conduct, it will likely result in a recommended Sustained finding and discipline. This counseling and any associated retraining should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**



Named Employee #2 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1, Allegation #1).

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #3 - Allegation #1

12.010-POL-2 Deployment 3. Sergeants and Lieutenants Will Monitor and Supervise the Status of Their Assigned Personnel

SPD Policy 12.010-POL-2(3) instructs that: "Supervisors will monitor their assigned personnel's use of downtime, call assignments and the duration of the calls." The policy does not explain how supervisors are expected to do so. SPD Policy 12.010-POL-2(4) similarly requires that: "Supervisors will monitor and supervise the status of calls and ensure the prompt handling of high precedence calls."

At their OPA interviews, NE#3 and NE#4, who were both Acting Sergeants, explained that they had not received training on how to best manage their officers' responses to calls in compliance with these policies. NE#4 specifically identified that, while he had recently attended Sergeant's training, no instruction was provided on these policies and the Department's expectations of its Sergeants in this respect.

OPA credits the assertions made by NE#3 and NE#4 that they had not received formal or on-the-job training concerning how to best effectuate these policies. OPA accordingly does not believe it appropriate to find that NE#3 and NE#4 acted contrary to policy when they had not been given tools to allow them to comply. For these reasons, OPA issues the below Management Action Recommendation.

- **Management Action Recommendation:** OPA recommends that the Department modify the Sergeants' training to include a discussion of SPD Policies 12.010-POL-2(3) and 12.010-POL-2(4). This discussion should include direction and guidance on how to best monitor officers' responses to calls and specifically how to manage the duration of officers' responses to calls and the prompt handling of high precedence calls. The Department should make sure it provides such instruction to any Acting Sergeants.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #3 - Allegation #2

12.010-POL-2 Deployment 4. Supervisors Will Monitor and Supervise the Status of Calls and Ensure the Prompt Handling of High Precedence Calls

OPA recommends that this allegation be Not Sustained and refers to the above Management Action Recommendation (see Named Employee #3, Allegation #1.)

Recommended Finding: **Not Sustained (Management Action)**



Named Employee #4 - Allegation #1

12.010-POL-2 Deployment 3. Sergeants and Lieutenants Will Monitor and Supervise the Status of Their Assigned Personnel

OPA recommends that this allegation be Not Sustained and refers to the above Management Action Recommendation (see Named Employee #3, Allegation #1.)

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #4 - Allegation #2

12.010 – Communications 4. Supervisors Will Monitor and Supervise the Status of Calls and Ensure the Prompt Handling of High Precedence Calls

OPA recommends that this allegation be Not Sustained and refers to the above Management Action Recommendation (see Named Employee #3, Allegation #1.)

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #5 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

As discussed above, while NE#5 and NE#6 intended to immediately respond to the call they were dispatched to, the battery of their patrol vehicle died. This, not any malfeasance on their part, delayed their response. As such, there is no evidence suggesting that either officer abused his discretion and OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#5 and NE#6.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #6 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

For the same reasons as stated above (see Named Employee #5, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**