



## ***CLOSED CASE SUMMARY***

ISSUED DATE: DECEMBER 21, 2019

CASE NUMBER: 2019OPA-0552

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect	Sustained
# 2	15.180 - Primary Investigations 3. Officers Shall Take Statements in Certain Circumstances	Sustained

#### **Imposed Discipline**

Four Day Suspension and Re-Training

***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 the Named Employee failed to sufficiently investigate and document a domestic violence assault.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 - Allegations #1**

#### ***15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect***

Named Employee #1 (NE#1), Witness Officer #1 (WO#1), and Witness Officer #2 (WO#2) responded to a call regarding a potential domestic violence (DV) incident. It was alleged that the victim was assaulted by her husband who had since left the scene. Specifically, the victim reported that the husband shoved her onto a bed and grabbed her by the neck. NE#1, who was the primary officer, conducted an investigation. He called his Sergeant to screen the incident with her. He told the Sergeant that the victim "minimized" what had occurred and was no longer cooperative. He further relayed to the Sergeant that he spoke to the husband who denied engaging in assaultive behavior but admitted damaging property in the shared home. Based on what NE#1 told her, the Sergeant approved the decision to not make an arrest, instructed NE#1 to write a report documenting his investigation, and said that they would transmit that report to the DV Unit.

Some time thereafter, the Sergeant spoke to WO#1. WO#1 relayed her concern that NE#1 had not properly handled the call. In an email to the Sergeant, WO#1 asserted that NE#1 had "MIR'd the call as a disturbance with a union," meaning it was not classified as a DV incident, no arrest was effectuated, and no report was written. WO#1 further informed the Sergeant that the Seattle Fire Department (SFD) was not called even though the victim had been assaulted. She further said that she was unaware whether NE#1 actually searched for the husband. WO#1 stated that, as the senior officer on scene, she told NE#1 to be sure to screen the decision not to arrest with the Sergeant.



The Sergeant, who believed that a report would be written based on her conversation with NE#1, checked and verified that what WO#1 told her was accurate and that there was no report. The Sergeant met with NE#1 to counsel him concerning this incident and to instruct him that a report always needed to be written in DV cases. At that point, two days after the incident, NE#1 wrote a report. In that report, which NE#1 titled “disturbance, other,” he documented that the victim said she suffered “no injuries.” He further wrote that he “did not have any information to go on from [the victim] that an assault took place...” He indicated that he provided her with a DV pamphlet and a business card with the incident number. NE#1 documented that there was “no strangulation.” NE#1 noted that he later spoke with the husband who denied engaging in assaultive behavior and who claimed that the property damage in the house was caused by their dog.

The Sergeant consulted with a Lieutenant and the decision was made to refer this matter to OPA. This investigation ensued. As part of its investigation, OPA reviewed the 911 call audio, the Body Worn Video, and the documentation generated. OPA further interviewed NE#1, WO#1, and WO#2. WO#1 reiterated her concerns about this call and her belief that NE#1 did not investigate it fully. WO#2 explained that, even if the victim was not cooperative, she would have still documented her investigation in a report.

SPD Policy 15.410-POL-3 states that: “Officers will make a reasonable effort to protect the victim and arrest the suspect.” The policy instructs that, when responding to a potential DV incident, officers must do the following: (1) determine whether it is, in fact, a DV incident; (2) conduct a primary investigation; (3) make an arrest if there is probable cause and if it is a mandatory arrest situation; (4) notify the victim that the subject could be arrested at a later time; (5) document the incident appropriately; (6) advise the victim of resources; (7) provide the victim with a DV resource guide; (8) explain to the victim how to seek a DV protection order; (9) ask the victim about the subject’s access to firearms or other deadly weapons; and (10) facilitate the victim’s transport to hospital for treatment or to a place of safety or a shelter. (SPD Policy 15.480-POL-3.)

As a starting point, OPA finds that this was a DV incident, not just an “disturbance” as NE#1 documented. Notably, the victim initially reported to 911 that the husband pushed her and then held her down on the bed by her neck. She further alleged that the husband “lightly strangled” her with her shirt. She repeated her allegations of DV assault to NE#1, telling him that there was a “physical altercation.”

NE#1 failed to perform multiple requirements of a DV investigation. First, he failed to properly determine that it was a DV incident. Second, he failed to conduct a sufficient primary investigation. Notably, he did not ask any specific questions regarding the husband’s conduct, including following up on the victim’s earlier statements to 911. He further did not enter the residence and did not conduct any search for evidence therein. In addition, by not entering the residence, he failed to verify that the husband was no longer there. Moreover, while he articulated to another officer and in his report that the victim was uncooperative, this was not completely consistent with the victim’s position and did not provide a basis for him to conduct a cursory investigation. Lastly, there was no indication that he conducted any substantive search for the husband, who was at large. Third, and as discussed more fully below NE#1 did not document this incident properly. Indeed, initially, he did not document it at all and, when he finally did so, his report was inaccurate and incomplete. Based on the available evidence, NE#1 had probable cause to believe that the husband engaged in a DV assault that occurred within the last four hours. As such, it was a mandatory arrest situation. Even if the husband was not in the immediate vicinity, NE#1 could have still requested charges in his report. Fourth, he did not advise the victim of the resources available to her, including how to seek a DV protection order. Fifth, NE#1 did not ask the victim about the husband’s access to firearms or deadly weapons. Sixth, even though the victim complained to 911 that the husband grabbed her neck and “lightly strangled” her with a shirt,



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NE#1 did not call for SFD to come to the scene. This was required by policy under the circumstances. He further did not ask the victim whether she needed to be transported to the hospital or another place of safety.

SPD officers are expected to conduct thorough and complete DV investigations. Moreover, given the seriousness of DV incidents, the expectation of the Department is that officers will fully comply with the policies governing such investigations. Here, NE#1 mishandled this incident and failed to properly investigate a DV assault. In doing so, NE#1 violated SPD policy and failed to make a reasonable effort to protect the victim and to arrest the husband. In reaching this finding, OPA notes that, approximately seven months earlier, NE#1 had been counseled concerning his insufficient investigation and handling of a DV incident. He received counseling, retraining, and a PAS entry. However, this clearly did not resonate with NE#1 as he repeated similar conduct in this case. Given this repeated behavior and due to the significant SPD and community interests in officer compliance with the policies relating to DV incidents, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

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

***15.180 - Primary Investigations 3. Officers Shall Take Statements in Certain Circumstances***

SPD Policy 15.180-POL-3 instructs officers to take statements in certain circumstances when conducting primary investigations. Relevant to this case, the policy states that: "Officers shall take victim statements in all domestic violence investigations"; and "Witness statements are mandatory in all domestic violence felony investigations." (SPD Policy 15.180-POL-3.)

As discussed above, NE#1 failed to comply with this policy when he did not initially complete a report concerning this DV incident. He did not document his investigation even though he was told to do so by a supervisor. The lack of a report, coupled with NE#1's failure to comply with express direction from a supervisor, is concerning and warrants a Sustained finding.

Further supporting this conclusion is the fact that the report that NE#1 did generate was inaccurate and incomplete in several respects. First, it indicated that there was "no information" indicating that a DV assault occurred. However, the victim expressly told 911 dispatch that she had been assaulted and confirmed with NE#1 that a "physical altercation occurred." Second, NE#1 indicated that there was "no strangulation" in his report, even though the victim twice contended that there was. Third, NE#1 documented this incident as a "disturbance," in spite of the fact that it was clear that a DV assault had been alleged.

Given the above, OPA finds that NE#1 acted contrary with this policy. As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**