



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 9, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0006

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 (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Sustained
# 3	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Inconclusive)
# 4	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained (Unfounded)

Imposed Discipline

Written Reprimand

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation	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:

The Complainant, a Detective at the South Precinct, alleged that Named Employee #1, the Sergeant overseeing her unit, engaged in unprofessionalism including berating and using profanity with subordinates and retaliating against her. The Complainant alleged that Named Employee #1 also disobeyed an order from an Assistant Chief requiring the unit to wear Body Worn Video and improperly altered unit statistics. Finally, it was alleged that a Lieutenant and Captain, Named Employee #2 and #3 respectively, failed to investigate the allegations when they became aware of them.



SUMMARY OF INVESTIGATION:

This investigation arises out of a statement made by the Complainant to a Lieutenant at South Precinct – referred to here as Lieutenant #1 – about a series of negative interactions she had with her supervisor, Named Employee #1 (NE#1). Lieutenant #1 forwarded the complaints to EEO, which investigated, and referred allegations of SPD policy violations to OPA. At that time, OPA interviewed the Complainant.

The Complainant is a Detective in a unit tasked with executing search warrants. The Complainant felt that the dangerous nature of these operations meant that they should have been conducted by South Anti-Crime Team (ACT), rather than Detectives. She stated that she informed her Sergeant, NE#1, of her concerns and that he responded that she did not have to participate in operations if she did not want to.

The Complainant alleged that, on or about June 19, 2019, she was part of an operation in which her squad of Detectives was assigned to pin in a vehicle. The Complainant characterized the operation as dangerous and one for which ACT teams receive specific training. During the operation, one suspect was arrested while the other escaped. Once the operation concluded, NE#1 led a unit debrief. During the debrief, the Complainant alleged that NE#1 was angry about the escape and asked the Complainant to explain her actions. The Complainant raised her concerns regarding safety. She alleged that NE#1 raised his voice and yelled at her, and that at the conclusion of the meeting he told her to “shut [her] mouth and “shut up,” prompting another Sergeant, referred to here as Witness Officer #1 (WO#1), to step in, apparently agreeing with the Complainant’s safety concerns. She stated that NE#1 raised his voice at WO#1 and that another officer stepped in to conclude the debrief. Approximately a week later, the Complainant said NE#1 approached her to ask: “are we good?” However, the Complainant noted that that the incident was not otherwise discussed.

The Complainant described another incident that occurred on July 3, 2019. At that time a Detective, referred to here as Witness Officer #2 (WO#2), was serving as the unit Acting Sergeant. WO#2 received instructions that she, the Complainant, and another detective, Witness Officer #3 (WO#3), were to be issued BWV cameras for a temporary assignment to patrol on July 4. However, on July 4, NE#1 allegedly instructed the Complainant and WO#1 not to wear the cameras. Another Sergeant countermanded NE#1’s order, and the Complainant stated that she later overheard NE#1 tell WO#1 that the sergeant in question was a “fucking idiot.”

Given what the Complainant perceived to be escalating tension in the workplace, she complained to Lieutenant #1 who was not in her direct chain of command. The Complainant said she did not go to her own Lieutenant, Named Employee #2 (NE#2), because she felt that NE#2 was friendly with NE#1 and she knew NE#1 would regularly speak with NE#2, making her doubt NE#2’s objectivity. After speaking to Lieutenant #1 about her concerns, the Complainant took vacation. On or about July 15, while the Complainant was on vacation, NE#1 allegedly called a meeting of the unit during which he “yelled” about employees taking vacation without notice. He also allegedly berated another female Detective about her investigative skills. During the meeting, NE#1 allegedly said he would “get some shit straight” with the Complainant on her return, prompting members of her unit to send her texts as a “heads up.”

On July 16, the Complainant returned to work and was approached by NE#2. NE#2 brought her to a meeting with NE#1. At the meeting, NE#2 allegedly went over the BWV incident where she stated that NE#1 had been in the wrong. During the meeting, NE#1 allegedly called the Complainant a “backstabber” for going to Lieutenant #1 while NE#2 sat silently.



The Complainant also alleged that NE#1 caused unit statistics to be improperly altered. She said that this was done to inflate performance and, specifically, to show that a male unit Detective, referred to here as Witness Officer #4 (WO#4), was performing well.

OPA also interviewed several witnesses. WO#1 is a sergeant who supervises South ACT and who intervened in the June 19 debrief. WO#1 said that, at the debrief, the Complainant expressed a lack of clarity on her role in the operation and that NE#1 and the Complainant started “going at each other.” He said that NE#1 told the Complainant to “shut the fuck up” at which point WO#1 stepped in to take control of the debrief. WO#1 noted that he had heard at least one other officer express concerns about NE#1’s apparent disregard of safety protocol.

WO#2 is a detective in the unit who was the Acting Sergeant when the BWV order was communicated on July 3. She recalled then receiving direction to the contrary from NE#1 and said that this was later counter-manded by the supervisor designated as the incident commander. WO#2 noted that NE#1 and the Complainant had a “tense” working relationship and that she often acted as a mediator between the two. She said that she had heard about the debrief incident but did not attend herself.

WO#2 described the meeting which took place on July 15 after the Complainant reported her concerns to Lieutenant #1. She said that NE#1 emphasized that Lieutenant #1 was not in their chain of command and that Detectives should follow the chain of command when reporting concerns. At that meeting, WO#2 said that NE#1 made a series of demeaning comments to another detective, WO#3. WO#2 also described a separate incident where she told NE#1 that she had a work conflict because of her kids. She said that he responded: “I don’t give a fuck about your kids.” She felt that he was upset about something at the time and did not mean to insult her; however, she believed the statement to be inappropriate.

Finally, WO#2 described an incident when she was driving with NE#1 and his family in his personal vehicle. She said that she noticed an inappropriate pornographic website appear on NE#1’s vehicle screen. She acknowledged that NE#1’s two adult sons were in the car and that one of their phones may have automatically synched with the vehicle’s Bluetooth screen. She did not feel that this was done intentionally.

OPA interviewed WO#3, another Detective in the unit. WO#3 described the unit as collegial but said that things became tense after the Complainant complained to the Lieutenant. She described the June 19 debrief as a “blow-up” between NE#1 and the Complainant and said there may have been swearing. She also described the July 15 meeting as unproductive and said that NE#1 made “rude and inappropriate” comments about her work product. WO#3 theorized that NE#1 had been angry and wanted a reason to express that anger.

OPA also interviewed the Named Employees. NE#1 said that he and the Complainant had always got along well until the June 19 debrief, at which time he said the Complainant “got her feelings hurt.” He said that he was aware that both the Complainant and WO#2 had concerns that South ACT should be executing warrants but that he disagreed, noting all officers are trained in making arrests. He said that all operations are based on risk matrices approved by Command, and that neither he nor the chain of command had issues with the operations as planned.

He described the June 19 debrief and explained that the Complainant had failed to properly execute her assigned role. When asked what went wrong, NE#1 said that the Complainant started yelling and that he told her “you should stop talking now.” He denied swearing at any member of his unit but acknowledged being “animated” in the debrief.



NE#1 said he initially ordered the Complainant, WO#2, and WO#3 not to wear BWV equipment on July 4 because they were not trained in its use. When the Assistant Chief reiterated his order, NE#1 instructed them to obtain the equipment from the training unit. At the July 15 meeting, NE#1 said that he focused primarily on issues with Detectives taking vacation days at the last minute and said that such requests should be filed as sick days. He also emphasized that concerns should be routed through the chain of command. He acknowledged telling Detectives that they could work elsewhere at this meeting but said that his intent was to tell them that personnel moves are an option, not to threaten anyone with reassignment.

On July 16, NE#1 said he met with NE#2 and the Complainant. He said that the Complainant stated in the meeting that she did not have a problem with NE#1. She said that she spoke to Lieutenant #1 because NE#2 was not in the office at the time. He said that during the meeting, he told the Complainant that he felt she had stabbed him in the back by going to Lieutenant #1 directly instead of to him or NE#2.

Regarding other issues, NE#1 said that he made an effort to ensure that all Detectives had roughly the same number of cases assigned, and that he reassigned some cases from the Complainant to other detectives to keep assignments even. NE#1 also denied that he prevented the Complainant from serving as an Acting Sergeant due to retaliation towards her. He explained that she did not clear cases quickly enough from the queue, which was a requirement for the unit Sergeant role. Accordingly, he had WO#2 and WO#4 serve in this position instead.

NE#1 denied improperly inflating statistics or trying to alter information to make WO#4 look better. He said that he does not even know how this would be done given how their data systems operate. He said that he also did not tell WO#2 to alter information in reports concerning the tactics they used. He did recall once telling WO#2 to change something that she had written about an officer who was doing a temporary assignment in the unit; however, this was because he thought it was improper to put personal opinions about an officer's negative performance in a report that would be going to the Chief.

Regarding the inappropriate pornographic website, NE#1 said he was unaware of the address appearing on the car screen and that it did not originate from his phone.

OPA interviewed NE#2. NE#2 is South Precinct Operations Lieutenant and supervises NE#1's unit. She said that she has a good relationship with NE#1 and characterized him as a "work friend," but that they have never socialized outside of work. She said that she believed NE#1 to have good relationships with everyone in his unit besides the Complainant. She also said she has a good working relationship with Lieutenant #1 to whom the Complainant reported her concerns but said they did not socialize outside work. NE#2 said she was friends with NE#3, who, at the time of the complaint, was South Precinct Captain.

NE#2 said that she would have examined the risk matrix for the operation on June 19. She said that she has never refused to sign off on an ops plan and that both she and NE#3 approved this operation. She said NE#1 made her aware that the debrief got "a little heated."

Regarding the July 16 meeting, NE#2 said that Lieutenant #1 made her aware that the Complainant was upset. She asked him why the Complainant went to him and not NE#2, and he explained that on the day the Complainant came to him NE#2 was not present. NE#2 scheduled the meeting to address the Complainant's concerns. In NE#2's opinion, the meeting went well and that she did not recall anyone being called a "backstabber" in the meeting. She denied ever hearing NE#1 swear at other officers.



Finally, OPA interviewed NE#3. He said he knew NE#1 from when he had been NE#1's Field Training Officer, and that he was slightly more familiar with NE#1 than with other South Precinct Sergeants. NE#3 said that NE#1 and his squad frequently worked emphasis patrols and that the unit typically performed at a high level. He was also familiar with the Complainant, having once nominated her for Detective of the Year, an award she received.

He said that he typically relies on NE#2 and other Lieutenants to approve operation plans. He said that he was aware of the two suspects involved in the operation and acknowledged exerting some pressure on the unit to arrest them. He was not aware of specific concerns regarding safety and said that typically that would be the responsibility of supervising Lieutenants. He said he was not aware of any instance where NE#1 berated or swore at officers.

NE#3 said that he had some concerns that Lieutenant #1 was involving himself in a unit NE#2 oversaw. He said that Lieutenant #1 had previously voiced his lack of confidence in NE#1, but that Lieutenant #1 could himself be a "bomb-thrower" and that he would make veiled comments that concerned NE#3. He said that he was unaware of any specific problems between NE#2 and Lieutenant #1 and that if either had a problem, he would expect them to come directly to him. NE#3 said that he communicated this to Lieutenant #1 by email.

NE#3 told OPA that he was aware of the issues surrounding the BWV usage by Detectives. He said that he and NE#2 reviewed the policy and ultimately the cameras were issued to and worn by the Detectives.

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 6. Employees May Use Discretion

As indicated in SPD Policy 5.001-POL-6, "[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-6). It was alleged that NE#1 abused his discretion when he had his Detectives engage in operations that they were not trained or tactically prepared for. It was further alleged that he did so by falsifying statistics in reports.

With regard to the safety of operations, OPA notes that there were three employees in the unit – the Complainant, WO#2, and WO#3 – who felt that it was not appropriate for them to collectively engage in this activity. WO#1 shared these concerns. However, NE#1 and Detective WO#4 did not agree and felt that they were appropriately trained to perform these operations. NE#1 also noted that a risk matrix was completed for each operation and was shared with his chain of command. The chain of command was aware of and approved each operation prior to it commencing. This was confirmed by NE#2.

While OPA does not doubt that there is wisdom in having ACT assist or take the lead on warrant services and other similar potentially high-risk operations, OPA cannot say that NE#1 abused his discretion. This is primarily due to the fact that his actions were known of and signed off on by the chain of command. Thus, they, not NE#1, would bear responsibility for the unit engaging in inappropriate operations.

Moreover, there is insufficient evidence to establish that NE#1 ever caused statistics in reports to be altered in an improper manner. WO#2 told OPA that NE#1 asked her to change case statistics once because her numbers were "wrong." WO#2 did not believe that this was correct; however, WO#2 did not indicate to OPA that this was based on malfeasance on NE#1's part. WO#2 also stated that NE#1 asked her to run the case closing numbers from Tuesday



to Sunday. She felt that it should be done from Monday to Sunday and NE#1's way seemed to her to be "fudging" the numbers. However, WO#2 indicated that this was the way that NE#1 always ran the numbers, not that he did so during random weeks to inflate the perception of the unit's performance. As such, while WO#2 may not have agreed with this, NE#1 was consistent in how he charted and reported on case closings. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

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.) The policy further states the following: "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.*)

In evaluating whether NE#1 violated the Department's professionalism policy, OPA focuses on seven distinct allegations: (1) NE#1 telling the Complainant to "shut up" or "shut the fuck up" during a meeting; (2) NE#1 making comments at a meeting where the Complainant was not present that invoked the Complainant in a negative and critical manner; (3) NE#1 criticizing WO#3's work product in front of other unit employees during that same meeting; (4) NE#1 telling unit employees at that meeting that any issues with the unit should go through their direct chain of command and not through other supervisors; (5) NE#1 calling the Complainant a "backstabber" during the meeting with NE#2; (6) NE#1 telling WO#2 that he did not "give a fuck" about her children; and (7) a pornographic website coming up on NE#1's vehicle's screen while WO#2 was driving him to the airport.

Based on a review of the totality of the interviews, OPA finds that NE#1 violated the professionalism policy with regard to allegations 1, 3, and 6. OPA finds that there is a lack of sufficient evidence to determine whether the other allegations also violated the policy.

With regard to allegation 1, virtually all of the witnesses except for NE#1 said that he told the Complainant to shut up during the meeting. Moreover, WO#1 and the Complainant alleged that used profanity towards the Complainant and WO#2 and WO#3 did not foreclose that this was the case. This is simply not an appropriate way for a supervisor to speak during a meeting and OPA finds that it violated policy.

With regard to allegation 3, OPA concludes that NE#1 directly called out WO#3's work at a meeting in front of other co-workers. WO#2 and WO#3 asserted that he did so in a manner that was insulting to WO#3. As with allegation 1, this is outside of the Department's expectations of the conduct of supervisors.

With regard to allegation 6, WO#2 asserted that NE#1 told her that he did not "give a fuck" about her kids. She said that she was taken aback by the statement but chalked it up to NE#1 being in a bad mood as he had been very accommodating of her schedule in the past. OPA deems WO#2's recounting of this statement to be credible and finds that it violated policy.



However, when looking at allegations 2, 4, 5, and 7, OPA finds insufficient evidence to support a finding of unprofessional conduct. For allegation 2, NE#1 never mentioned the Complainant by name and said that he was discussing general performance of unit employees. As such, even if his statements were interpreted to be about the Complainant, OPA cannot definitively determine that this was the case. For allegation 4, NE#1 was incorrect that unit employee could not report issues to supervisors outside of their chain of command; however, OPA does not believe that this statement rose to the level of a policy violation. For allegation 5, NE#1 said that, during the meeting with the Complainant and NE#2, he told the Complainant that he felt that she stabbed him in the back for going directly to Lieutenant #1. He denied calling her a backstabber. Depending on context, his statement would not necessarily violate policy. Ultimately, the evidence is inconclusive here. Lastly, for allegation 7, there was no evidence indicating that NE#1 intentionally put a pornographic website up on his car's dash. It was possible that the phone of someone else in the car synched with the dash but that this was not purposeful. Regardless, given the lack of intent, this would not be unprofessional in violation of policy.

Given the conclusions reached above, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 14. Retaliation is prohibited

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) SPD employees are specifically prohibited from retaliating against a person who engage in activities including, but not limited to, "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." (*Id.*) Retaliatory acts are defined broadly under SPD's policy and include "discouragement, intimidation, coercion, or adverse action against any person. (*Id.*)

The Complainant felt that she was subject to retaliation because she raised concerns with the safety of operations and regarding BWV with other supervisors. She said that this manifested in her being treated differently than others in the unit, having her leave more closely monitored, and in not being allowed to serve in the Acting Sergeant role.

NE#1 denied that he retaliated against the Complainant or treated her differently than others in the unit. He said that others also raised concerns with the safety of operations, and he allowed those Detectives to opt out if they wanted. He further explained that all of the operations were approved by the chain of command. He told OPA that he did not more closely monitor the Complainant's leave and, to the contrary, started monitoring all unit members' leave because of increased absences with short notice. Lastly, he explained that he had WO#2 and WO#4 serve in the Acting Sergeant role instead of the Complainant because they were more able to clear the case queue. He denied that this decision was purposed to punish the Complainant. He further stated that, at one point, she said that she was no longer interested in serving in that position.

All the members of the unit interviewed by OPA stated that there was tension between NE#1 and the Complainant. When asked about retaliation, WO#2 said that the Complainant perceived that she was treated differently but WO#2 did not observe this actually occurring. WO#4 denied that there was any retaliation and said that the Complainant negatively impacted the unit and caused personnel issues. WO#4 and WO#1 felt that the Complainant was treated differently. WO#4 stated that this was typified by increased tension between NE#1 and the Complainant after the contentious meeting on June 19. WO#1 also felt that the Complainant was treated differently by NE#1.



WO#1 pointed to NE#1's failure to rely on the Complainant's expertise and, instead, his apparent favoritism of WO#4 over other Detectives in the unit.

As indicated above, there is evidence on both sides of this allegation and fairly significant disputes of fact. Given this, OPA cannot definitively determine whether NE#1 did retaliate against the Complainant and treat her differently than other similarly situated unit employees. Accordingly, OPA recommends that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #4

5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The failure to do so constitutes insubordination.

The Complainant alleged that NE#1 engaged in insubordination when he ordered Detectives not to use BWV, even though the then-Patrol Chief had directed, via email, that they do so.

With regard to this allegation, NE#1 said that he was on vacation when the Patrol Chief determined that Detectives working emphasis shifts needed cameras. When he returned, this information was relayed to him. He said that, because he did not believe that the Detectives in his unit were BWV-trained and because they did not have cameras actually issued to them, he temporarily directed the Detectives not to wear the cameras. He said that he discussed this with NE#3 who concurred with his decision-making. He said that, after the fact the Patrol Chief issued a direct order to NE#3 that NE#1 and his Detectives use BWV. At that time, he complied with the order.

At his OPA interview, NE#3 confirmed that he did have a discussion with NE#1 wherein they discussed the fact that cameras had not actually been issued to the Detectives. He said that he did not have a problem with the Detectives not using cameras until that could occur. He further recalled discussing the conflict between the direction issued by the Patrol Chief and the policy, which required cameras to be issued and the users to be trained prior to deploying with BWV.

Given the above, OPA finds insufficient evidence to determine that NE#1 deliberately acted contrary to a direct order. Instead and relying heavily on NE#3's testimony, OPA finds that NE#1 had reasonable concerns regarding the Detectives deploying with BWV and that these concerns were shared by his chain of command. Ultimately, once this issue was resolved, the Detectives did, in fact, deploy with cameras. While there was perhaps a better way to handle this matter on NE#1's part, OPA does not find that he willfully disregarded an order in violation of policy. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation



The Complainant alleged that both NE#2 and NE#3 may have failed to investigate potential misconduct and to refer serious misconduct to OPA.

For her part, NE#2 said that, aside from a conversation she had with Lieutenant #1 about concerns the Complainant raised with him, she was not aware of ongoing unprofessionalism, retaliation, or other improper treatment of the Complainant by NE#1. She said that, after she spoke with Lieutenant #1, she set up a meeting between her, NE#1, and the Complainant to address these issues. NE#2 felt that the meeting went well and that there were no issues that needed to be referred for further investigation. She denied that she had a relationship with NE#1 that precluded her from being objective and said that she wished the Complainant would have come to her instead of to Lieutenant #1 with her initial concerns as it could have prevented the situation from escalating. NE#2 also described Lieutenant #1 of having long-standing issues with NE#1 and, at times, making allegations that appeared to be unsupported.

NE#2 said that, while she heard that the June 19 meeting between NE#1 and the Complainant grew heated, she was not aware of the substance of what was said. She told OPA that she had no knowledge of NE#1 using profane or disrespectful language towards subordinates and/or females in the unit. She felt that NE#1 managed his unit well and recognized that he was very direct with people.

NE#2 denied that there were policy violations concerning the operations engaged in by the unit. She confirmed that both she and, at times, NE#3 reviewed and approved the plans. She also said that the Complainant never brought concerns to her about the operations.

NE#2 also denied knowledge of NE#1 deliberately failing to comply with orders from supervisors or altering statistics in reports.

NE#3 similarly denied being aware of misconduct that required a referral to OPA. He said that he knew that there may be "personality conflicts" between NE#1 and the Complainant and he asked NE#2 to address this. He stated that he was informed by NE#2 that there was not a pattern of misconduct within the unit. He did not recall issues of serious unprofessionalism, mistreatment of female employees, or retaliation towards the Complainant ever being flagged for him. He said that, had he been aware of this information, he would have required an OPA referral.

He recalled Lieutenant #1 coming to him with concerns about NE#1. However, NE#3 took these concerns with a grain of salt as, in his perspective, Lieutenant #1 had long-standing issues with NE#1. NE#3 explained that, from nearly the beginning of his time at the South Precinct, Lieutenant #1 made vague statements of malfeasance on NE#1's part. Lieutenant #1 also repeatedly described his dislike for NE#1. NE#3 described Lieutenant #1 as a little bit of a "bomb thrower" and said that Lieutenant #1, at times, would be focused on issues outside of his span of control.

NE#3 recalled the situation concerning BWV. He did not believe that NE#1 deliberately disobeyed an order and felt that the issue was more that there was confusion concerning the terms of the policy and whether the Detectives had been properly trained on and provided with BWV.

NE#3 was not aware of any safety concerns with operations engaged in by the unit. He said that he relied on the Lieutenants to address tactical issues



As part of its investigation, OPA reviewed a number of emails sent to and from NE#3. There was no evidence that he or NE#2 were aware of serious misconduct that was required to be reported to OPA or that they failed to take appropriate investigatory steps.

SPD Policy 5.002-POL-5 requires supervisors who become aware of a potential policy violation to investigate or refer the allegations depending on their severity. Minor allegations of misconduct may be investigated by a supervisor, while allegations of serious misconduct – such as the use of excessive force – must be referred to OPA. (SPD Policy 5.002-POL-5.)

Based on OPA's review of this case, there is insufficient evidence supporting a finding that NE#2 and NE#3 failed to take appropriate investigatory action concerning issues within the unit that they became aware of. NE#2 attempted to address the relationship between NE#1 and the Complainant and felt that their joint meeting was productive. Both NE#2 and NE#3 addressed the BWV issue and determined, rightfully in OPA's opinion, that NE#1 did not deliberately violate an order given conflicts with other language of the policy. Similarly, it does not appear that any concerns with the safety of operations was ever raised to the level of NE#2 and NE#3 or that they were made aware of the purported changing of statistics.

Given this, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#2 and NE#3.

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

Named Employee #3 - Allegation #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation

For the same reasons as stated above (see Named Employee #2 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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