



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JULY 18, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0035

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained (Lawful and Proper)

***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 the Named Employee failed to properly investigate an incident and did not take appropriate law enforcement action.

### **SUMMARY OF INVESTIGATION:**

The Complainant filed a complaint with OPA concerning the purported failure of Named Employee #1 (NE#1) to investigate stolen bicycles from his apartment building. He based his complaint on what he claimed building management told him. He said that officers came to his building, saw the suspect there committing the crime, but failed to take law enforcement action. The officers allegedly told building staff that there was nothing that they could do and that the jails were full. The Complainant said that his account of what occurred was consistent with the building security guard's report. OPA commenced this investigation.

OPA reviewed NE#1's report and the CAD Call information. NE#1 was riding by the building when he was flagged down by the security guard. She told him that the suspect stole the bicycles and rode away. The suspect was no longer at the scene. NE#1 documented that he interviewed the security guard, watched security video, and conducted an area check in an attempt to locate the suspect. The area check was unsuccessful. Around 12 hours later, the building manager filed a supplemental report in which she asserted that the suspect lived in a nearby homeless encampment.

OPA also reviewed the security guard's report and other correspondence from the building. The security guard wrote that she observed the suspect stealing the bicycles on the security cameras. She went to the garage, where the theft was occurring, and saw the suspect riding away. She documented that she flagged down NE#1, who was driving by. He watched security video and then went searching for the suspect. She included no information indicating that NE#1 saw the suspect at the scene and refused to make an arrest. The other correspondence from the building included statements from two other staff members noting that the security guard pointed the suspect out to the officers, but the officers did nothing and chose not to make an arrest.



OPA also watched the Body Worn Video (BWV) and In-Car Video (ICV). The video showed NE#1 getting flagged down by the security guard. She pointed down the street and NE#1 drove in that location. He did not locate the suspect and the suspect did not appear on his BWV or ICV. NE#1 returned to the building and spoke to the security guard. He asked her for descriptive information about the suspect. She told NE#1 that the suspect fled right before NE#1 arrived and that she pointed to where the suspect had gone. Two other officers arrived on scene. NE#1 asked if they saw the suspect and the officers said no. NE#1 then entered the building and reviewed security footage. After he was finished, he told the security guard that he would look for the suspect, write a report, and call her if he located the suspect. He gave the security guard a case number and left the scene.

Lastly, OPA interviewed the building manager and the security guard. The building manager said that she was informed by building staff that the officers saw the suspect but chose not to make an arrest. She said that she later learned that this account may not have been accurate. The security guard's account of the incident was consistent with her report, as well as with NE#1's report and the BWV and ICV. She confirmed that the suspect was not at the scene when NE#1 arrived but that NE#1 went to look for the suspect. She denied telling other building staff that officers saw the suspect but chose not to make an arrest. To the contrary, she asserted that she told building staff that the officers did try to find the suspect. Lastly, the security guard affirmed that NE#1 did not say that the jails were full or that he could not take enforcement action.

#### **ANALYSIS AND CONCLUSIONS:**

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

##### ***15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence***

SPD Policy 15.180-POL-1 requires that officers perform thorough and complete investigation into incidents, including searching for evidence.

Here, the assertion by the Complainant and some building staff that NE#1 chose not to take law enforcement action even though he viewed the suspect committing a crime is incorrect. The evidence indicates that NE#1 never saw the suspect and that, when the direction of the suspect was provided to him, he searched for the suspect unsuccessfully. The evidence also indicates that NE#1 completed a thorough and complete investigation, including interviewing the security guard and watching security video. Moreover, two other officers completed an area search for the suspect but were also unsuccessful.

Not only is NE#1's compliance with SPD policy confirmed by his own report and his BWV and ICV, but it is also supported by the interview and report of the security guard. The individuals who assert the contrary were not present during this incident and appear to have based their account on conjecture and misinformation.

As NE#1 fully satisfied the requirements of SPD policy during this incident, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**