



## ***CLOSED CASE SUMMARY***

ISSUED DATE: SEPTEMBER 14, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0152

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

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

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

#### **Named Employee #3**

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	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 alleged that the Named Employees were unprofessional towards her.

### **SUMMARY OF INVESTIGATION:**

The Complainant was driving in Seattle and approaching the Fremont Bridge. She described viewing a car “drag racing” in a 25-mph zone. She got behind the car in order to turn onto the bridge when it backed into her on purpose. She got out of her vehicle to confront the driver and he threatened to assault her. She took pictures of the driver and his car and then moved to a safe place to call the police. She was with her friend at the time, and they waited approximately two hours for police to respond while in the rain.

The Complainant recounted that she spoke to 911 dispatchers – later identified as Named Employee #2 (NE#2) and Named Employee #3 (NE#3) – who were rude, impatient, and treated her call as if it was not an emergency. She felt that she did not receive appropriate service – or really any adequate service at all – and recounted being shocked at the lack of help she received.



After waiting for police to respond, she left the scene and returned to her home. Around ten hours after her vehicle had been struck and she had been threatened, officers – Named Employee #1 (NE#1) and a student officer – responded to her home. She felt that those officers properly investigated the incident and responded to her concerns. However, at around 2 a.m., she received a call from NE#1 and the student officer who told her that they had tried to locate the driver and found his car but that he was not awake. The Complainant was upset by this. NE#1 told her that they wrote a report, which the Complainant did not feel was sufficient. She said that NE#1 ultimately hung up on her. She believed that all of the Named Employees were unprofessional in how they treated her and in their overall handling of her 911 calls and this incident.

As part of its investigation, OPA obtained a written statement from the witness who was with the Complainant at the time of the incident. She said that she was with the Complainant when she called 911. They were told that officers would respond. However, after waiting for over an hour without officers arriving, the Complainant called 911 back. The witness told OPA that the Complainant was shaken up from the incident. She also stated, like the Complainant, that the 911 dispatchers were dismissive and did not appear to take the report seriously, as well as that they cut the Complainant off at times. The witness was later informed by the Complainant that the officers went to the driver's residence but did not take any further action when he did not open the door. The officers also told the Complainant that they would not go back. She felt that this was even more problematic.

#### **A. 911 Call Recordings**

OPA further reviewed the various 911 call recordings and associated documentation. SPD records indicated that the Complainant placed her first 911 call at 3:47 p.m. At that time, the Complainant told the 911 operator that she had observed the driver “drag racing” in her neighborhood and she said that she was following him. The 911 operator told her to stop doing so as this was dangerous and to pull over. The Complainant provided a description of the vehicle. The Complainant then reported that the driver backed into her vehicle. The 911 operator asked her if there was a collision and the Complainant said no. The Complainant also stated that the driver told her that he was going to “punch her face.” The Complainant did not report a physical assault. The Complainant gave the driver's direction of travel and said that she was travelling behind him. She later clarified that she was turning towards her home. The 911 operator repeatedly asked the Complainant where she wanted to meet the officers. At one point, the Complainant raised her voice and said: “Okay, you know what – right now you need to help me, okay!” The 911 operator responded: “No, no, no listen – you're on an emergency line so listen to me. Where do you want to meet with an officer? Give me an intersection or an address?” The Complainant ultimately made the decision to pull over and gave her address.

The Complainant called 911 a second time and was connected with NE#2. She told NE#2 that she was waiting for the police and that she had provided the wrong license plate for the driver. NE#2 asked the Complainant for information (an address) to locate the Complainant's original 911 call. The Complainant reiterated her report about the driver. NE#2 again asked her for the address and told her that she needed this information to update the call. The Complainant stated that it was the Fremont Bridge and NE#2 asked her if she had a more specific location. The Complainant responded: “Let's not get to like...you know, like expository – let's just to the point here.” NE#2 told her: “Well, if I can't find your call, I can't update it – If you're going to argue, I'm going to get you over to an operator. Stay on the line.” NE#2 disconnected.

The Complainant spoke to another 911 operator to provide the driver's correct license plate number. The operator asked her questions concerning her location and the number she called from in order to update the call. The operator said that no call was linking back to the Fremont Bridge. When the Complainant said that she did not know exactly



where she was, the operator responded: "I get it. I just need to be able to find the right call. We have a lot of calls holding in that area, that's why – cause I need to make sure I update the right call." Ultimately, the operator was able to locate and update the call. The Complainant thanked the operator.

The Complainant called 911 a fourth time to ask where the officers were. She told the operator that she had been waiting for over an hour. The operator told her that the officers had been dispatched and would be there as soon as they could be. The operator said: "Sorry about the wait but I cannot give any ETA at all...But I do know that they will be there as soon as they are able to, okay."

A fifth 911 call was placed by the witness, who provided her account of the incident to the operator.

The Complainant called 911 a sixth time and was connected with NE#3. NE#3 asked the Complainant whether she was still at the location where she had been waiting. The Complainant said no. NE#3 queried whether she was still available for contact. The Complainant responded: "No, I'm home so if you need to talk to me. I would say the dispatch team didn't do a great job either. They were asking a lot of strenuous questions and just like well the guy basically verbally threatened me – swung his door at me. I don't know how much you need to know." The Complainant continued: "I mean what part of north, south, east or west [unintelligible] we just need to get this solved." NE#3 asked for the Complainant's address, and she provided it. She told NE#3 that she would have to buzz the officers in and offered to meet them outside. NE#3 said that he would update the call and officers would be on their way. The Complainant said: "Well, I want to see someone where I'm not waiting five hours – you know what I mean, it's kind of like a serious issue." NE#3 replied: "I completely understand – but like I've said, I've only got so many officers, so I'll keep the call holding...If you still want to wait for contact." The Complainant said "well, I guess you're not really giving me further stuff to work with here," and asked whether the officers would knock on her door and speak with her inside."

NE#3 explained: "So, the situation I'm in, is I got the call holding on my screen. I just haven't had officers available to go out there. But when I do have officers available, I'm going to send them. Which is why I'm just trying to clarify if you still want to be contacted." The Complainant said: "Like it's a serious issue – like if the police need to talk to me, they need to talk to me. I'll be here – I'll be at home. I just kind of need to know an ETA or like close to an ETA of like, what you want me to do." NE#3 told her that he could not provide an ETA but would get the officers there as soon as he could. The Complainant again asked what was going to happen and whether she should stay at home for an officer to meet with her at some point that night. NE#3 again clarified that she wanted to meet with officers. The Complainant said: "I need to know what to do. I don't know what to do, okay. Someone threatened to punch me in the face and slammed the door on my body. What do I do? Do I need to be shot by this guy before you guys do anything about it? Is that what you need? What do I need to do is my question for you?" NE#3 replied: "I have told you several times now that I have a call holding for you and we'll be out to see you as soon as we can." They continued discuss this issue. At one point, the Complainant said: ""Okay, you're going back and forth. The last thing is correct, right? You need to learn how to communicate. So he's going to come and see me in person, right? That is what's happening." NE#3 told her: "That is what I have told you a couple of times now. I'm going to disconnect." She responded: "Great, awesome...awesome. No, no...you waffled back and forth." The line then disconnected.

## **B. BWV Review**

NE#1's Body Worn Video (BWV) showed that he responded to the call with the student officer at approximately 10:15 p.m. The student officer apologized for their late response and told the Complainant that they had been really busy. The Complainant told them what happened and showed them the photographs she took of the driver and his vehicle.



She also provided them with the license plate. The Complainant told NE#1 and the student officer that she was upset about how the 911 dispatchers handled her calls and the lack of urgency they demonstrated. The student officer asked the Complainant for a description of the driver, and she provided it. NE#1 clarified whether the Complainant felt that the driver's conduct was based on or motivated by her status as an Asian American woman. The Complainant ultimately said that she did not think so.

NE#1 informed the Complainant that the vehicle was registered to a location in downtown Seattle but that the driver appeared to live on Mercer Island. NE#1 told her that they would see if West Precinct officers (which has jurisdiction over downtown Seattle) could go as he and the student officers were the only officers handling their large sector in the North Precinct. NE#1 also noted that they could ask their Sergeant permission to allow him and the student officer to do so. NE#1 apologized for this but said that they were extremely short staffed. NE#1 explained that they could go to the location, knock on the door, and try to make contact with the driver. NE#1 said that, if the driver answered, they could get his account. However, NE#1 noted that, if not, there was not much else they could do.

The Complainant again raised her concerns about the 911 dispatchers. NE#1 told her that he did not do that job and could not speak to it but said that he was sorry if she felt that she was treated poorly. He told her that they would confer with their Sergeant about going to downtown Seattle and would call her later to update her.

Later that evening, NE#1 and the student officer called the Complainant back. The student officer told her that they went to the downtown Seattle apartment, but that it was "all locked up" and they could not get inside. He further told her that they could not locate the vehicle. The student officer asked her if she was okay and whether she needed to add anything else. The Complainant asked if they would go back in the morning and not at 2:00 a.m. when the driver was likely sleeping. NE#1 got on the phone and told her that this was not doable as their shift began at 8:00 p.m. and they would not be allowed to go back to the West Precinct at that time. NE#1 said that they would write up the report and, while they could not make any promises, a follow-up unit could potentially make contact with the driver at a later date.

For around the next 25 minutes, the Complainant expressed her frustration with the officers' failure to find the driver and to commit to returning the next day to locate him. She grew increasingly upset. NE#1 tried to explain their limited resources and tried to answer the Complainant's questions, but this was largely ineffective. The Complainant asked NE#1 for the driver's address, and he told her that he could not give it to her. After speaking for a while, NE#1 recognized that the Complainant was upset and told her that it did not appear that she was hearing what the officers were saying. Eventually, NE#1 told the Complainant: "I'm going to go ahead and get off the phone now. I don't think we're going to get anything else accomplished. I will do everything as promised to do. And I..." The Complainant interrupted and said: "Oh, we're not going to get anything accomplished because you haven't solved my issues to this. And I don't really know what else to do. So, you know that I'm going to go work in Queen Anne with some guy like this running free. Who's going to do it again to me or someone else." NE#1 responded: "I'm going to end the call now. Okay." The Complainant started to say "no, I have some follow up," as NE#1 disconnected.

The student officer later documented this incident in a report. He detailed their initial response to this incident and the investigative steps they took. He further noted the Complainant's frustration with the officers and the dispatchers. He provided the following explanation:

After approximately 30 minutes, it had become obvious that continued conversation with [the Complainant] was going nowhere and was likely escalating her. [NE#1] politely informed [the Complainant] that it did not seem that the conversation was productive,



that we had answered her questions multiple times and apologized for the initial delay from the time of [the Complainant's] 911 call to our response. [NE#1] then told [the Complainant] he would be ending the phone call. [The Complainant] continued to speak telling us she had more questions. [NE#1] again told [the Complainant] he was ending the call and then disconnected.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 – Allegation #1**

##### ***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 at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (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.”

OPA interprets the Complainant's professionalism against NE#1 to be twofold. First, she believed that he spoke to her and treated her unprofessionally, particularly during their phone call. Second, she believed that his overall handling of this case and failure to locate the driver was unprofessional.

With regard to these assertions, OPA's review of the BWV recorded by NE#1 does not support a finding that he was unprofessional. During both of his interactions with the Complainant, including during the phone call, NE#1 was patient and tried to explain what he could and could not do to the best of his ability. The Complainant did not accept what he was telling her and was upset about it. Certainly, this was her right; however, NE#1 correctly expressed the limitations of his role and the steps he could take concerning her report of criminality. Moreover, he accurately informed her of SPD's overall staffing deficiencies, which provided an additional reason that officers could not respond. None of these statements were unprofessional. OPA further does not believe that his ending the call after nearly 30 minutes was unprofessional. NE#1 assessed that the call was not productive and that nothing he could say would remedy the Complainant's concerns. OPA cannot say that this was unreasonable. Under these circumstances, he was permitted to end the call and he did so in as polite a fashion as he could have.

Again, OPA is not discounting the Complainant's frustration and gets why she was upset by this incident; however, this was not NE#1's fault and the evidence does not support a finding that he was unprofessional either in his statements or in how he handled this matter. Indeed, he did more than many other officers would have in going to a location out of his precinct and then calling the Complainant to follow up after his shift had ended.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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

#### **Named Employee #2 – Allegation #1**

##### ***5.001 – Standards and Duties 10. Employees Shall Strive to be Professional***



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OPA assesses the professionalism of NE#2 and NE#3 together. Both responded to calls placed by the Complainant and, as part of this, were required to ask her questions to establish basic information needed to properly handle the calls. For example, NE#2 was required to determine what the exact address was for the Complainant's first 911 call so that she could properly link the new information provided to that call. As another example, NE#3 needed to determine whether the Complainant still wanted officer contact and, if so, where and how she wanted it to occur. In both situations, the Complainant grew frustrated with them.

911 dispatchers need to efficiently respond to numerous calls for service. They often need to do so quickly in order to get to the next call. They need to expeditiously elicit specific information from callers. This does not mean that they can be rude to do so, but the reality is that they are often required to ask pointed questions to move the calls forward, to provide an accurate summary of the call, and to ensure a prompt and informed response. Where callers do not provide this information or argue with the operators, they may be forced to disconnect or transfer the caller to a non-emergency line in order to make sure that more emergent calls can be received and responded to.

This is ultimately what occurred here, not just with NE#2 and NE#3, but with all of the operators that the Complainant spoke with. Based on the above and on the actual contact of the recorded 911 calls, OPA does not believe that either NE#2 or NE#3 spoke to the Complainant unprofessionally or violated policy in any respect. While the Complainant may not feel that they were responsive or empathetic enough, OPA's review of the evidence appears that they did their best under the circumstances.

Accordingly, 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**

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

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)**