



## ***CLOSED CASE SUMMARY***

ISSUED DATE: NOVEMBER 2, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0193

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

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

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties POL-10 - Employees Shall Strive to be Professional	Sustained
# 2	16.110 – Crisis Intervention 9. Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis b. Officers Shall Document All Suicide Attempts or Threats	Allegation Removed
# 3	5.001 – Standards and Duties 6. Employees May Use Discretion	Allegation Removed

#### **Imposed Discipline**

Written Reprimand

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

Allegation(s):		Director's Findings
# 1	5.001- Standards and Duties POL-10 - Employees Shall Strive to be Professional	Sustained
# 2	16.110 – Crisis Intervention 9. Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis b. Officers Shall Document All Suicide Attempts or Threats	Not Sustained (Training Referral)
# 3	5.001 – Standards and Duties 6. Employees May Use Discretion	Allegation Removed

#### **Imposed Discipline**

Written Reprimand

***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 violated SPD policy when they discussed suicide with the Subject.

### **SUMMARY OF INVESTIGATION:**



Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a call of a suicidal person – referred to here as the Subject. The officers went up to the Subject’s apartment, knocked on the door, and made contact with him. Two of the Subject’s caretakers – one of whom is the Complainant in this case – were present at the time. NE#2 took the lead and asked the Subject what was going on. He expressed that he felt suicidal and that he wanted to die. He raised the officers shooting him. They said that they were not going to do that. NE#2 spoke to him empathetically to try to assess what was going on and why he felt this way. NE#1 raised that the Subject should go to the hospital, but the Subject said that he did not want to go to the hospital.

At one point during the conversation, NE#2 said that they were not allowed by law to permit him to kill himself. NE#1 stated: “Once you tell people that you’re going to kill yourself...” The Subject interjected, saying: “I’m not killing myself...just let myself die.” NE#2 remarked: “If you want to die, and not taking your meds and letting nature take it’s course, is something you are going to have to convey and get your case manager to understand and sign off on.” He said that he already did that. NE#2 told him that this was not what she had heard. The officers again raised that they needed to take the Subject to the hospital. He said that he did not want to go, and that the hospital would hold him forever. NE#1 interjected: “If you hadn’t have called anybody and just stopped taking your meds for six days...” The Subject said that he did not call anyone. NE#2 told him: “Once you tell staff that you want to die and you want to kill yourself, they’re obligated to call us.” NE#2 continued: “If you want to die of natural causes by not taking your medication, that’s something you need to convey to your case manager so they can work within their system.” The Subject said that this is something that the case manager would not let happen. NE#2 replied: “Well, that’s something you’re going to have to work on with them.”

NE#1 called for an ambulance to come to the scene so that the Subject could be transported to the hospital for an ITA. NE#2 continued to speak with him about his life. The officers asked the Subject to put socks and shoes on and he eventually went inside of his apartment to do so. At one point, NE#1 told him: “I mean, once you get out [from the hospital] you can figure out a way, if you really want to die you can figure that out on your own. Just don’t tell anybody. Not teaching you how to commit suicide but that’s just a way to do that.”

The Subject was placed on a gurney and was transported from his building to the hospital. Prior to leaving the building, NE#2 stated to the Complainant: “Whether or not any of us agree [inaudible] he has the right...and if he chooses not to take his medications and he goes off and wants to do that his case worker and everyone else needs to understand that that is his choice and his right.” The officers then left the building.

The Complainant later filed an OPA complaint. He asserted that the officers acted unprofessionally when they discussed the Subject’s ability to kill himself, including raising that he should not tell anyone if that was his intention. He also disagreed with the officers telling him that the Subject had the right to not take his medication and that his caretakers should facilitate this. He felt that this was not legal, as NE#2 contended, and, at the very least, showed a lack of empathy.

OPA’s investigation included reviewing the BWV recorded by the Named Employees. OPA also interviewed NE#1 and NE#2, as well as obtained a detailed written statement from the Complainant.

**ADMINISTRATIVE NOTE:**

At the discipline meeting in this matter, the allegations herein were discussed with the Named Employees’ chain of command. A robust conversation was had concerning the intent motivating the NEs’ comments to both the Subject



and the Complainant. Based on that conversation, this DCM is amended to note the full context of the interaction between the NEs, the Subject, and the Complainant. Specifically, over the course of about 30 minutes, the NEs repeatedly engaged the Subject empathetically and respectfully about his life and circumstances. At one point, NE#1 related to the Subject that “Sometimes the pain gets so bad. I totally understand. . . . But, you’re still here, you know, somebody out here cares for you.” Moreover, the NEs inquired about the Subject’s medications, physical condition, and whether he had been eating. The NE’s also called for an ambulance and ensured that the Subject would be treated under the ITA. During this time, the Subject also made a number of comments disavowing a desire to actively kill himself and, instead, described his health issues, hatred of hospitals, and desire to allow himself to die—stating at one point “I’m not killing myself. I’m just letting myself die.”

As detailed below, OPA still believes that the NEs’ comments were clearly unprofessional. SPD members should not advise a member of the community on practices to end their life. Nor should SPD members advise a member of the community or that person’s caretaker to work together to facilitate a suicide. To an extent, the NEs’ intent is relevant. Reviewed in context, it appears that the NEs were inartfully – and unprofessionally – attempting to relate to the Subject and ensure that his autonomy to make personal medical decisions would be respected. But the impact of the NEs’ words ultimately undermined public trust in both the officers and Department as a whole. Whatever the NEs’ intent, the harmful impact of their words was entirely foreseeable, unprofessional, and outside of SPD policy.

A separate conversation was held at the discipline meeting concerning the fact that neither NE completed a crisis template for this incident. Those present at the discipline meeting discussed the possibility that this omission was due to the NEs’ understanding that this was not a crises call but was, instead, a medical issue related to the Subject’s refusal to take his medication. As discussed below, the NEs’ understanding was mistaken; the Subject was suicidal and a crisis template should have been completed for this incident. However, OPA finds that this omission was a mistake and was not a willful disregard for SPD policy. As the primary officer, NE#2 bore the responsibility of completing the crisis template. Accordingly, OPA amends its recommended findings for Named Employee #1, Allegation #2 from a Sustained finding to a removed allegation, and Named Employee #2, Allegation #2 from a Sustained finding to a Training Referral.

### **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.”

At their OPA interviews, both of the Named Employees asserted that their statements to the Subject were professional. They stated that they were not telling the Subject how to kill himself but advising him that it was his choice on how to live his life (or to not do so) moving forward.

In assessing the substance of what the Named Employees said – primarily focusing on the BWV, OPA finds that it was unprofessional. The Named Employees responded to a very vulnerable individual – someone who was both sick and



wanted to kill himself – and intimidated that, in the future, he should not call anyone if he chose to stop taking his medication. NE#1 went as far as to tell him the following: “I mean, once you get out [from the hospital] you can figure out a way, if you really want to die you can figure that out on your own. Just don’t tell anybody. Not teaching you how to commit suicide but that’s just a way to do that.” Similarly, NE#2’s advisement to DESC staff that they should work with the Subject to allow him to take his own life was also misplaced. As the Complainant contended, his job was to protect the Subject, who was suffering from mental illness, alcohol abuse, and physical ailments, not to facilitate the Subject’s suicide.

OPA believes that these statements were clearly unprofessional and undermined public trust and confidence in SPD. In no scenario does OPA think it appropriate for SPD officers to advise a Subject on how to consider committing suicide in the future.

For these reasons, OPA recommends that this allegation be Sustained as against both Named Employees.

Recommended Finding: **Sustained**

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

***16.110 – Crisis Intervention 9. Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis b. Officers Shall Document All Suicide Attempts or Threats***

SPD Policy 16.110-POL-9(b) states that “officers shall document all contacts with subjects who are in any type of behavioral crisis.” The policy further directs officers to “document all suicide attempts or threats.” (SPD Policy 16.110-POL-9(b)).

Neither of the Named Employees completed a crisis template for this incident. For his part, NE#1 asserted that the Subject never actually said that he was suicidal and just stated that he did not want to live anymore. NE#1 also felt that this was primarily a medical call due to the Subject’s physical condition. NE#2 also asserted that this was a medical call rather than a crisis call and that the Subject did not make any suicidal statements.

OPA disagrees with the Named Employees’ characterization of this incident. From OPA’s review of the BWV, the Subject was clearly suicidal. One of the first things he mentioned when the officers arrived was one of them putting a bullet in his head. He then referenced wanting to die on multiple other occasions. Given this, a crisis template absolutely should have been completed.

However, as discussed in the Administrative Note above, NE#1 was not the primary officer for this incident. The responsibility of completing the crisis template for this incident rested with the primary officer, NE#2.

Accordingly, OPA recommends that this allegation be removed against Named Employee #1.

Recommended Finding: **Allegation Removed**



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**Named Employee #1 - Allegation #3**

***5.001 – Standards and Duties 6. Employees May Use Discretion.***

In OPA's analysis, this allegation is duplicative of the professionalism allegation discussed above. Accordingly, OPA recommends that this allegation be removed as against both of the Named Employees.

Recommended Finding: **Allegation Removed**

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

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

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

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

***16.110 – Crisis Intervention 9. Officers Shall Document All Contacts With Subjects Who are in Any Type of Behavioral Crisis b. Officers Shall Document All Suicide Attempts or Threats***

As stated above (see Named Employee #1 – Allegation #2), OPA finds that a crisis template should have been completed in this instance. Because NE#2 was the primary officer for this call, the responsibility for ensuring that a crisis template was completed rested with her. However, as discussed in the Administrative Note above, OPA finds that this omission was the result of a mistake, not a willful disregard for policy.

Accordingly, OPA recommends that NE#2 receive a Training Referral.

- **Training Referral:** NE#2 should receive additional training concerning the elements of this policy and, specifically, the requirement that officers document all suicide attempts or threats. NE#2 should be informed by her chain of command that the failure to do so here constituted a technical violation of policy and she should be counseled to ensure that she complies with this policy moving forward. This retraining and counseling should be documented, and this documentation should be maintained in an appropriate database.

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

**Named Employee #2 - Allegation #3**

***5.001 – Standards and Duties 6. Employees May Use Discretion.***

For the same reasons as stated above (see Named Employee #1 – Allegation #3), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**