



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 29, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0255

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)
# 2	15.370 – Sexual Assault Investigation 2. Officers May Interview Sexual Assault Victims	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 5. Employees Complete Work in a Timely Manner	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 Named Employee was unprofessional and conducting an inappropriate interview of her client. The Complainant also alleged that SPD failed to timely respond to her calls for service.

SUMMARY OF INVESTIGATION:

The Complainant filed a complaint with OPA in which she alleged that Named Employee #1 (NE#1) treated her client – who was the victim of a sexual assault – unprofessionally and improperly. She further contended that, although she called for help for her client multiple times on May 4, 2021, SPD did not respond until May 8, 2021. She thought that this delay was problematic.

With regard to the Complainant's concerns with NE#1's conduct, she said that: (1) NE#1 seemed more concerned with trying to explain the late response than in handling the call; (2) NE#1 "made it sound like it was her fault the cops did not show up"; (3) NE#1 asked the victim to sit on the bed and show him what occurred; (4) NE#1 kept getting into the victim's "space" and looked at the victim's private parts; (5) NE#1 badgered the victim about going to the hospital and continued to do so even when she asked him to leave twice; (6) the victim told NE#1 that his questions "triggered" her but he did not stop asking them; and (7) NE#1 "was not being understanding of [the victim's] feelings" and was "unprofessional and inappropriate" towards the victim.



OPA reviewed various documents to evaluate the Complainant's allegations including CAD Call Logs, 911 call records, and incident reports, as well as reviewed Body Worn Video (BWV) recorded by NE#1.

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.)

NE#1's BWV is the best evidence concerning his conduct and the accuracy of the Complainant's allegations against him. From OPA's review of the video, it conclusively disproves virtually all of the claims regarding his purported unprofessionalism. OPA found no evidence supporting the Complainant's assertion that NE#1 spent an undue amount of time trying to explain the late response to the call – he simply provided the information from the CAD Call Log – or that he made any statements suggesting that the late response was the fault of the Complainant or the victim. Similarly, the video indicated that NE#1 did not ask the victim to get on the bed to show him what occurred and that she volunteered to show him on her own, as well as that NE#1 remained a reasonable distance away from her at this time. There was also no evidence on the video showing NE#1 repeatedly looking at the victim's genitals. The video did not indicate that NE#1 badgered the victim about going to the hospital, or even that he asked her to do so repeatedly. To the contrary, while he encouraged her to go, he provided her with other options and recognized that she might want to wait to go the hospital until when the Complainant could accompany her. In addition, the video did not show the victim ever tell NE#1 that his questions were triggering her or indicate that she asked him to leave. Lastly, from OPA's review of the video, the allegation that NE#1 acted in an unprofessional and inappropriate manner is simply unsubstantiated. To the contrary, OPA finds that NE#1 conducted his interview of and interaction with the victim in a respectful and competent manner in line with the Department's expectations for sex crimes investigations.

For these reasons, OPA recommends that this allegation and Allegation #2 be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

15.370 – Sexual Assault Investigation 2. Officers May Interview Sexual Assault Victims

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

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

Named Employee #2 - Allegation #1

5.001 – Standards and Duties 5. Employees Complete Work in a Timely Manner

As discussed above, the Complainant alleged that SPD officers did not timely respond to her call for service.



OPA's review of Department records indicated that the victim initially called 911 to report the theft of a phone, not a sexual assault. The Complainant made subsequent calls reporting the sexual assault. The records indicated that officers responded to the location on several occasions but were unable to contact the victim and left. The records showed that, on one occasion, the Complainant spoke to police and said that she and the victim would call back the next day. Ultimately, it appeared that the delayed response was not due to malfeasance on SPD's part but was instead based on several factors, including high call volumes, the victim living in a locked building to which SPD did not have immediate access, the victim not having a cell phone on which she could be contacted, and the Complainant being the main point of contact instead of the victim.

Given this, OPA recommends that this allegation be Not Sustained – Unfounded.

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