



CLOSED CASE SUMMARY

ISSUED DATE: MAY 26, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0448

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded
# 2	15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents (See 15.180-Primary Investigations)	Not Sustained - Training Referral
# 3	15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Training Referral
# 4	6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL - 4 Documenting a Terry Stop 1. Officers Will Document All Terry Stops	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 #1 (NE#1) responded to a 911 call domestic violence (DV) call involving a mother and her daughters and failed to appropriately investigate or document the incident.

SUMMARY OF INVESTIGATION:

On September 20, 2021, the Complainant made a 911 call about her neighbors. The Complainant alleged that they heard yelling and what sounded like a physical altercation occurring between a mother and her two teenage daughters. The Complainant indicated to 911 that they heard punching, shoving, and kicking and that furniture was being banged against walls. No weapons were noted in the call. The CAD listed the call as a Disturbance, verbal (Domestic violence), with a juvenile as an injured party and no weapons.

During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call Report, and Body Worn Video (BWV). OPA interviewed NE#1 and his partner, Witness Officer #1 (WO#1). OPA made several efforts to interview the Complainant but was unsuccessful. NE#1's entire response to, and investigation of, this incident was recorded on his BWV. As such, these underlying facts are not in credible dispute.



NE#1 and a second officer, Witness Officer #1 (WO#1) responded to the call approximately 15 minutes after it was received. On their arrival, a woman was observed leaving the building and self-identified to NE#1 as being involved in the disturbance. NE#1 confirmed her identity as being involved in the complaint and requested the woman return to the apartment. The woman agreed and returned to the apartment with NE#1. NE#1 spoke with the two daughters in the presence of the mother outside the apartment. NE#1 discussed the incident with the mother and daughters. NE#1 and WO#1 subsequently cleared the call. NE#1 neither spoke to the reporting party nor documented the call.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 10. Employees Will 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.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

OPA found NE#1’s discussion with the mother and the two daughters to be more explanatory than inquisitive which, in investigations of domestic violence incidents, is a cause for concern. NE#1’s engagement with the mother and daughters however, NE#1 was not derogatory, contemptuous, or disrespectful toward any person present. NE#1 opined on the privilege of having a phone and how one should treat a parent who pays for the phone. While OPA believes that this was done from a self-reflective standpoint, and did not escalate events with those present, it appeared that NE#1 spoke *at* the two daughters, as opposed to *with* them. OPA believes that NE#1 should have attempted to establish the facts which led to the incident, as opposed to coming to an unsubstantiated conclusion and then offering advice.

While NE#1’s statements to the daughter about the privilege of phone ownership were, unsubstantiated, somewhat presumptuous, and could be perceived as condescending, they did not rise to the level of unprofessionalism. In OPA’s view, the larger concern with NE#1’s monologue was that it was irrelevant to conducting his investigation. This issue is addressed below at Allegation #2. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

15.410 - Domestic Violence Investigation POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents (See 15.180-Primary Investigations)

SPD Policy 15.410-POL-5 reaffirms the Department’s commitment to a thorough primary investigation of domestic violence incidents. In addition to the requirements set forth in SPD Policy 15.410-POL-3, this section of the policy also requires that officers: “attempt to obtain the domestic violence history of the involved suspect”; “complete the risk assessment”; and “use the sworn affirmation...when taking a statement from a victim or witness.” (SPD Policy 15.410-POL-5.)



The Complainant alleged that NE#1 failed to investigate domestic abuse of children. The Complainant further alleged that NE#1 “blamed and berated” the children when it was not their fault. OPA made several efforts to interview the Complainant to no avail. As such, no additional evidence could be obtained with respect to what the Complainant may have initially overheard when the 911 call was placed.

This incident was listed as a Domestic disturbance. In OPA’s view, NE#1’s mis categorization of this incident as a “noise complaint”—however sincerely believed—lead to him to mishandle this call in several respects.

OPA noted several deficiencies in NE#1’s investigation in this case. First, NE#1 contacted and spoke the involved parties, without separating them. NE#1 asked the status of the girls or if anyone needed assistance—which they denied—directly in front of their mother, the suspect from the 911 call. The mother did not speak during this time or indicate to the children for a response. Second, NE#1 admitted that he only ran a history on the location, but not on the individuals involved. Third, NE#1 did not attempt to identify the involved individuals because he believed that it was a noise complaint, not a DV disturbance. Fourth, NE#1 stated that he did not complete a DV Supplement because he did not identify this as a DV-related disturbance. Fifth, NE#1 did not take any statements, as he did not identify it as a criminal investigation or a DV related disturbance.

NE#1 described stated that based on his experience he considered this to be a noise complaint. NE#1 had no prior engagement with the parties. NE#1 has just over three years’ experience in SPD with no previous law enforcement experience. NE#1 stated that he was aware of the correct procedure with respect to the investigation of a domestic violence complaints and that best practice is to separate and speak with involved parties.

NE#1 stated that he was investigating a noise complaint and as such did not adhere to guidelines relating to the investigation of domestic abuse. Contrarily, NE#1 then stated that his priority in dealing with the individuals was to make sure everything was safe and to establish if there were any signs of abuse. NE#1 explained that although he believed he was only investigating a noise complaint, it was “due diligence” which made him question the welfare of those present. NE#1 stated that he saw into the apartment and that there was no furniture strewn about. Also, NE#1 did not believe the daughter was acting scared of her mother but was laughing and smiling.

OPA interviewed WO#1. WO#1 described the call as a DV Disturbance. On completion of dealing with the call with NE#1 he stated that he felt there was no crime involved. WO#1 stated that he believed a neighbor heard a disturbance, but it was more along the lines of a noise complaint. WO#1 did not speak with the complaining party.

This case presents a close call. OPA does not believe that NE#1 willfully failed to adhere to this policy. However, OPA finds that rather than investigating the available information, NE#1 drew from his limited experience in making a judgement at the inception of his response on how to then process this call. OPA notes that NE#1 has not had any previous sustained cases relating to SPD Policy 15.410-POL-5 and, in this instance, believes that a training referral will appropriately bridge NE#1’s knowledge gap as to the correct approach in dealing with DV complaints. NE#1 is now on notice that that any future violations of SPD Policy 15.410 or 15.180 will result in a sustained finding by OPA.

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1. The Training Referral should incorporate counseling and training on relevant sections of SPD Policy 15.180-POL-5. Supervisory staff should provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should highlight the risk calculation required for victims in the evaluation and investigation of domestic violence complaints. Failure to properly adhere to domestic violence investigative protocols could



have a detrimental impact in a more serious situation. NE#1 is on notice that any future violations of SPD Policy 15.410 or 15.180 will result in a sustained finding by OPA. This training should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #3

15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. Even where victims of crime refuse to cooperate and to give a statement, officers are still required to document that fact in a report. (SPD Policy 15.180-POL-5.) Lastly, the Department's expectation, which has been clearly conveyed to officers, is that this report will be completed prior to the end of their shift on the date of the incident.

NE#1 failed to document this incident on a General Offense report. When interviewed NE#1 stated that he did not do so, because he did not believe this was a criminal investigation. See Allegation #2. Ultimately, OPA disagrees with NE#1 on this point for the reasons set forth above at Allegation #2.

Accordingly, for the same reasons set forth at Allegation #2, OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1. The Training Referral should incorporate counseling and training on relevant sections of SPD Policy 15.180-POL-5. Supervisory staff should provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should highlight the risk calculation required for victims in the evaluation and investigation of domestic violence complaints. Failure to properly adhere to domestic violence investigative protocols could have a detrimental impact in a more serious situation. NE#1 is on notice that any future violations of SPD Policy 15.410 or 15.180 will result in a sustained finding by OPA. This training should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #1 - Allegation #4

6.220 - Voluntary Contacts, Terry Stops & Detentions 6.220 - POL - 4 Documenting a Terry Stop 1. Officers Will Document All Terry Stops

SPD Policy 6.220-POL-4(1) requires that officers document all Terry stops using a Field Contact report. Within the Field Contact report, officers are instructed to "clearly articulate the objective facts they rely upon in determining reasonable suspicion." (SPD Policy 6.220-POL-4(1).)

NE#1 stated that his contact with the mother was a voluntary encounter and not a Terry stop. As a result, NE#1 did not document a Terry stop. When asked whether the mother would have been free to leave after NE#1 asked to check on the children, NE#1 stated that he had no reason to think "any crime was involved" and so was not ready to detain



anyone, so the mother would have been free to go. OPA also did not observe NE#1 or WO#1 take any action or give any orders that would have led the mother to believe she was not free to leave during this encounter.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**