



CLOSED CASE SUMMARY

ISSUED DATE: MAY 24, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0451

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Unfounded (Expedited)

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:

It was alleged that the Named Employee (NE#1) failed to properly investigate an attempted theft of the Complainant's vehicle. It was further alleged that the NE#1 was unprofessional in dealing with the Complainant and his wife.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

On September 26, 2021, the Complainant placed a 911 call after witnessing the attempted theft of his cargo van. The Complainant chased the suspect away from his vehicle and saw a second suspect drive off in a white vehicle. The Complainant subsequently observed that his car doors were opened and that his .32 caliber revolver, which he kept in a holster between the seats of the van, was now missing. NE#1 responded to the call and could not determine how the van was broken into owing to the lack of observed damage to the doors. NE#1 noted that there was extensive damage to the ignition. The Complainant alleged that NE#1 failed to investigate thoroughly and failed to find a screwdriver that was later found in his van which was modified to pick locks. The Complainant alleged that NE#1 went "out of the way to berate my wife and I for having a firearm (that was in a locked living space on our property) stolen."

During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report and Supplement, and Body Worn Video (BWV). OPA also interviewed the Complainant. 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 arrived at the scene and discussed the case with the Complainant and his wife. NE#1 questioned both with respect to whether the van was locked the previous night. He explained how car prowlers had previously gained access to vehicles and what methods were used. On attempting to identify how the suspects broke into the vehicle, NE#1 stated to the Complainant, "I know you guys may be thinking I'm being picky and kind of a jerk here." The Complainant interrupted to say "no, no, no." NE#1 continued by saying "but the thing is, is that if I can't show a point of entry, then when I file the report, that's one of the things the prosecutor's office is going to look at. Okay. Well, did they leave the car unlocked then?" The Complainant then explained how he and his wife checked the vehicle was locked to NE#1.

While at the scene, NE#1 viewed the footage of the suspects, provided by the Complainant which he took on his mobile. NE#1 informed the complainant that he would provide a case number and follow up email where they could send an inventory of items taken. On completion of taking the information, NE#1 stated to both the complainant and his wife, "I'm sorry I wish I could give you something better" with respect to the situation they found themselves in.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 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.)

The Complainant alleged that NE#1's engagement with him, and his wife, "did not rise to the level of professionalism" that he expected. The Complainant alleged that NE#1's, "demeanor, his focus, general lack of effort in attempted investigation, and lack of follow-up" did not match with the complainant's prior positive interaction with other officers.

The entire interaction of NE#1's response was captured on BWV. Accordingly, the relevant facts are not in dispute. NE#1 was observed explaining his concerns about a firearm being left in a vehicle. NE#1 explained to the Complainant and his wife, "like, you know, the law changed a couple of years ago and you know, I, I firmly believe the prosecutor's office is just waiting for somebody to go after for it. So, you gotta be aware of that. Cause if they use that gun for anything, I got to come, look at you guys, you know. So, you gotta keep, keep firearms stored in the house. I'm not going to harp on you about it, but it's, it's worrisome to me because it puts me and my coworkers at risk too." NE#1's tone and delivery of this information was more advisory than accusatory, which aligns with an approach to giving crime prevention advice. As a matter of best practice, police should test the credibility of statements made with respect to crimes being alleged. The manner in which this was done was not derogatory, contemptuous, or disrespectful. There was no indication that NE#1's questioning of the Complainant or his wife, in the way alleged, supports an allegation that NE#1 was unprofessional.

Accordingly, OPA recommends that this allegation be Not sustained – Unfounded.

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



Named Employee #1 - Allegation #2

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

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. The policy further requires officers to collect evidence and states that only evidence that it impractical to collect shall be retained by the owner. (SPD Policy 15.180-POL-1.) Such evidence should be photographed. (Id.)

The Complainant alleged that NE#1 failed to properly investigate an attempted theft of his vehicle and that NE#1 placed no effort to discover important evidence. The Complainant further alleged that if NE#1 had been “patient and attentive” he would have offered to show him video of one of the suspects. The Complainant also alleged that if NE#1 would have conducted follow-up, he would’ve provided the lock-pick device and a photograph of the getaway vehicle that was gathered from a neighbor’s surveillance camera.

A review of BWV indicated that NE#1 inspected the vehicle for damage and attempted to identify a point of entry. NE#1 provided the appropriate information to the Complainant with respect to how to submit an inventory of items that were stolen to the follow-up unit. All relevant information and advice given to the Complainant was captured in the incident report made by NE#1. BWV shows that NE#1 viewed the footage provided by the Complainant, at the scene, and made a note of the same.

OPA recognizes that NE#1 appeared to do a cursory examination of the vehicle and its contents. However, neither the Complainant nor his wife were fully aware of what had been taken from the vehicle at this juncture. As such, NE#1 provided them with a case number so that they could conduct a full inventory of missing items and provide other relevant information. While OPA understands the Complainant’s concerns, OPA recognizes that patrol officers are not trained forensic scene examiners and the expectation of what they are trained to do often does not always comport with the expectations of those reporting crimes.

On review of the circumstances, OPA does not find that NE#1 violated this policy and as such recommends that this allegation be Not Sustained – Unfounded.

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