




CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 14, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0457

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy, and Department Policy	Not Sustained - Inconclusive
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy, and Department Policy	Not Sustained - Inconclusive
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained - Inconclusive

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)—her former partner—entered her house without permission. The Complainant further alleged that NE#1 physically assaulted her several times. The Complainant further alleged that NE#1 left SPD case files in an unsecured location.

ADMINISTRATIVE NOTE:

On June 29, 2023, the Office of Inspector General (OIG) certified OPA's investigation as thorough, timely, and objective.

On October 19, 2021, OPA sent a criminal referral to Police Department #1 (PD#1), which contracts law enforcement services from the King County Sheriff's Office (KCSO). The King County Prosecuting Attorney's Office (KCPAO) declined to file criminal charges against NE#1. On December 9, 2021, NE#1 retired from the Seattle Police Department (SPD).

SUMMARY OF INVESTIGATION:

On October 7, 2021, OPA received a complaint via Blue Team. OPA opened an investigation and reviewed the OPA complaint, computer-aided dispatch (CAD) call report, incident reports, certification for determination of probable cause, and email correspondence. OPA also interviewed the Complainant and Witness Supervisor (WS#1). OPA was unsuccessful in contacting NE#1 for an interview.



A. OPA Complaint

The OPA complaint documented the following details:

The Complainant—NE#1's ex-fiancé—called WS#1, NE#1's supervisor. The Complainant said she was in Nevada and observed on her security cameras that NE#1 broke into her house. The Complainant also said NE#1's mental state was deteriorating. SPD and PD#1 officers responded to the home. When officers arrived, NE#1 was with his daughter—Community Member #1 (CM#1). NE#1 and CM#1 moved their belongings from the house while the Complainant was away. Officers entered the house and found no damage or forced entry. NE#1 said he still had full rights to the house. NE#1 also said he was only taking items belonging to him, including an air conditioning unit. The Complainant alleged domestic violence, which was referred to PD#1.

B. King County Sheriff's Office Computer-Aided Dispatch Call Report

KCSO CAD call remarks indicated the Complainant was out of town and described what the Complainant saw on video: "THE ESTRANGED/EX BOYFRIEND (THE DETECTIVE) HAS BROKEN INTO [THE HOUSE] AND SHE FEARS HE IS GOING TO HARM HIMSELF AS HE IS IN A DOWNWARD SPIRAL SINCE BEING DUMPED." The call was classified as a welfare check.

C. Police Department #1 Incident Report

Witness Officer #1 (WO#1)—a PD#1 officer—documented the following details in an incident report:

On October 5, 2021, at around 1:55 p.m., SPD and PD#1 officers were dispatched to the Complainant's house for a welfare check in response to the Complainant's report that NE#1 broke into her house and possibly damaged an air conditioning unit. The Complainant reported that NE#1 had been in a downward spiral since their breakup, and NE#1 may harm himself. The Complainant also said she was concerned about NE#1's welfare rather than his entry into the house. An SPD lieutenant called NE#1 and asked NE#1 to speak to officers outside when they arrived.

When officers arrived at the Complainant's house, NE#1 was waiting outside while CM#1 was inside. NE#1 said he was okay, wanted to move his belongings out, and had another place to go. CM#1 said she, NE#1, and the Complainant lived at the house for the last two years, but CM#1 and NE#1 stayed elsewhere for the previous three weeks. CM#1 said she and NE#1 were at the house to retrieve their belongings. CM#1 also said that because the Complainant changed the door codes, CM#1 had to remove an air conditioning unit and climb through the bedroom window to get inside.

WO#1 looked through the house and did not see anything damaged. WO#1 observed that the air conditioning unit was removed from the window but did not appear damaged. WO#1 also observed a U-Haul truck in the driveway. WO#1 documented that the Complainant's home address was listed on NE#1's Department of Licensing (DOL) return, NE#1 was never formally evicted from the house, and NE#1 had no outstanding warrants or court orders. WO#1 did not find NE#1 was a danger to himself. WO#1 also did not see any evidence of a crime.



D. King County Sheriff's Office Certification for Determination of Probable Cause

Witness Officer #2 (WO#2)—a King County Sheriff's Office detective—wrote the Certification for Determination of Probable Cause (Certification), which documented that there was probable cause to believe NE#1 committed domestic violence assault in the second degree (DV Assault 2), RCW 9A.36.021.

WO#2 documented the following details in the Certification:

NE#1 and the Complainant had a four-year dating relationship that ended on August 19, 2021. They have no children in common. NE#1, CM#1, and the Complainant resided together. After the breakup, NE#1 and CM#1 moved out, leaving their belongings behind. The Complainant changed the door codes and told NE#1 he could come over on October 18, 2021, to get his and CM#1's belongings. The Complainant wanted to be present when NE#1 and CM#1 retrieved their belongings.

On October 5, 2021, the Complainant flew to Nevada with the understanding that NE#1 would not go to the house. The Complainant locked all doors, changed access codes, and secured the windows before leaving. After landing in Nevada, the Complainant discovered that NE#1 and CM#1 were at her house, prompting her to call WS#1. WO#2 then documented the officers' response to the Complainant's house, consistent with the details described in WO#1's incident report.

On November 23, 2021, WO#2 interviewed the Complainant. The Complainant alleged NE#1 drank a lot and previously assaulted her by pushing, punching, or choking her after he drank. The Complainant discussed two instances of the alleged assaults. First, NE#1 was drunk at an event, and the couple argued. Then, NE#1 allegedly pushed the Complainant into a recreational vehicle. Second, NE#1 refused to hug the Complainant after she repeatedly requested a hug. Out of frustration, NE#1 allegedly wrapped his arm around the Complainant's face, covered her nose and mouth, and squeezed his arm, preventing her from breathing. The Complainant said she hit NE#1's arm repeatedly to have him loosen his grip, after which NE#1 laughed. The Complainant said she still has "flashes" of NE#1 suffocating her, which causes her "great anxiety."

E. King County Sheriff's Office Investigation Report

WO#2's investigation report covered her November 23, 2021, interview with the Complainant. That investigation report was consistent with the details described in the Certification.

WO#2 also documented the following details in her investigation report:

According to the Complainant, when NE#1 worked from home during the COVID-19 pandemic, he brought home two large trash bags with police cases and left them in a closet. The cases contained private information involving suspects and victims. The Complainant repeatedly asked NE#1 to return the bags to work because she did not want others to see them. NE#1 did not take the bags when he moved out. The Complainant attempted to contact NE#1, but NE#1 blocked all communications with her. The Complainant threw the bags away at a location that she believed was more secure than her house.



F. OPA Interviews

OPA interviewed the Complainant. Although the Complainant was uncomfortable recounting the details of the alleged assaults by NE#1, she said her statements to WO#2 concerning the alleged assaults were accurate. The Complainant also discussed the trash bags filled with police cases, consistent with the details described in WO#2's investigation report.

OPA interviewed WS#1. WS#1 provided the following account:

WS#1 was NE#1's supervisor in 2021. NE#1 was authorized to work from home, but some duties required NE#1 to be in the office. NE#1 was a court order service detective. Court orders could be electronically served during the COVID-19 pandemic. WS#1 believed NE#1 likely took home court order packets and "law enforcement only" sheets that included information about respondents and protected persons. WS#1 did not see NE#1 take files home in trash bags. WS#1 reported no specific rules or tracking for employees working a hybrid work schedule. WS#1 also reported that NE#1 completed his work on time, answered phone calls, and responded to emails.

According to WS#1, when the Complainant called WS#1 about NE#1 entering the house on October 5, 2021, the Complainant was not concerned that NE#1 was there since he had previously lived there and moved his belongings there. The Complainant was more concerned about CM#1 being there and was unhappy that NE#1 did not notify the Complainant that he would be at the house.

OPA attempted to contact NE#1 for an interview on four occasions. To this date, NE#1 failed to respond to OPA.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy, and Department Policy

The Complainant alleged that NE#1 unlawfully entered her house.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

Here, NE#1 could have committed residential burglary.¹ Arguably, NE#1 unlawfully entered the Complainant's house because NE#1 was no longer residing there, did not secure the Complainant's permission to enter, and had to remove an air conditioning unit from a bedroom window to enter the house. The Complainant also changed her door codes so that NE#1 could no longer access the house. The Complainant established a specific date for NE#1 and CM#1 to retrieve their belongings. Yet, NE#1 decided to enter the house before that date when the Complainant was in a different state. These facts indicate that NE#1 unlawfully entered the Complainant's house. However, whether NE#1 unlawfully entered the Complainant's home is in credible dispute. First, the Complainant did not call 9-1-1 when she discovered that NE#1 entered the house. Second, the Complainant told NE#1's supervisor that she was more concerned about NE#1's mental well-being than his entry into the house. Third, WO#1 saw the Complainant's home

¹ A person is guilty of residential burglary if, with intent to commit a crime against a person or property therein, the person enters or remains unlawfully in a dwelling other than a vehicle. RCW 9A.52.025(1).



address listed on NE#1's DOL return. WO#1 also documented that NE#1 was not formally evicted from the house, nor did NE#1 have outstanding warrants or court orders not to be there.

There is also insufficient evidence to show that NE#1 entered the house "with intent to commit a crime against a person or property therein." NE#1 and CM#1 said they were there to retrieve their belongings, corroborated by the U-Haul truck on the driveway. Responding officers also looked through the house, did not see anything damaged, and believed there was no evidence of a crime. Responding officers would have likely arrested NE#1 at the home if they had probable cause to believe NE#1 committed a crime.

Additionally, NE#1 could have committed criminal trespass in the second degree.² However, as previously mentioned, whether NE#1 unlawfully entered the Complainant's house is in credible dispute. Based on these facts, OPA cannot conclude, by a preponderance of the evidence, that NE#1 violated the law by entering the Complainant's house without her permission.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy, and Department Policy

The Complainant alleged that NE#1 physically assaulted her.

Here, WO#2 submitted the Certification to KCPAO, which stated there was probable cause to believe NE#1 committed DV Assault 2.³ KCPAO declined to file criminal charges against NE#1, which likely meant that KCPAO did not believe it could prove NE#1 committed DV Assault 2 beyond a reasonable doubt at trial. OPA's legal standard is a preponderance of the evidence, requiring proof that an allegation more likely than not occurred. Based on the available evidence, OPA cannot conclude that NE#1 more likely than not assaulted the Complainant.

The Complainant alleged two specific instances in which NE#1 physically assaulted her. While the Complainant's descriptions were detailed, corroborating evidence is absent. OPA was also unable to assess the credibility of the Complainant because she, understandably, did not want to recount the details of the alleged physical assaults during her OPA interview. OPA could only evaluate her allegation based on a secondhand account—a report from a detective of a different law enforcement agency. Although NE#1 did not respond to the Complainant's allegation—a fact that could lend credibility to her claims of physical assault—OPA would only be able to speculate as to why NE#1 failed to respond to OPA. After all, NE#1 has retired from SPD. OPA recognizes the gravity of the Complainant's allegation and in no way dismisses it as unreliable. However, under the circumstances, OPA cannot sustain this allegation.

² A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree. RCW 9A.52.080(1).

³ A person is guilty of assault in the second degree if he or she, under circumstances not amounting to assault in the first degree, intentionally assaults another and thereby recklessly inflicts substantial bodily harm, or assaults another by strangulation or suffocation. RCW 9A.36.021(1)(a) and (g).



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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #3

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

The Complainant alleged that NE#1 took home police case files and left them in an unsecured location.

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.

Here, the Complainant said she saw two large trash bags filled with police cases in her closet. According to the Complainant, the cases contained sensitive law enforcement information she threw away because NE#1 did not take the bags with him when he moved out. WS#1 believed the files concerned protection orders because NE#1 was a court order service detective. If NE#1 kept such files in an unsecured location and did not bother to pick them up when he moved out, NE#1’s conduct likely breached the public’s trust in SPD’s responsibility to safeguard sensitive law enforcement files.

However, OPA is unable to conclude, by a preponderance of the evidence, that NE#1 engaged in behavior that undermined public trust in SPD. Corroborating evidence is absent. The Complainant could have taken a picture of the two trash bags, returned the bags to SPD, or called NE#1’s supervisor—like she did when NE#1 entered her house—to inquire about what to do with the bags. The Complainant’s allegation is based only on her statements. Although her statements are not refuted by NE#1, WS#1’s interview arguably undermined the Complainant’s allegation. While not dispositive, WS#1 did not see NE#1 take files home in trash bags. WS#1 also reported that NE#1 completed his work on time and was responsive to phone or email communications, which suggested that NE#1 was a reliable employee. OPA would not characterize the Complainant’s allegation as unreliable. Still, corroboration is needed to establish that NE#1, more likely than not, kept sensitive law enforcement files in an unsecured location.

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

Recommended Finding: **Not Sustained - Inconclusive**