



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MAY 26, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0483

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

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained - Training Referral

***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) failed to properly investigate an assault.

### **SUMMARY OF INVESTIGATION:**

On October 9, 2021, NE#1 attended a call to assist other officers in the investigation of a reported sexual assault. While attending this call, a second, non-related complaint of assault arose which involved the Complainant. The Complainant alleged that he had been assaulted by another person, Community Member #1 (CM#1), who was holding him down.

When the officers arrived at the scene, Body Worn Video (BWV) depicted CM#1 holding the Complainant down on the ground by the Complainant's shoulders. The Complainant began shouting that he had been assaulted by CM#1. CM#1 denied that he assaulted the Complainant. NE#1 stated that he would be the primary, i.e., the investigating, officer for this alleged assault on the Complainant.

During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report and Supplement, photographs, and Body Worn Video (BWV). OPA also interviewed the Complainant and NE#1.

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. BWV depicted NE#1 speaking to several security staff employed by the local bar to determine what occurred during the alleged assault of the Complainant. Security staff reported to NE#1 that the Complainant was ejected from the establishment for being over intoxicated and having possibly assaulted a staff member when he was being escorted out of the premises.

BWV depicted security staff explaining that the Complainant had become intoxicated and unruly inside the premise and was escorted out by security staff. Security reported that, as the Complainant was being escorted, he allegedly punched one of the security staff there. Security reported that this resulted in a member of staff wrapping his arms



around the Complainant and walking him out of the bar. Security staff alleged that when a security staff member went to let the Complainant go, the Complainant grabbed the staff member's leg. According to security, the staff member shook his leg to move the Complainant and that was when the Complainant fell and banged his head. Security staff stated they requested attending officers for the Complainant to be formally trespassed from the premises.

NE#1 photographed the Complainant's injuries and provided him with a business card and case number. NE#1 admitted in his OPA interview that he did not look for video evidence at the scene.

**ANALYSIS AND CONCLUSIONS:**

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

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

The Complainant alleged that NE#1 failed to 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.*)

NE#1 collected some evidence of the alleged assault, namely taking photographs of injuries and speaking with some members of security staff. When interviewed by OPA, NE#1 stated that this was how he normally processed assault investigations. This causes OPA some concern. OPA finds that NE#1 could have been more thorough in his investigative approach. By reviewing available video evidence at the scene, NE#1 could have been in a position to evaluate the competing claims of the Complainant and security staff. NE#1 did not identify or speak to any independent witnesses. In addition to this, the time sensitive nature of video evidence is paramount to any assault investigation. Had the alleged assault resulted in more serious injuries, any further investigation could have been compromised owing to the lack of retention of footage by NE#1.

OPA accepts that this was a busy scene where attending officers were processing two separate, unrelated assaults. In his interview with OPA, the Complainant was candid and admitted that he was very intoxicated on the night in question and was not very coherent as a result. In light of this and NE#1's other reasonable efforts to gather evidence, OPA does not find that his misstep was a willful violation of policy amounting to misconduct. Moreover, OPA recognizes this as an opportunity for further training for NE#1. Accordingly, OPA recommends that this matter 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-1. Officers Shall Conduct a Thorough and Complete Search for Evidence. This counseling should be documented, and this documentation should be maintained in Blue Team.

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