



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 12, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0534

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Unfounded (Expedited)
# 2	15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded (Expedited)
# 3	5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Lawful and Proper
# 2	15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	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) drafted a report wherein the Complainant was listed as a robbery suspect, which the Complainant stated was untrue. According to the Complainant, NE#1 made this false report as a form of harassment and retaliation toward the Complainant, which the Complainant believes to have been based upon a prior complaint that the Complainant filed against NE#1.

Additionally, the Complainant alleged that he was contacted by Named Employee #2 (NE#2), who stated that she was a detective with the King County Sheriff's Office investigating the Complainant's stolen vehicle. The Complainant stated that this could not be true, as he had become aware that NE#2 was an SPD robbery detective. The Complainant also alleged that NE#2 authored reports in which the Complainant was listed as a robbery suspect, which the Complainant alleged was untrue.



ADMINISTRATIVE NOTE:

Due to present OPA staff limitations, this is an abbreviated Director's Certification Memorandum. At the Director's discretion, an expanded Director's Certification Memorandum may be issued at a later time.

The allegations against NE#1 were designated for 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 on those allegations based solely on its intake investigation and without interviewing the involved employee. As such, OPA did not interview NE#1.

ANALYSIS AND CONCLUSIONS:

Following an investigation that the Office of Inspector General certified as thorough, timely, and objective, OPA's analysis is that the preponderance of the evidence does not establish that any policy violations occurred or rose to the level of misconduct.

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

The Complainant alleged that NE#1 was dishonest by drafting a robbery report that listed the Complainant as a suspect. This allegation is demonstrably unfounded. There is no record of NE#1 ever generating a robbery report. Similarly, the only report generated by NE#1 that listed the Complainant was related to a car stop that was the subject of a prior OPA complaint (2021OPA-0331). Instead, NE#1's only involvement in the Complainant's robbery case was identifying the Complainant as the possible subject in a "request to identify" bulletin issued by NE#2. The request to identify bulletin featured a photograph of the subject, which NE#2 compared to other video evidence of the Complainant as an aspect of identifying the Complainant as the suspect in a robbery. Moreover, NE#1's statements that the Complainant could be the subject of the request to identify were made lawfully and in good faith and, ultimately, appear to be correct as the probable cause developed by NE#2 that the Complainant was involved in a robbery was strong.

The Complainant made his allegation anonymously but ultimately spoke with OPA. The Complainant alleged that he could not have been involved in the alleged robbery as he was "cat-sitting" his sister's cat at the time of the robbery. The Complainant offered that he—fortuitously—had a date stamped video of him supervising the cat at the same time of the robbery. The Complainant never provided a copy of this cat-sitting video to OPA. Also, as mentioned, the probable cause to believe that the Complainant was, in fact, involved in the robbery was based in part on objective video evidence and was strong. Additionally, the Complainant's legal counsel also attempted to withdraw this complaint on behalf of the Complainant. Finally, OPA was provided evidence of the Complainant stating jokingly that he was filing complaints against NE#2 and threatening NE#2. In reviewing the totality of the information before it, OPA finds by a preponderance of the evidence that the Complainant's allegations against both NE#1 and NE#2 are not credible and were, more likely than not, made in an attempt to discredit a criminal investigation against him.



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 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.

As discussed above at Named Employee #1, Allegation #1, NE#1 did not author the robbery report at issue in this case.

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

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

Named Employee #1 - Allegation #3

5.001 - Standards and Duties 5.001-POL 14. Retaliation is prohibited

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) SPD employees are specifically prohibited from retaliating against a person who engage in activities including, but not limited to, "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." (Id.) Retaliatory acts are defined broadly under SPD's policy and include "discouragement, intimidation, coercion, or adverse action against any person. (Id.)

For the reasons set forth above at Named Employee #1, Allegation #1, OPA finds that NE#1 was not retaliating against the Complainant for having filed a prior OPA complaint against him. To the contrary, NE#1 was familiar with the Complainant because of their prior interaction—which was the subject of the Complainant's prior OPA complaint—and when NE#2 distributed a request to identify, NE#1 recognized the Complainant. NE#2 then used video footage and photographs to confirm NE#1 identification. This is not retaliation.

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

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

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged that NE#2 was untruthful by claiming to be a King County Sheriff's Office Deputy investigating his stolen vehicle. In her interview with OPA, NE#2 explained that this was part of an approved, documented ruse to develop necessary information, specifically, the Complainant's location. NE#2 also provided corroborating documentation that this was a ruse. Finally, OPA finds that it is far more logical that NE#2 would misidentify her agency—while still providing her actual name—as part of an approved ruse to learn the Complainant's location than



for some illicit purpose. Such a ruse was permitted under policy as a “specific and lawful purpose” in order to “acquire information for a criminal investigation.” SPD Policy 5.001-POL-11.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #2 - Allegation #2

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

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**