



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 24, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0552

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 2	15.410 - Domestic Violence Investigation 15.410-POL 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect	Sustained
# 3	15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents	Not Sustained - Training Referral
# 4	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Allegation Removed

Imposed Discipline

Oral Reprimand

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 6. Supervisors Conduct Preliminary Inquiry into Bias-Based Policing	Not Sustained - Training Referral
# 2	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Allegation Removed

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 2	15.410 - Domestic Violence Investigation 15.410-POL 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect	Sustained
# 3	15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents	Not Sustained - Training Referral
# 4	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Sustained

Imposed Discipline

Suspension Without Pay – 6 Days



Named Employee #4

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 2	15.410 - Domestic Violence Investigation 15.410-POL 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect	Sustained
# 3	15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents	Not Sustained - Training Referral
# 4	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Allegation Removed
Imposed Discipline		
Oral Reprimand		

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:

During a domestic violence (DV) investigation, it was alleged that Named Employee #1 (NE#1), Named Employee #3 (NE#3), and Named Employee #4 (NE#4) engaged in bias-based policing and conducted an improper investigation. It was also alleged that Named Employee #2 (NE#2), a supervisor, failed to properly screen the incident for bias-based policing. It was also alleged that all four named employees were unprofessional.

ADMINISTRATIVE NOTE:

On July 14, 2022, at the discipline meeting in this matter, the allegations herein were discussed with the Named Employees' chain of command. A robust conversation was had concerning how the attending SPD officers failed in their duties with respect to basic requirements of Domestic Violence investigations. OPA subsequently changed its finding on NE#1 Allegation #1 from Not Sustained (Training Referral), to Sustained and a Training Referral. This was amended to appropriately address the concerns and requirements of the Primary officer on the call. OPA also changed its finding on NE#4, Allegation #1, from Not Sustained (Training Referral) to Sustained, for his shortcoming of failing to take appropriate action in the protection of Domestic Violence victims. Similar to NE#1, a Training Referral was also deemed appropriate to address shortcomings in with respect to SPD Policy 15.410-POL 5.

The Sustained finding issued for NE#3, Allegation #2 remains unchanged. Similar to NE#1 and NE#4, NE#3 is also receiving a Training Referral for his failure to adequately address SPD Policy 15.410-POL-5.

SUMMARY OF INVESTIGATION:

This case concerns a DV investigation conducted by NE#1, NE#3, and NE#4. During their investigation, these officers encountered a Child about three years of age, Mother, Father, and Grandmother. The Grandmother is the Father's mother. During the incident, the Father made allegations of bias-based policing on account of his race. NE#4 screened



the bias allegation. An Acting Lieutenant screened NE#4's bias review, rejected it, ordered training for all four named employees, and referred the matter to OPA. OPA commenced this investigation.

During its investigation, OPA reviewed the BlueTeam Complaint, CAD Call Report, Incident Report and Supplements, Bias Review Paperwork, Body Worn Video (BWV), and Named Employees' Training Transcripts. OPA also interviewed all four Named Employees and the Grandmother. OPA attempted to contact the Father and Mother but was unsuccessful.

The entirety of the named employees' response and investigation was recorded on BWV. Accordingly, the key facts are not in credible dispute.

The Grandmother called 911 to report that her son—the Father—was intoxicated and had locked her and the Mother outside of the apartment after taking the Child inside. NE#1, NE#3, and NE#4 responded and met the Mother and Grandmother outside in the parking lot. The Mother was standing outside with only socks on her feet.

The officers spoke to the Mother and Grandmother together outside in a parking lot. The Mother told the officers that the Father was "mad at" her for telling him to get a job and that the Father "grabbed" the Child out of a car and took the Child inside. The Grandmother stated that the Father would not let the Mother back in the apartment and that the Father did not have custody of the Child. The Mother stated that her name was on the Child's birth certificate. The Grandmother also said she had "papers" to show that the apartment was in the Mother's name only. The Mother and Grandmother stated that the Father could stay in the apartment but wanted the Child to come with them. As the Grandmother explained that the Father was a felon, NE#3—an officer with more than 28 years' experience with SPD—interrupted to state his belief that this information was a "moot point" since the Father had been living at the apartment for two-and-a-half years. The Mother stated "he has no custodial rights at all" and was not on any paperwork for the child.

The officers engaged with the Mother and Grandmother in the parking lot for about 90 seconds before NE#3 asked the Mother to go knock on the apartment door. The Mother then said something like either "he'll hit me" or "come with me," to which the Grandmother said, "the Police are here." The Mother then led the officers to the apartment door. The Mother pointed out the apartment door and, when asked, informed the officers that the Father had "knives" in the apartment.

NE#3 knocked on the apartment door. While waiting at the door, NE#4 said something like "gonna be nice for us?" NE#3 responded, "that's why I don't put up with any of the crack they're saying." The Mother and Grandmother then approached the apartment door without any objection from the officers. The Grandmother then called out to the Father through a window that she was standing next to. The Grandmother asked for the Father to "just give us the baby" so that the Child could "go to her mom's or something." The Grandmother told the officers that the Mother did not have a key to the apartment because the Mother "just came out . . . I just came out to bring her some bus money for school tomorrow and he came out and just took her out of the car. I was taking her back home with me to have a birthday sleepover." The Grandmother elaborated that the Father, "didn't even say anything, he opened up the door and yanked her out of the car."

NE#1 observed that the Father was standing just on the other side of the wall, by the door and window. The Father opened the window and spoke with the officers, Grandmother, and Mother through the window. The Father ignored NE#4's request to open the door. NE#3 told the Father that the Mother wanted the Child, but the Father stated that



there was a “dual partnership right now,” which the Grandmother denied. NE#3 then asked “where’s the paperwork that says there isn’t?” The Grandmother and the Father then started arguing and the Father closed the window.

The Mother asked the officers if they could “get her.” The officers said they could not enter the apartment. The Father then reopened the window and asked the Mother, “you want to come inside?” The Mother asked to see the Child. The Father responded, “you want to come inside or no?” The Mother said, “if I can see [Child].” The Father replied, “alright, bye,” then closed the window. The Mother told the officers, “if I go in there, I’ll get hit.”

The Mother, Grandmother, and officers then argued about whether the mother or officers should enter the apartment. The Grandmother said to NE#3, “would you want to go in?” NE#3 responded, “I don’t know, I didn’t marry the guy, I didn’t make a baby with the guy.” The Mother then said she was going to leave and stay with her own mother, at which point NE#3 said to the Mother, “you’re not her mother?” The Mother responded, “I’m his [the Father’s] mom. That should tell you something right there.” NE#3 responded, “yeah, it tells me anything I need to know.” The Father and the Mother then argued through the window.

The Father then said to the Mother that she could come inside to “talk” to the Child, and then yelled at the Mother twice to come inside “right now.” The Mother asked the officers to stay. The Father said, “boom, yup.” The Father then opened the door and said “c’mon [Mother], c’mon.” As the Mother entered the apartment, the Father said “stupid ass fucking bitch” and the Father slammed the door shut. The officers did not ask to enter the apartment, made not effort to keep the door open, and remained outside.

The officers’ BWV recorded slamming noises from inside the apartment. The Grandmother said “so he’s in there hitting her, you don’t hear that?” A short time later, the officers’ BWV recorded loud, high-pitched screams from inside the apartment. NE#1 kicked in the apartment door.

After NE#1 kicked in the apartment door, NE#3 entered the apartment first. NE#3 entered into an empty, dark hallway. A light was on in a room off to the left. An arm and open hand was extended out of the door to the room on the left. NE#3 approached the door, with NE#1 and NE#4 behind him. The Father was standing in the doorway with his left arm raised and right arm extended to his side. The mother was inside the room holding the Child. NE#3 asked the Father, “what are you doing?” The Father said, “nothing.” The Mother stepped forward and said, “he hit me,” indicating the left side of her head. The Father denied hitting the Mother. As the Mother pushed past the officers, she asked the Child, “did he hit me?”

The Mother ran out of the apartment holding the child. One officer called out to the Mother, “don’t leave.” The Mother ignored the order. The Father then said, “she can’t bring my daughter with her, come on bro.” NE#4 exited the apartment and yelled after the Mother, “hey where are you going? Hey do you want to be a victim or what?”

The Father pushed past the officers and ran out to the parking lot. As the officers followed the Father, the Father approached the Mother, Grandmother, and Child—who were inside of a vehicle. The vehicle then started to move forward toward the Father, who hopped onto the hood of the vehicle. NE#1 and NE#3 both ordered the vehicle to stop, which it did. NE#4 ordered the Father to go to side—which he did—and ordered the vehicle to “stay here.”

The officers engaged with the Mother, Grandmother, and Father in close proximity to one another. During this time, the Mother repeatedly accused the Father of hitting her on the left side of her face. Th Father repeatedly ignored orders to sit down and, instead, approached the car and yelled at the Mother from approximately two to three feet



from the passenger side of the vehicle. As the mother locked the vehicle passenger door, the Grandmother yelled at the officers from inside the vehicle, “if you’re not going to keep him from the side of my car, we’re not going to roll the windows down.” The Grandmother stepped out of the driver’s door and said, “she went in the house, you heard it, and now you’re standing there letting her . . . letting him threaten her while . . .” NE#3 interrupted, “he’s not threatening her, number one.” Both the Mother and Grandmother questioned whether NE#3 was “serious.” The Grandmother stated she had “pictures.” NE#3 ordered the Grandmother and Mother to “calm down.” The Grandmother responded, “do you want my address so you guys can come see pictures over there, I’m not sit . . .” NE#4 interrupted “nah, nah, no.” The Grandmother continued “. . . well I don’t have to stay here, I’ve done nothing wrong.” NE#4 said “she’s [the Mother] claiming to be hit.” NE#3 said “you gotta leave? Go. Leave.” NE#4 stated that the officers needed to investigate and the Grandmother responded, “well then investigate, why are you letting the, the possible perpetrator stand there and . . . oh wow . . . since when on domestic violence do you guys just allow this.” NE#3, NE#4, the Grandmother, and the Mother then argued about what happened. The Grandmother at one point stated, “so you didn’t hear him say ‘come here bitch’ and then a bunch of rumbling?” After continuing to argue, NE#3 said “goodbye, go,” waved the Grandmother and Mother away and, while walking away said, “you got your kid, you’re done.”

The Father then walked away. NE#4 then asked NE#1 and NE#3 whether they should call a supervisor because the Father’s door was kicked in. A short time later, the Father returned to the scene and accused the officers of allowing a kidnapping and called NE#4 a racist. The Father alleged that if he had allowed the officers into his apartment earlier that they would have shot him. The Father entered the apartment and, a short time later, exited his apartment and asked the officers to take him to the Grandmother’s house. The officers refused.

NE#2 arrived at the scene later to screen the bias allegations. After the Father, NE#2, and NE#3 engaged in a lengthy argument about custody rules, the Father grabbed a piece of his broken door frame and starting swinging it. NE#2 gave the Father a business card. NE#2 and NE#3 walked away.

ANALYSIS AND CONCLUSIONS:

Overall, OPA notes that this was an extremely chaotic scene that was poorly managed by all the Named Employees. The facts—including but not limited to physical dynamics, voice tones, body postures, and facial expressions—are best understood by reviewing the BWV of the Named Employees.

As discussed more fully below, OPA finds that the deficient response to this incident was complicated by the wide disparity in experience between the officers on scene. NE#3—the most senior officer on scene by over two decades—effectively led the entire police response, even though NE#1 was designated as the primary officer. NE#1 and NE#4 had considerably less experience. NE#1 had a mere year and a half of law enforcement experience on the date of this incident and had completed his field training about five months prior. On the date of incident, NE#4 was still completing his field training, but he had previously worked as a police officer in France for a couple years.

Relatedly, OPA finds that the deficient bias review was complicated by the fact that NE#2, an acting sergeant, had limited supervisory experience but, due to staffing issues, was the only supervisor in his precinct during this shift.



Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

It was alleged that NE#1 engaged in bias-based policing.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140-POL.) This includes different treatment based on the race of the subject. (See id.)

This allegation as classified because the Father broadly claimed that NE#1, NE#3, and NE#4 were racist, but did not elaborate—to any Named Employee or OPA—what specific words or actions of the Named Employees were racist. In reviewing the BWV of the incident, OPA did not observe any actions taken by any Named Employee that appear to have been based on race.

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 15.410-POL 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect

It was alleged that NE#1 failed to make a reasonable effort to protect the victim and arrest the suspect.

SPD Policy 15.410-POL-3 states that “officers will make a reasonable effort to protect the victim and arrest the suspect.” The policy sets forth the various tasks officers are required to complete when responding to a domestic violence incident. Among these tasks is to determine whether the call is a domestic violence incident, conduct a primary investigation, and arrest the offender if there is probable cause to do so for a mandatory arrest. (See SPD Policy 15.410-POL-3.)

OPA will not—and perhaps could not—itemize every error in this DV investigation. NE#1, NE#3, and NE#4 all exhibited multiple deficiencies in policy, tactics, and demeanor. In summary, OPA focuses on the officers’ improper scene control, failure to investigate the incident, and failure to make a mandatory arrest.

1. Scene Control

Officers must be able to effectively control chaotic scenes, especially during emotional incidents such as DV allegations involving children. The officers failed to do so here and, through their inaction, failed to make a reasonable effort to protect the Mother and the Child.

As an initial matter, the officer failed throughout the incident to separate the parties to gather their stories independently. This prevented the officers from both corroborating the information they were receiving as well as gathering information in a methodical way. Instead, the officers allowed the parties to argue among themselves and dictate the course of events.



The officer also allowed the Mother and Grandmother to engage in extremely risky behavior. For example, NE#3 needlessly told the Mother to go knock on the apartment door and then all of the officers allowed both the Mother and Grandmother to stand directly outside the apartment as they spoke to the Father through the window. OPA is particularly concerned that the officers also permitted the Mother to enter the apartment without making any effort or request to enter first, keep the apartment door open, or escort the Mother inside. This is despite the Mother's stated fears that she would "get hit" if she entered the apartment. Finally, the officers allowed the Mother to run away from the scene with the Child—and the Father to run after them—without any meaningful intervention.

2. Investigation

The officers failed to investigate the nature of the incident or determine the legal relationship between the parties, especially the relationship between the Father and the Child. These unexplored issues were crucial for the officers both understanding the situation before them and determining whether it constituted domestic violence.

One of the officers' first tasks after arriving at the scene should have been to separate the parties, gather their individual accounts of what occurred, and determine the legal relationship between the parties. Here, the officers squandered their opportunity to separate the Mother and Grandmother in the parking lot in order to fully explore their stories separately. After doing so, the officers could have proceeded to the apartment—without the Mother and Grandmother—in order to speak to the Father separately. The primary officer then could have shuttled between the parties in order to gather follow-up information as needed in order to make a determination as to the disposition of the call. Instead, after speaking with the Mother and Grandmother, together, for about 90 seconds, NE#3 told the Mother to go knock on the apartment door.

Ultimately, the officers did not gather any specifics concerning the incident that prompted the call itself—the Father allegedly "grabbing" the Child out of the vehicle and locking her inside the apartment. At minimum, the officers could have explored whether that scenario constituted assault or reckless endangerment. Relatedly, the officers did not adequately determine the relationship between the Father and the Child—an issue that speaking to the parties separately could have greatly facilitated. Instead, the officers—particularly NE#3—appeared to believe that the Father had custodial rights to the Child simply by virtue of being the Child's biological Father and the absence of a parenting plan. This is not so and both the Mother and Grandmother told the officers that the Father was not on the birth certificate or any other paperwork. The officers did nothing to corroborate these statements or even seem to understand their import. This omission was a crucial failure. Under Washington Law, the only ways to establish parentage for the non-birthing parent are through a (1) presumption of parentage, where a child is born to two people who are married or in a registered domestic partnership, (2) through a properly executed Acknowledgment of Parentage form, or (3) by Court Order.¹ Simply put, if the Father and Mother were not married at the time the Child was born, and in the absence of an Acknowledgment of Parentage form or court order, the Father had no legal custody of the Child. Under that scenario—if true—the Father's actions in this case could have constituted Unlawful Imprisonment (RCW 9A.40.040) or, possibly, Kidnapping (RCW 9A.040.020 and 9A.040.030). Instead, both NE#1 and NE#3 treated this incident as a "peace" job, where their only obligation was to stand by while two parties with competing claims sorted out a civil dispute. This was incorrect.

¹ See generally FAQ for Parents, Washington State Department of Social and Health Services, *available at* <https://www.dshs.wa.gov/esa/division-child-support/faq-parents>



3. Failure to Make a Mandatory Arrest

The officers failed to arrest the Father for Assault in the Fourth Degree despite having probable cause to do so. SPD Policy 15.410-POL-3 specifies that an arrest is mandatory where a person over the age of eighteen assaulted a family or household member within the preceding four hours and it “resulted in bodily injury to the victim, whether the injury is observable by the responding officer or not.” After the officers heard rumbling and screaming inside the apartment and the Mother accused the Father of hitting her, they had probable cause to arrest the Father for assault.

Instead, the officers appeared to believe—wrongly—that they either needed the Mother to “be the victim” or observe the injury on the Mother in order to establish probable cause to arrest the Father. Not only were the officers required to arrest the Father after they had probable cause to do so but placing the Father in custody would have allowed them to better control him. Based on the fearful statements of both the Mother and Grandmother, this would have also facilitated their feelings of safety and willingness to cooperate with the officers.

4. Named Employee Responsibility

OPA is extremely concerned by what transpired during this call. By their actions and inactions, each of the officers allowed a volatile situation to spiral out of control. NE#1 was the “primary” for this call, but OPA recognizes that from the inception of the police response, NE#3—the unquestionably senior officer on scene—spoke more than either NE#1 or NE#4 and effectively controlled the police response. Not only would it have not been feasible for NE#1 or NE#4 to second-guess NE#3 at every turn, but OPA and SPD expects for junior officers to look to senior ones for proper guidance and leadership. Given NE#3’s clear seniority and involvement in this call, OPA originally found that NE#1 and NE#4’s missteps were possible, but not willful, violations of policy and did not amount to misconduct.

However, at the discipline meeting in this matter, the chain of command expressed concern about the lack of initiative taken by NE#1 as the Primary officer on the call. The fact that NE#1 does not have extensive service was taken into consideration but his recent trainings, as a newer officer, relative to such investigations should have been utilized. The chain of command also expressed concerns about the Named Employees’ knowledge gaps from both a decision making and tactical awareness perspective. OPA found the chain of command’s concerns compelling and now changes its finding. OPA now finds that the most appropriate resolution of this allegation is a sustained finding.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents

It was alleged that NE#1 failed comply with the requirements of 15.410-POL-5.

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.)



OPA originally found that the behavior underlying this allegation as well as the appropriate retraining were duplicative of Named Employee #1, Allegation #2, and removed the allegation.

After hearing the concerns of the chain of command, OPA now finds that a sustained finding for allegation #2 is best complimented by additional retraining. As discussed above, NE#1 demonstrated serious shortcomings in relation to his basic understanding of how Domestic Violence Incidents should, from the outset, be investigated. Taking into the consideration the reasoning as outlined above, OPA agreed that this allegation would be better addressed as a Not Sustained – Training Referral to ensure that NE#1 receives appropriate retraining on the requirements of this policy.

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review the entirety of SPD Policy 15.410 with NE#1, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should include reviewing the entirety of NE#1's BWV for this incident and providing appropriate feedback concerning policy, tactics, and demeanor. This retraining and counseling should emphasize the probable cause standard and mandatory arrest situations and incorporate any relevant training SPD has on Washington State parentage and child custody law. OPA also recommends that NE#1 receive practical retraining in a mock scenario with the training unit as far as tactics and decision making. This practical training should be reinforced with appropriate theoretical trainings sourced in Cornerstone and/or trainings by the Training unit. The retraining and counseling conducted should be documented, and this documentation should be maintained in BlueTeam.

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

Named Employee #1 - Allegation #4

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

The Complainant alleged that NE#1 was unprofessional.

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.)

This allegation was classified under the theory that NE#1, NE#3, and NE#4 failed to control the scene of the DV response, which led to a chaotic police response and may have undermined public trust in the Department. While NE#1, NE#3, and NE#4's response was, without a doubt, chaotic and undermining to public trust, these allegations are duplicative of the officers' failure to protect the victims and arrest the suspect as required by SPD Policy 15.410-POL-3.

Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**



Named Employee #2 - Allegation #1

5.140 - Bias-Free Policing 5.140-POL 6. Supervisors Conduct Preliminary Inquiry into Bias- Based Policing

It was alleged that NE#2 failed to properly investigate the bias-based policing allegations.

SPD Policy 5.140-POL-6 requires supervisors to conduct a preliminary inquiry into an allegation of biased policing. Where such an allegation is made, the supervisor is instructed to discuss matter with the subject. (SPD Policy 5.140-POL-6.) The supervisor is required to explain to the subject the option of making an OPA complaint. (Id.) If the supervisor does so, the subject does not wish for an OPA complaint to be filed on their behalf, and the supervisor deems that no misconduct occurred, a supervisor shall complete a Bias Review. (Id.) Otherwise, the supervisor must refer the allegation of bias to OPA. (Id.)

NE#2's bias-review was deficient in a couple of respects. First, NE#2 was not clear in his discussion of the matter with the Father, which lead to the Father becoming confused and a breakdown in communication. In reviewing NE#2's BWV, OPA finds that a number of NE#2's statements, particularly at the beginning of the interaction, were extremely unclear and, at points, did not accurately convey what NE#2 was trying to discuss. Second, NE#2 did not orally explain the OPA complaint referral process to the Father.

OPA finds that NE#2's missteps here were a possible, but not willful, violation of policy and did not amount to misconduct. NE#2's communication with the Father was complicated because it followed an emotionally fraught situation, NE#2 began the conversation with unclear language leading to frustration, the Father got visibly upset, and—ultimately—the Father picked up a piece of doorframe and began swinging it. This unsafe situation made it unfeasible for NE#2 to continue the conversation and correct any misunderstandings. Also, NE#2 had limited experience as a supervisor and there were no other supervisors on his watch in his precinct to consult.

Accordingly, OPA believes that this allegation would be best addressed through a training referral. OPA recommends that this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#2's chain of command should discuss OPA's findings with NE#1, review SPD Policy 5.140-POL-6 with NE#2 and provide any further retraining and counseling that it deems appropriate. This retraining and should include reviewing that portion of NE#2's BWV covering his interactions with the Father during this incident. The BWV review should emphasize a focus on the verbatim words NE#2 actually said to the Father and a discussion of how those were most likely interpreted by him. The retraining and counseling conducted should be documented, and this documentation should be maintained in BlueTeam.

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

Named Employee #2 - Allegation #2

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

This allegation was classified against NE#2 on the theory that NE#2 was unable to effectively express the basis for his arrival on scene in response to the bias allegations. The conduct underlying this allegation and the appropriate remedy are duplicative of NE#2's failure to appropriately discuss the bias-review with the Subject pursuant to SPD Policy 5.140-POL-6.



Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed** **Named Employee #3 - Allegation #1**
5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

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**

Named Employee #3 - Allegation #2
15.410 - Domestic Violence Investigation 15.410-POL 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect

For the reasons set forth above at Named Employee #1, Allegation #2, OPA recommends that this allegation be Sustained. OPA also finds that a Sustained finding is appropriate for NE#3 for three reasons.

First, NE#3 was the most experienced officer on scene by over two decades. NE#1 had just barely completed his FTO period and NE#4 was still in his FTO period. These junior officers would have undoubtedly looked to NE#3 for guidance and, once NE#3 effectively assumed control of the police response at the beginning of the call, would have been hesitant to second-guess his decisions. SPD relies on senior officers to appropriately guide and lead junior officers. While every officer must be fully accountable for their own behavior, in a multi-officer response, it is reasonable for junior officers to follow the lead of a senior officer especially where, as here, the senior officer takes control.

Second, and relatedly, NE#3 actually assumed control of this response. He was the first officer to speak with the Mother and Grandmother and then continued to make decisions and suggest next steps throughout the incident. In short, his level of involvement with this incident was greater than either NE#1 and NE#4. NE#3's demeanor towards Mother and Grandmother also played a significant role in the incident. Among other things, NE#3 interrupted the Mother and Grandmother multiple times, stated that the background information they volunteered was a "moot point," appeared to automatically view the Father's custody rights as equal to the Mother's despite being told by the Mother and Grandmother that the Father had no legal custody of the Child, said to NE#4 "that's why I don't put up with any of the crack they're saying," and—notably—when the Grandmother asked if NE#3 would enter the apartment if he were in the Mother's shoes, NE#3 responded "I don't know, I didn't marry the guy, I didn't make a baby with the guy." Later, NE#3 was also dismissive of the Mother and Grandmother's statements of fear, argued with them at length, and then concluded their interaction by stating "goodbye, go," while waving the Grandmother and Mother away and then stating, "you got your kid, you're done." NE#3 was deeply involved in this incident and his actions and inactions significantly contributed to the outcome. While OPA acknowledges that this was a dynamic scene, it should have been well within the capabilities for a patrol officer with nearly three decades of police experience to manage. Instead, most of the complications that arose were a result of NE#3's decisions.

Finally, it cannot be said that NE#3's actions were not willful because OPA recently sustained similar allegations against him. In 2018OPA-0799 OPA sustained an allegation against NE#3 for unprofessional behavior and failing to document his investigation in a report. In that case, OPA found that NE#3 "decided to take no action towards a suspect that he knew had engaged in an assault. This was the case even though the Complainant, who was the victim in the crime, asked him to do so." OPA noted in that case that NE#3's failure to take law enforcement action "was not based on a



lack of proof that the suspect committed a crime,” but was instead motivated by NE#3’s “concern that he would have to use force and his speculative belief that he could get into trouble.” OPA found that NE#3’s actions in that case “diminished public confidence in SPD to keep the citizens of Seattle safe.” OPA finds the same to be true in this case.

Recommended Finding: **Sustained**

Named Employee #3 - Allegation #3

15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents

As discussed in NE#1, Allegation #3 above, OPA originally found that the behavior underlying this allegation was duplicative of Named Employee #3, Allegation #2 above and removed this allegation.

Following the discipline meeting, OPA now finds that all attending Named Employees failed to take appropriate action which would speak to their commitment of conducting a thorough investigation of a domestic violence incident. NE#3’s shortcomings in this policy are captured on BWV and reflect poorly upon the Departments ability to investigate such matters. For similar reasons as outlined in NE#1 Allegation #3, OPA agrees with the chain of command that a Training Referral would address the shortcomings identified in NE#3’s handling of the incident.

- **Training Referral:** NE#3’s chain of command should discuss OPA’s findings with NE#3, review the entirety of SPD Policy 15.410 with NE#3, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should include reviewing the entirety of NE#3’s BWV for this incident and providing appropriate feedback concerning policy, tactics, and demeanor. This retraining and counseling should emphasize the probable cause standard and mandatory arrest situations and incorporate any relevant training SPD has on Washington State parentage and child custody law. OPA recommends that NE#3 also receive practical retraining in a mock scenario with the training unit as far as tactics and decision making. This retraining should be reinforced with appropriate theoretical trainings sourced in Cornerstone and/or trainings by the Training unit. The retraining and counseling conducted should be documented, and this documentation should be maintained in BlueTeam.

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

Named Employee #3 - Allegation #4

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

OPA originally removed this allegation for NE#3 for the reasons set forth above at Named Employee #1, Allegation #4.

However, during in connection with the discipline meeting, the chain of command argued persuasively that NE#3’s comments throughout this incident crossed the line into a level of unprofessionalism that undermined public trust. OPA agrees. NE#3’s comments and conduct throughout this incident were unprofessional and—unlike NE#1 and NE#4—the impropriety of NE#3’s conduct did not entirely overlap with the same conduct at issue in the allegations under SPD Policy 15.410.

NE#3 was rude and dismissive of the Mother and Grandmother, interrupting them on a number of occasions. NE#3 also made commentary through the incident that was unprofessional, including but not limited to his statements:



(1) “that’s why I don’t put up with any of the crack they’re saying,” (2) “I don’t know, I didn’t marry the guy, I didn’t make a baby with the guy,” (3) “yeah, it tells me anything I need to know,” (4) “goodbye, go,” and (5) “you got your kid, you’re done.” Finally, NE#3’s conduct and demeanor in the parking lot after leaving the apartment was unprofessional. While engaging with the Mother and Grandmother at their vehicle NE#1, among other things, argued with the Mother and Grandmother and minimized their very real safety concerns.

Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #4 - Allegation #1

5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing

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**

Named Employee #4 - Allegation #2

15.410 - Domestic Violence Investigation 15.410-POL 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect

OPA originally recommended that this allegation be Not Sustained – Training Referral.

Following the discipline meeting, for the same reasons set forth above at Named Employee #1, Allegation #2, OPA now recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #4 - Allegation #3

15.410 - Domestic Violence Investigation 15.410-POL 5. The Department is Committed to a Thorough Primary Investigation of Domestic Violence Incidents

As discussed in NE#1, Allegation #3 above, OPA originally found that the behavior underlying this allegation was duplicative of Named Employee #3, Allegation #2 above and removed this allegation.

Following the discipline meeting, for the reasons set forth above at Named Employee #1, Allegation #2 and Allegation #3, OPA recommends the following Training Referral.

- **Training Referral:** NE#4’s chain of command should discuss OPA’s findings with NE#4, review the entirety of SPD Policy 15.410 with NE#4, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should include reviewing the entirety of NE#4’s BWV for this incident and providing appropriate feedback concerning policy, tactics, and demeanor. This retraining and counseling should emphasize the probable cause standard and mandatory arrest situations and incorporate any relevant training SPD has on Washington State parentage and child custody law. OPA also recommends that NE#4



receive practical retraining in a mock scenario with the training unit as far as tactics and decision making. This practical training should be reinforced with appropriate theoretical trainings sourced in Cornerstone and/or trainings by the Training unit. The retraining and counseling conducted should be documented, and this documentation should be maintained in BlueTeam.

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

Named Employee #4 - Allegation #4

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

For the reasons set forth above at Named Employee #1, Allegation #4, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**