



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 12, 2023

FROM: DIRECTOR GINO BETTS JR.  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0109

### **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	15.180 - Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Sustained
Imposed Discipline		
Written 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:**

The Complainants (C#1 and C#2) alleged Named Employee #1 (NE#1) engaged in bias-based policing and failed to investigate and document a reported crime.

### **ADMINISTRATIVE NOTE:**

NE#1 was also alleged to violate 16.130 - Providing Medical Aid 16.130 - POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life [...]. Specifically, NE#1 allegedly failed to take first aid action after observing blood streaming down a Complainant's face. OPA referred that allegation to NE#1's chain-of-command for Supervisor Action:

***Requested Action of the Named Employee's Supervisor:*** Please document by completing a Chain of Command Report, attaching the report to this case, and sending it to OPA through Blue Team.

- Discuss complaint and department policy with Named Employee.
- Please document in PAS. Please copy and paste the text of the PAS entry into the Chain of Command Report.

Generally, Supervisor Actions involve allegations of minor policy violations or performance issues best addressed through training, communication, or coaching by the employee's supervisor. *OPA Manual 5.4(B)(ii)*. OPA sends a memo mandating the employee's supervisor to take specific, relevant action with the employee. *Id.* The supervisor has 15 days to complete the action and return the case to OPA for review. *Id.*



OIG certified this investigation as thorough and objective. However, it was declared untimely because OPA did not issue the classification report within thirty days of receiving the complaint. OPA acknowledges that, due to an administrative miscalculation, the classification report was served five days late. However, OPA respectfully disagrees that the error renders the entirety of the investigation—which was completed within the contractual 180-day timeline—untimely.

### **SUMMARY OF INVESTIGATION:**

On April 6, 2022, C#1 contacted SPD for a status update on an investigation where she was a listed victim. A sergeant returned her call and provided an update. C#1 expressed displeasure with responding officers' performance, indicating she was treated poorly because she is Black. The allegation was forwarded to OPA, where an investigation was initiated.<sup>1</sup> OPA's investigation included interviews of the Complainants and NE#1. It also reviewed BWVs, ICVs, CAD reports, an incident report, and NE#1's SPD training records.

#### *Computer-Aided Dispatch Reports*

On March 20, 2022 at 2:31 AM, NE#1 responded to a multiple participant fight at Stage nightclub, 172 S Washington Street.<sup>2</sup> Several other officers arrived within five minutes. At 2:51 AM, NE#1 cleared the call. He categorized the call as a disturbance where assistance was rendered. NE#1 did not generate a report.

At 3:21 AM, a female caller reported she was attacked, 20 minutes prior, by a group with weapons at the same location.<sup>3</sup> She said she was pistol whipped and had items stolen. The caller did not know the suspects' whereabouts. She indicated the suspects were on scene when officers responded, but no arrest was made. The caller gave descriptions of the offenders and their car. Subsequently, she indicated the suspects resurfaced and followed her on Interstate 5 with guns drawn. The caller also said the suspects shot at her. Dispatch alerted Washington State Police, who were unable to reach the caller. At 3:45 AM dispatch lost contact with the caller. At 7:18 AM, a SPD officer canvassed the incident location and spoke with people who were aware of fights earlier that morning but denied other disturbances.

At 12:03 PM, C#1 reported she was the victim of an assault and robbery<sup>4</sup> at Stage nightclub.<sup>5</sup> A SPD Telephone Reporting Unit (TRU) officer generated a report.

#### *Incident/Offense Report (summary)*

On March 19, 2022 around 11:00 PM, C#1 went to the nightclub with C#2, her sister. Around closing, C#1 went looking for C#2. An unknown male tried talking to C#1, but she was unresponsive. An unknown female exchanged words with C#1. C#1 left the nightclub and was immediately jumped by a group of unknown subjects. They punched, kicked, and pulled C#1's hair. C#1 found C#2, who was also attacked, in the parking area. The Complainants left and were followed by a dark Prius or Nissan Altima. Occupants of that car displayed firearm(s) and possibly fired shot(s).

#### *NE#1's BWV (summary)*

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<sup>1</sup> The Complainants also submitted online OPA complaints.

<sup>2</sup> CAD #22-69198

<sup>3</sup> CAD #22-69217

<sup>4</sup> C#1 said her phone was stolen.

<sup>5</sup> CAD #22-69457



NE#1 arrived and radioed: "We've got a multiple person fight outside of Stage." C#1 approached NE#1 patrol car and exclaimed, "Officer, those bitches just attacked me." NE#1 ordered her to step away. C#1 yelled, "They hit me in my face." NE#1 responded, "Step over there" and "Step away from my car." NE#1 exited the car and approached other SPD officers. One of the Complainants said, "They just assaulted us, and you didn't see..." NE#1 interrupted "No." Conferring with another officer, NE#1 said "It's ah...it's a melee. I don't know who has done what. Umm, you notice the one participant here is the female that was released from the precinct. So, the best we can do is try to start figuring out who needs what here." C#1 reapproached and asked, "You didn't see them just attack me?" NE#1 replied, "What are doing back down here again?" C#2 also approached with blood streaming her right cheek. NE#1 asked whether C#1 was "taken to the police precinct earlier?" C#1 denied an earlier arrest. NE#1 told C#2 "You know you're bleeding from your face?" C#1 replied, "Because they hit her, and they need to go to jail." Unknown subjects approached and argued with the Complainants. NE#1 separated them and said "Let's go home. Let's go home." C#1 replied, "No. No. They hit me multiple times. I'm pressing charges." NE#1 agreed to "take some information."

An argument between the Complainants and the other group intensified, but officers intervened.<sup>6</sup> C#1 and NE#1 went back-and-forth about whether she was a victim or mutual combatant. Nightclub security approached the Complainants to talk. NE#1 stated, "So, security is starting to take care of it." Apparently referring to nightclub security, an officer told NE#1, "He wants to send them home. I didn't know if you..." NE#1 replied, "No...nobody's detained. Going home is the optimal thing here." Arguing restarted and nightclub security intervened. NE#1 stated, "So, we're not going to interfere with security. We're going to let them take care of their patrons. We'll give them a minute to take care of their patrons and we're going to stand back." NE#1 saw unknown subjects leave in a "black car." NE#1 claimed the Complainants were too excited for him to "get information." He also determined "there were no victims. They were all equal participants. So, I'm guessing once they leave security may have better success getting them out of here." Security directed the Complainants to go home. Thereafter, NE#1 thanked security and left.

#### *Complainant Interviews*

On April 11, 2022, OPA conducted separate recorded phone interviews with the Complainants. Both accounts were consistent with C#1's report to the TRU officer. However, neither mentioned the subjects following them with guns or shots fired. C#2 also added that cards and money were taken in addition to her phone. The Complainants were primarily upset about an apparent lack of investigation despite identifying the fight participants and not being offered medical aid despite visible injuries. They also noted, despite their apparent drunken state, officers repeatedly suggested they get in their car and drive home.<sup>7</sup>

#### *NE#1 Interviews*

On July 12, 2022, OPA conducted a video recorded in-person interview with NE#1. On the night in question, he was assigned to "an emphasis unit for the nightlife in the West Precinct." NE#1 arrived and saw "like ten girls or more all equally active engaging in...(NE#1) would call it a brawl." The Complainants approached NE#1's patrol car "yelling at (him)." When NE#1 parked and exited his car, the fight largely dissipated. However, subjects were still yelling and agitated. The Complainants reapproached NE#1. He was uncomfortable with their proximity, so he told them to "step aside." "Some of the combatants (left)," and security stepped-in to talk to the Complainants. NE#1 said the Complainants left with the security agent. He further stated, officers waited for everyone to leave before they

<sup>6</sup> One of the people arguing with the Complainants is captured on another officer's BWV yelling, "I just beat you and your sister's ass."

<sup>7</sup> While the Complainants were repeatedly told to go home, OPA found no audio or video of an officer directing them to drive home.



departed. NE#1 said he “would have been happy to” provide further service to the Complainants but they were noncompliant. He also insisted his handling of the situation had nothing to do with the Complainants’ race.

On September 8, 2022, OPA conducted an audio recorded re-interview of NE#1. OPA asked NE#1 about him mistaking C#1 for a subject brought to his precinct earlier that day. He acknowledged the misidentification, but insisted it had no bearing on his handling of the situation. NE#1 also explained his apparent deference to security handling the matter: “Oftentimes, the security steps in. They...combatants are often more comfortable with allowing security to take care of that then police. Just because of tensions or whatever.”

### **ANALYSIS AND CONCLUSIONS:**

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

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

The Complainants alleged NE#1 engaged in bias-based policing by treating them differently based on race.

Bias-based policing is “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.*) Race is among the listed discernible personal characteristics. (*See id.*)

OPA’s investigation found no evidence NE#1 treated the Complainants differently based on their race or any other discernible personal characteristic.

Here, NE#1’s BWV captured the Complainants, Black women, approach him several times to report an assault and identify their offenders. Each time, NE#1 dismissed them by either directing them to “Step over there,” “Step away from my car,” or letting nightclub security deal with them. Overall, OPA finds the evidence suggests NE#1 failed to take basic investigative steps (as discussed below), but is insufficient to demonstrate NE#1’s disinterest was based on the Complainants’ race.

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

Recommended Finding: **Not Sustained - Unfounded**

#### **Named Employee #1 - Allegation #2**

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

The Complainants alleged NE#1 failed to conduct a primary investigation or document a reported crime.

A primary investigation begins when police action is initiated and is critical to the success of any subsequent investigative efforts. The scope of a primary investigation may be very restricted or may constitute the entire investigation of a crime. *SPD Policy 15.180.* Officers shall document all primary investigations on a report. *See SPD Policy 15.180-POL-5.* Further, officers shall document whether victims of non-custody incidents want to pursue charges, as feasible. *Id.*



Here, NE#1 was clearly the primary officer. He was first on scene, had the most encounters with the Complainants, and directed other officers' handling of the matter. Upon arrival, NE#1 saw a group fighting. Immediately, while NE#1 was in his patrol car noting his arrival and requesting backup, the Complainants approached him to report what preceded the fight. As NE#1's BWV depicts, the Complainants persistently approached him to offer details, only to be directed away each time. NE#1 told OPA he ordered the Complainants away for officer safety, noting their proximity and inherent danger of responding to a fight. However, he also admitted, by the time NE#1 exited his patrol car the fight largely defused other than "yelling" and "posturing." Moreover, the Complainants made on scene identifications of their alleged offenders and clearly stated they wanted to make a report. Nevertheless, NE#1 allowed all participants to leave without collecting any information despite one of the alleged offenders yelling "I just beat you and your sister's ass," corroborated by blood streaming down C#2's face. NE#1 attributed his lack of investigation to the Complainant's noncompliance, but the evidence shows they were driven to get police assistance. They repeatedly made unsuccessful attempts to get on scene officers to make a report. Thereafter, they called 911 several times until a TRU officer ultimately documented the matter. NE#1 told OPA he did not make a report because, "There was no information to include in a report." The evidence shows the lack of information was based on NE#1's lack of effort and apparent disinterest in assisting the Complainants.

NE#1's disinterest was further evidence by the deference he showed the nightclub security, where BWV captured him saying: "So, we're not going to interfere with security. We're going to let them take care of their patrons. We'll give them a minute to take care of their patrons and we're going to stand back." Once the security assured him the Complainants were "good," NE#1 thanked him and told the other officers "Alright, we are good. We are out of here." Moreover, NE#1 told OPA the Complainants "(left) with security agent" and officers remained on scene until everyone departed. However, his BWV shows the Complainants standing with security when NE#1 and the other officers left.

Overall, NE#1 made no effort to investigate or document the incident.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**