



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 2, 2022

FROM: INTERIM DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0137

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Inconclusive
# 2	5.001 - Standards and Duties 5.001-POL 10. Employees Will 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 the Named Employees (NE#1 and NE#2) were unprofessional when she called the East Precinct for a case status update.

SUMMARY OF INVESTIGATION:

On March 6, 2022, the Complainant made an OPA complaint against NE#1 and NE#2.¹ OPA initiated an investigation. That investigation included reviewing the OPA complaint, general offense (GO)/incident report, and a CAD call report. OPA also interviewed NE#1, NE#2, and the Complainant. Evidence summaries are below:

CAD call report

On April 30, 2022 at 4:09 PM, two officers responded to an assault at the Complainant's home. The caller told dispatch a male Uber driver pushed her breasts. She declined medical assistance, denied weapons were involved, and observed the subject outside during the call.²

GO/Incident report

The Complainant ordered food through the Uber East application. The driver (the Subject) arrived yelling at her. The Complainant grabbed her food and escorted the Subject outside her building. The Subject continued yelling and berating³ her. The Complainant remained calm, which further angered the Subject. The Subject pushed the Complainant's chest with both hands. The Complainant believed the Subject was upset he had to deliver food up six flights of stairs. Police tried calling the Subject, but those calls went to voicemail.

¹ Subsequently, on May 10, 2022, NE#1 forwarded the Complainant's allegations to OPA via Blue Team. That complaint was classified as a contact log, since there was already a pending complaint covering those allegations.

² The Subject left prior to officers' arrival.

³ The Subject's specific words were not captured in the report.



OPA Complainants

A. NE#1's Blue Team complaint

The Complainant called the East Precinct requesting information about an incident she reported on May 4, 2022. She thought NE#2 failed to take her seriously, which made her irate. NE#1 also spoke to the Complainant. NE#1 asked "clarifying questions so (he) could be as accurate as (he) possibly could regarding her complaint and concerns, which also upset the Complainant. She said NE#2 should have "de-escalated the situation," rather than laugh and tell her "He couldn't help her beyond giving her the information she requested." NE#2 attempted to locate and activate his BWV but was only captured the end of the conversation. NE#2 immediately reported the Complainant's allegations and her request for a supervisor.

B. Complainant's OPA complaint

On May 6, 2022, the Complainant made an online OPA complaint. She called the precinct upset about no officer following up about the Subject assaulting her. Rather compassion, NE#1 told her:

- You are helpless and therefore are calling us for help
- It doesn't matter whether you are a victim or a witness it's the same thing to me

Further, NE#2 "tried talking (the Complainant) in circles and condescended (her) in hopes (she) would hang up." NE#1 was "more worried about the tone of (the Complainant's) voice" than the crime against her. NE#1 also referenced how "Black" he was because he is from Louisiana.⁴ The Complainant also alleged NE#1 abruptly hung up on her.

NE#1's BWV

NE#1's BWV appears to capture his second conversation with the Complainant. There is no audio during the first minute. NE#1's phone is apparently on speaker. NE#1 calls the Complainant back but gets her voicemail. NE#1's phone rings and he answered. The Complainant is on the other end. She said she called back to "make sure he didn't hang up on her."⁵ NE#1 denied hanging up. The conversation ended. NE#2 estimated his conversation with the Complainant lasted two to three minutes. NE#1 indicated policy does not require BWV activation for normal conversations.

OPA Interviews

A. NE#1's interview⁶

⁴ The Complainant's OPA complaint suggested NE#1 referenced how Black she was, but during her OPA interview, she clarified NE#1 referenced himself as "so Black."

⁵ Apparently, referring to their initial conversation.

⁶ NE#1 elected to participate in the interview without union representation.



On August 16, 2022, OPA interviewed NE#1. NE#1 started at the Department 34 years ago. For the past 2 years, he was assigned as a patrol sergeant. NE#1 supervised NE#2 for about two years. NE#2 told NE#1 the Complainant called and wanted to talk to a supervisor. Specifically, she wanted to discuss policy issues and possibly verify information provided by NE#2. NE#1 called the Complainant. She acknowledged NE#2 answered her questions about her pending investigation but described NE#2 as unsympathetic and failed to take her seriously. NE#1 repeated the Complainant's concerns to ensure he accurately tracked them. That upset the Complainant. She screamed "I'm not incompetent. I don't need you to repeat everything that I say to you." NE#1 quietly listened. He decided to put her on hold to retrieve his BWV. He put her on hold, but the call disconnected. NE#1 called her back, but she did not answer. The Complainant called back, and NE#1 answered. She acknowledged NE#1 tried calling her back, but indicated she was done with the conversation. NE#1 denied:

- Laughing or chuckling during his conversation with the Complainant.
- Telling her he could not help her beyond giving her the requested information.
- Telling her he could not help her with her concerns about NE#2.
- Making demeaning comments or talking down to the Complainant.
- Being more concerned with the Complainant's tone than addressing her concerns.
- Referencing being "so Black."

B. NE#2's interview

On August 10, 2022, OPA interviewed NE#2.⁷ NE#2 started at the Department 24-25 years ago. He was assigned to the East Precinct, where he works patrol and front desk clerk. NE#2 also indicated front desk interactions are unrecorded and front desk clerks are not required to activate BWV during phone calls. NE#2 estimated his conversation with the Complainant was two to three minutes. The Complainant called requesting an unavailable officer. NE#2 explained that officer was unavailable but offered to assist. She sought an update on the assault case. She gave NE#2 the incident number. NE#2 looked it up on CAD and Mark43. NE#2 told the Complainant the investigation was unassigned. The Complainant expressed frustration about only male officers responding to her initial call. NE#2 explained dispatch sends available officers to emergency calls, irrespective of gender. The Complainant thought it violated policy. NE#2 suggested a supervisor further discuss it with her. The Complainant grew upset. She said she could tell NE#2 was Black by his voice, and asked "Are you one of those brothers who dates all white girls?" NE#2 did not recall laughing or chuckling while talking to the Complainant. He also denied:

- Telling her he could not help her beyond giving her the information she requested.
- Telling her it did not matter if she was a victim or a witness.
- Telling her he "was treating her like a person, which was a lot (more) than what she was doing.
- Talking down or in circles to her.
- Telling her she was "weak" and that was why she was calling.

The Complainant eventually requested a sergeant. NE#2 got NE#1.

⁷ NE#1 elected to participate in the interview without union representation.



C. Complainant's interview

On May 19, 2022, OPA interviewed the Complainant. She called the East Precinct "to see how her case was going." The Complainant was upset about the underlying crime and unfamiliar with the investigative process. NE#2 tried explaining that process. NE#2 said, "it didn't matter if she were a victim or witness, it's the same thing to him." That comment agitated the Complainant and changed her tone. NE#2 indicated she was weak for calling the police. The Complainant requested a sergeant. NE#1 got on the phone but sounded like he did not want to talk to her. NE#1 mentioned being Black and from Louisiana. The Complainant did not care where NE#1 was from, she wanted information about her case. NE#1 hung up on her. The Complainant described her treatment as "talked down to" and "treated like she's not a person, like she's not a woman who was attacked by a man for no reason." Last, the Complainant acknowledged NE#1 told her the case was forwarded to the prosecutor's office for review.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires SPD employees "strive to be professional." The policy also instructs, "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. Further, "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. Last, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." Id.

Here, NE#1 and NE#2 claimed to genuinely want to help the Complainant with the information she sought. However, the Complainant, admittedly agitated about her attack, differently interpreted their actions. During her initial call with NE#2, the Complainant was unfamiliar with the criminal investigation process. The Complainant told OPA NE#2 explained the process to her and offered to look her case up after she supplied the incident number. While she alleged NE#1 and NE#2 made insensitive comments and struck dismissive and demeaning tones, there is no independent corroboration of those claims. Conversely, the evidence shows NE#2 explained the investigative process with her, discuss Department response policy, and suggest she speak with a sergeant when she was dissatisfied with NE#2's assistance. Further, the evidence shows NE#1 immediately called the Complainant back when they inexplicably disconnected. NE#1 also ran to get his BWV to record the conversation once the Complainant's unyielding displeasure was clear. Unfortunately, by the time NE#1 retrieved his BWV, the Complainant was ready to end the call.

Overall, there is insufficient evidence to prove this allegation more likely than not occurred as described by the Complainant.

Accordingly, OPA recommends a Not Sustained - Inconclusive finding.

Recommended Finding: **Not Sustained - Inconclusive**



Named Employee #2 - Allegation #1

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

The Complainant alleged NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires SPD employees “strive to be professional.” The policy also instructs, “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. Further, “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. Last, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” Id.

Here, for the same reasons outlined in Named Employee #1 - Allegation #1, there is insufficient evidence to sustain this allegation.

Accordingly, OPA recommends a Not Sustained- Inconclusive finding.

Recommended Finding: **Not Sustained - Inconclusive**