




CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 24, 2023

FROM: DIRECTOR GINO BETTS, JR. 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0277

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	15.020-Charge-By-Officer (CBO) 15.020-POL-2 Suspects Must Be Thoroughly Identified and Documented in the Report	Sustained
# 2	5.140-Bias-Free Policing 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded

Imposed Discipline

Oral Reprimand

Named Employee #2

Allegation(s):		Director's Findings
# 1	15.020-Charge-By-Officer (CBO) 15.020-POL-2 Suspects Must Be Thoroughly Identified and Documented in the Report	Not Sustained - Training Referral
# 2	5.140-Bias-Free Policing 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	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.

ADMINISTRATIVE NOTE:

This DCM was amended to change OPA's recommended finding for Named Employee #2 – Allegation #1 (15.020-Charge-By-Officer). OPA initially recommended a sustained finding for that allegation. However, following a robust discussion during the February 24, 2023, discipline meeting, OPA reconsidered and settled on not sustained (training referral). OPA's shift was largely based on Named Employee #2's secondary role in the Subject's misidentification.

SUMMARY OF INVESTIGATION:

On August 29, 2022, the Complainant submitted an online OPA complaint. The Complainant alleged the Named Employees violated SPD policy by misidentifying her sister as her. Specifically, the Complainant alleged, after the Named Employees arrested the Complainant's sister, her sister gave the officers the Complainant's name, which the Named Employees unreasonably accepted without verification. Further, the Complainant alleged the Named Employees' failure to probe discrepancies in her sister's misrepresentation was due to racial bias: "...the officers did not do their due diligence, and figured it was close enough by their racial standard that all black people look alike[.]"

A. Computer-Aided Dispatch (CAD) data



When 9-1-1 is called, a call taker enters information into the Computer-Aided Dispatch (CAD) system which routes the call to the appropriate sector for deployment.¹ A radio dispatcher communicates with first responders in the field. *Id.* CAD data for this call showed the 9-1-1 call was made November 19, 2021, at 12:55 PM. The call taker noted the callers' report:

Remarks: MALE HAS PRIED OPEN THE DOORS TO AN OFFICE HERE AND IS CURRENTLY INSIDE.

B. General offense (GO)/incident report

i. 2021-307048

Named Employee #1 (NE#1) wrote the GO report. In summary, NE#1 wrote he and Witness Officer #1 (WO#1) responded to a "burglary in progress call." Upon arrival, the property manager/9-1-1 caller (Community Member #1/CM#1) flagged them. CM#1 reported his office space was closed and no one was authorized to be there. The officers entered the office, announced their presence, and ordered anyone inside to come out. There was no response. The officers searched the office. NE#1 found a male and a female in "the main office room." NE#1 used SPD's Mark43² and King County's JEMS systems to identify them. NE#1 determined there was probable cause to charge both with violating SMC 12A.08.040 (A) – Criminal Trespass in the 1st Degree. NE#1 notified the arrestees he would utilize Charge-By-Officer³, rather than booking them into jail. The arrestees received NE#1's business card and were allowed to leave.

ii. 2022-140788

On June 3, 2022, the Complainant called 9-1-1 to report receipt of a letter from the Seattle Municipal Court about an upcoming court date for a November 19, 2021 criminal trespass. The Complainant was transferred to an officer. She told the officer she was in California, where she resided, at the time in question. The Complainant also reported her sister lived in Seattle at that time and faced similar charges. The Complainant believed her sister committed identity theft against her. The Complainant also provided her sister's name and date of birth.

C. Mark43

OPA found no Mark43 incidents involving the Complainant other than the incident at hand. The Complainant's sister (the Subject) had a July 6, 2021, burglary/trespass arrest. Like the situation at hand, the Subject gave police a fake name (not the Complainant's name) during the July 6, 2021, contact.

D. BWV

¹ CSCC. CSCC - Police. (n.d.). Retrieved January 16, 2023, from <https://www.seattle.gov/police/about-us/about-policing/csccl>.

² Mark43 is a cloud-based Records Management System that integrates tools for report writing, case management, and evidence tracking. *Powerful Public Safety Records Management System*. Mark43. (2022, May 20). Retrieved February 20, 2023, from <https://mark43.com/rms/>.

³ SPD Policy 15.020-POL outlines the Charge-By-Officer (CBO) program to be used by patrol officers and patrol sergeants to refer completed misdemeanor investigations (a preliminary investigation which has been finished with the available on-scene resources and requires no detective follow-up) to the Seattle Law Department.



OPA's BWV review materially mirrored NE#1's GO report. NE#1 contacted the Subject. He asked for her name. She responded with the Complainant's first name. Named Employee #2 (NE#2) asked the Subject to spell her first and last name, and she complied. The Subject told the officers she was visiting from California. She also provided the Complainant's date of birth. Roughly five minutes later, NE#1 asked the Subject, "I'm sorry, what was your name again?" She replied with her real first name. NE#1 asked which name was correct. The Subject apologized and restated the Complainant's first name. NE#1 asked WO#1, "We ran them right, through DATA?" WO#1 responded yes. WO#1 further indicated the male had "chippy warrants" and the Subject was "clear." NE#1 asked NE#2, "Can you just run out to the car and just verify their photos match to...if they have any photos you can match them to? Just to verify." NE#2 agreed and went to search on his Mobile Data Terminal. In-car video captured a dispatcher telling NE#2, "I found a close match for [the Subject]," but the date of birth was different. Dispatch further noted the close match was "clear of warrants and [had a driver's license] out of California."

NE#1 asked the Subject her address. The Subject denied having an address and offered an old address. NE#1 instructed the Subject not to return to the location and asked whether she was ever previously arrested. The Subject denied an arrest history. NE#2 appeared to show NE#1 the male subject's photo on a phone. NE#2 also told NE#1, "And she's out of Cali. I couldn't find a photo." After some discussion about the male subject's identity, NE#1 told them, "You're good...you're free to go. So, I'll walk you out. We just got to make sure on his ID." The Subject walked off. NE#1 appeared to search the male subject's King County Jail records on his Mobile Data Terminal. The male subject's booking photo appeared on the screen. NE#1 then released the male subject.

E. Complainant's interview

On September 8, 2022, OPA interviewed the Complainant. Her interview materially mirrored her online complaint. The Complainant also noted the "unnecessary stress" the situation caused her, including missing work and having to hire a lawyer. She further stressed she had no arrest history, was a California resident the past six years, and she and her sister "look nothing alike."

F. NE#1's interview

NE#1 told OPA he was the primary officer for the call. He also stated he was familiar with the CBO policy and the identification requirements. Specifically, he stated officers must get the subject's full name, date of birth, last known address, gender, and physical descriptors. NE#1 stated his search of SPD's database, with information provided by the Subject, showed the name she provided and a California issued drivers license. NE#1 found that information compelling, since the Subject claimed to be visiting from California. NE#1 insisted his identification of the Subject complied with Department policy:

Like I said, previously stated...with our policy, is just we get their name, date of birth, last known address, gender, and physical descriptors which she had all provided to me.

G. NE#2's interview

NE#2 told OPA he was a backing officer for the call. He also stated he ran the Subject's name and birth date with a dispatcher. NE#2 denied recollection of the dispatcher responding with a "close match." OPA showed NE#2 his BWV, which captured the Subject giving NE#1 two different first names. NE#2 told OPA, "I do not recall the conversation."



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.020-Charge-By-Officer (CBO) 15.020 - POL - 2 Suspects Must Be Thoroughly Identified and Documented in the Report

The Complainant alleged NE#1 failed to properly identify the Subject for a CBO.

The Seattle Law Department will not charge a suspect if the suspect's identity is incomplete. SPD Policy 15.020-POL-2. Officers must gather and document as much identifying information as possible. *Id.* At a minimum, officers must gather the suspect's full name, date of birth, last known address (including zip code), gender, and physical descriptors (height, weight, etc.) *Id.*

Here, NE#1's GO report listed a full name (the Complainant's), address, date of birth, race, and gender for the Subject. However, the Subject's name, address, and date of birth were unverified. The Subject supplied the Complainant's name and incorrect date of birth, off by a year. The Subject also supplied "an old address," but the city she provided (Newcastle) differed from what NE#1 listed in the GO report (Renton). NE#1 told OPA Mark43 showed a similar address associated with the name the Subject provided but the city was Renton instead of Newcastle. NE#1 stated he did not question it since "it was basically Newcastle area." The Subject told NE#1 she believed mail from that old address would be forward to her parents.

While primary officers are responsible for scene management and decision making, OPA appreciates their necessary reliance on backing officers. Specifically, a primary officer's decision making is often based on information provided, or in this case not provided, by backing officers. Here, NE#2 failed to tell NE#1 there was a discrepancy with the Subject's birth date (the date of birth the Subject provided was off by a year from the person the dispatcher found.) However, although NE#1 was unaware of that discrepancy, there were several other red flags:

- The Subject had no identification card.
- Roughly five minutes after giving NE#1 the Complainant's name she gave officers her real name, claimed she was mistaken, then gave them the Complainant's name again.
- The address the Subject provided was different from what NE#1 found in Mark43.
- There was no photo for NE#1 to reference the Subject against.

NE#1 told OPA he dismissed the Subject's name confusion due to her homeless status and apparent intoxication:

Based on my experience with dealing with the homeless population down there...especially when they're under the influence...it's not uncommon for them to be like give different...different names initially. She appeared to be really out of it. And, initially it seemed innocuous to me because when I first asked for her name, she gave [the Complainant's name.] And I asked her again later, when I was ID'ing her further umm...and she...she did say [the Subject's real name.] And then right after, she said, I mean [the Complainant's name.] And then she said I sorry I was thinking about my little girl. So, it was...it was a statement that was said in passing.

However, despite the Subject's vacillation and apparent intoxication, NE#1 decided her word was sufficient to verify her identity. Similarly, NE#1 dismissed the discrepancy with the address the Subject provided versus what he found in



SPD's system. While NE#1 told OPA the Subject "wasn't giving any outward signs that she was being deceptive or giving me a bad name," it is unclear what "outward signs" would trigger NE#1's suspicions.

NE#1 also told OPA the Subject "came back with a good ID that came back from SPD Data," but that search fell short of confirming the Subject's identity. BWV showed NE#1 asked backing officers "We ran them right, through Data?" WO#1 replied, "she's clear," suggesting the name was found in SPD's system and there were no active warrants. However, there was still no independent verification of the Subject's identity since WO#1's conclusion the Subject was "clear" was based solely on the name and date of birth she provided.

While OPA appreciates NE#1's elected discretion not to jail the Subject for the misdemeanor offense, with so many red flags and loose ends concerning her identity, NE#1's primary officer (and acting sergeant) role required greater diligence. Specifically, NE#1 should have requested a mobile fingerprint identification device (mobile ID) or transported the Subject to the precinct for fingerprinting to confirm her identity. *See* SPD Policy 15.360-POL-2 (Officers may use mobile IDs when probable cause exists for the subject's arrest.) Particularly where, since the Complainant had no arrest history, NE#1 did not at least a photo on file to compare the Subject.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

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

The Complainant alleged NE#1 engaged in biased policing due to her race and gender.

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. It includes different treatment based on a subject's race and/or gender. *See id.*

Here, the Complainant suggested NE#1's misidentification of the Subject was based on seeing two Black women (a photo of herself and an in-person assessment of the Subject) and assuming they were the same person. However, the evidence showed there was no photo of the Complainant since she had no arrest history. Despite the Complainant's contention that she looks nothing like the Subject, NE#1 did not know the Complainant existed and never saw a photo of her. Moreover, NE#1 knew the Subject's (the Complainant's sister) race and gender and showed her leniency by not jailing her. Overall, OPA found no evidence of biased policing.

Accordingly, OPA recommends this allegation be Not Sustained (Unfounded).

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

Named Employee #2 - Allegation #1

15.020-Charge-By-Officer (CBO) 15.020 - POL - 2 Suspects Must Be Thoroughly Identified and Documented in the Report



The Seattle Law Department will not charge a suspect if the suspect's identity is incomplete. SPD Policy 15.020-POL-2. Officers must gather and document as much identifying information as possible. *Id.* At a minimum, officers must gather the suspect's full name, date of birth, last known address (including zip code), gender, and physical descriptors (height, weight, etc.) *Id.*

The Complainant alleged NE#2 failed to properly identify the Subject for a CBO.

Here, NE#2 was a backing officer who collected the Subject's name and date of birth. NE#2 radioed that information for dispatch to confirm. The dispatcher replied, "I found a close match for [the name the Subject provided,]" but the date of birth was off a year. The dispatcher also confirmed the "close match" had a California driver's license and no warrants. NE#2 told OPA he did not recall the birth date discrepancy and maintained the Subject's identification was "mostly accurate." NE#2 also did not recall telling NE#1 about the birth date discrepancy, which BWV confirmed he did not. Overall, OPA found NE#2's failure to tell the primary officer (NE#1) about the Subject's birth date discrepancy inexplicable, particularly where NE#2 was present when the Subject gave NE#1 the Complainant's name, then her real name, then the Complainant's name again.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegation #2

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

The Complainant alleged NE#1 engaged in biased policing due to her race and gender.

Here, for the reasons outlined at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained (Unfounded).

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