



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 13, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0293

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 (Expedited)

Named Employee #2

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 (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 Standards and Duties 10. Employees shall strive to remain 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 Named Employee #1 (NE#1) and Named Employee #2 (NE#2) engaged in bias-based policing by failing to arrest her attacker due to the Complainant's race, disability status, and economic status. The Complainant also alleged NE#2 wrote an inaccurate police report. Further, the Complainant alleged Named Employee #3 (NE#3), a detective supervisor, hung up on her when she called to report her concerns.

ADMINISTRATIVE NOTE:

The bias-based policing allegations against NE#1 and NE#2 were approved for Expedited Investigation. That means OPA, with the Office of Inspector General's review and agreement, believed it could reach and issue recommended findings for those allegations based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview NE#1 or NE#2.

Additionally, the Complainant's allegation challenging the accuracy of NE#2's police report was forwarded to the chain of command for a Supervisor Action. During its investigation, OPA identified a minor reporting inaccuracy concerning whether the Complainant knew she needed a key for a public bathroom.



SUMMARY OF INVESTIGATION:

OPA's investigation included interviewing NE#3 once and the Complainant on two separate occasions. OPA also reviewed SPD documents, Seattle Fire Department (SFD) documents, body-worn video (BWV), private hotel security video, and photographs.

a. Complaint

The Complainant alleged NE#1 and NE#2 engaged in bias-based policing by not arresting her alleged assailant (Community Member #1 or CM#1). Specifically, the Complainant said she entered a hotel to use a bathroom and charge her electric wheelchair. She said she was directed to a second-floor restroom. The Complainant said she plugged in her wheelchair and proceeded to the second floor. She said the bathroom door was locked, so she asked a staff member—CM#1—to open it. The Complainant noted CM#1 acted like he could not speak English, shook his head no, and walked away. The Complainant stated she urinated in a nearby mop bucket. The Complainant said CM#1 struck her back with a broom, causing her to fall forward and urinate on the floor. The Complainant stated she called the police.

The Complainant said the police arrived and took her statement, but the officers—NE#1 and NE#2—did not arrest CM#1 because he denied assaulting her. The Complainant believed NE#1 and NE#2 took CM#1's side because of her race, attire, anger, or criminal history. The Complainant admitted NE#1 and NE#2 did not say or do anything to suggest bias other than not arresting CM#1.

Additionally, during the Complainant's second OPA interview, she stated she called SPD to report inaccuracies in the police report. The Complainant said she spoke with NE#3, who told her charges would not be pursued because of the details in the report. The Complainant characterized it as a continuation of bias and believed she deserved a chance to present her account in court. The Complainant alleged NE#3 hung up on her.

b. SPD Documents, SFD Documents, Video Footage, and Photographs

BWV captured NE#1 and NE#2's investigation. In summary, BWV showed:

NE#1 and NE#2 responded to the hotel and spoke with the Complainant, hotel staff, and CM#1.¹ All accounts were broadly consistent except whether CM#1 assaulted the Complainant. CM#1 stated he saw the Complainant urinating in a mop bucket and notified security. The Complainant said CM#1 struck her lower back with a broom knocking her off balance.

The Named Employees nor SFD personnel noted visible injury to the Complainant. The Name Employees also photographed the Complainant's lower back, which did not show injury.

There were no eyewitnesses or video of the alleged assault. The Named Employees reviewed hotel camera footage, but no cameras were not positioned where the parties alleged the incident happened. OPA also conducted a site visit, confirmed camera placements, and reviewed the hotel security footage.

¹ CM#1 spoke Spanish, so his statement was translated by a Spanish-speaking SPD officer called to the scene.



The Complainant told the Named Employees CM#1 hit her with a brown and gray broom. The officers searched the immediate area but only found a yellow broom, which they photographed.

BWV showed the Named Employees deciding not to arrest CM#1 due to insufficient evidence.

c. OPA Interview – Named Employee #3

OPA interviewed NE#3. NE#3 said he was a Homicide Unit sergeant. NE#3 stated his responsibilities included speaking with victims about their cases. NE#1 stated when he gets a case inquiry, he reviews the case and—if he assigned it—he explains its status. NE#3 said detectives provide updates on assigned cases, and sergeants provide updates on inactive or unassigned cases.

NE#3 recalled the Complainant's call. NE#3 stated he reviewed the report and either chose not to assign it or inactivated the case. NE#3 described case reviewing and assigning as "triage" because he frequently reviews "60 to 85" cases on Mondays and "20 to 35" each business day after that. NE#3 stated in-custody cases are the top priority since the "clock is ticking on those." NE#3 stated felonies are next in importance, which he screens for viability.

NE#3 stated the Complainant requested a status update. NE#3 said he reviewed the report and recognized the Complainant's case "should not have been assigned to a detective to investigate." NE#3 did not recall the details of his conversation with the Complainant but stated he typically explains his reasoning to the caller. NE#3 said he commonly explains whether a suspect could be identified, the verifiability of the allegations, whether the allegations were severe enough to warrant resource allocation, and whether a prosecutor would accept the case. NE#3 also stated he typically tries to empathize with callers by expressing how sorry he is they were "assaulted or harassed in the city of Seattle" but "[explaining] that we can't investigate their crime."

NE#3 recalled the Complainant "wasn't receptive to the things that I was saying" and "at a certain point we were just – you know, I was just talking in circles, and she was just – she was just saying the same thing, and I was saying the same thing." NE#3 stated he "wants to investigate all crimes . . . [but] we have to have the discretion to say that at this point, we can't investigate this case." NE#3 stated he generally gives callers about "15, 20 minutes" to "vent at me." NE#3 stated callers with unassigned cases "should get that time" because, if he does not assign their case, "they get to take it out on me a little bit. And I'm okay with that." However, NE#3 stated, "at a certain point, I have to get on with my day." NE#3 noted the Complainant "just wasn't understanding that, so I hung up the phone." NE#3 did not recall whether he said anything before hanging up the phone but stated he would be surprised if he "just straight up hung up on her" because that was not his "[*modus operandi*]."²

NE#3 stated he complied with Department's professionalism policy "the best I could." NE#3 elaborated, "I explained my reasoning to her, and I let her tell me all the reasons – or her thinking on why I should assign the case, and then we went back and forth a little bit. But at a certain point, you know, I just had to end the conversation."

² Latin for a mode or manner of operating.



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 Complainant alleged NE#1 and NE#2 engaged in bias-based policing by failing to arrest her alleged assailant due to her race or another status.

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 differential treatment based on a subject’s race. *See id.*

Here, NE#2 repeatedly told the Complainant she and CM#1 gave conflicting accounts, and there was no independent evidence corroborating either. The Complainant also stated the officers did not say or do anything to suggest bias other than not arresting CM#1. Instead, the Complainant based the allegation on her life experience: “What I know from my lived experience in Seattle, if a Black person reports something, you guys treat it like it’s nothing.”

However, BWV showed the Named Employees conducted an intensive investigation into the Complainant’s alleged assault. They spoke with all parties, searched for witnesses, reviewed the available video, checked for injuries, photographed the Complainant, searched for the reported weapon (a broom), and wrote a detailed report. Additionally, the Named Employees’ investigation was documented on BWV. Ultimately, the Named Employees were presented with conflicting accounts without meaningful corroboration. Overall, there is insufficient evidence their decision was motivated by anything other than a reasonable assessment of the available evidence.

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

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

Named Employee #2 - Allegation #1

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

For the reasons stated at Named Employee #1 - Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

Named Employee #3 - Allegation #1

5.001 Standards and Duties 10. Employees Shall Strive to Remain Professional

The Complainant alleged NE#3 was unprofessional when he hung up on her.

SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. Further, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers,” whether on or off duty. *Id.*



Here, the conversation between the Complainant and NE#3 was unrecorded. The Complainant alleged NE#3 rudely hung up on her, but NE#3 described speaking with the Complainant “in circles” for up to twenty minutes. While NE#3 could not remember whether he said anything before hanging up the phone, he stated it would have been out of character and his general practice if he did not.

Ultimately, there is insufficient evidence to establish which account is true. A routine aspect of NE#3’s job is to explain to crime victims why their case will proceed in the criminal justice process. Understandably, those victims are often unreceptive. Invariably, some callers will not be ready to end the call when NE#3 needs to move on to other matters. In his OPA interview, NE#3 described how he balances giving those callers time to “vent” against his need to move on to other tasks. While OPA cannot conclude misconduct occurred, it does encourage NE#3 to adopt a routine where he could affirmatively say he informed the caller he was hanging up before doing so.

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

Recommended Finding: **Not Sustained - Inconclusive**