



CLOSED CASE SUMMARY

ISSUED DATE: JULY 24, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0039

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional.	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties 14. Retaliation is Prohibited	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional.	Not Sustained - Unfounded (Expedited)
# 2	5.001 - Standards and Duties 14. Retaliation is Prohibited	Not Sustained - Unfounded (Expedited)

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:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) responded to a domestic violence (DV) no contact order (NCO) violation call. The Complainant said that Community Member #1 (CM#1)—his ex-girlfriend— violated the NCO by being in the area. The Complainant alleged that NE#1 and NE#2 were rude to him and retaliated against him for requesting a supervisor.

ADMINISTRATIVE NOTE:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employees. As such, OPA did not interview the involved employees in this case. OPA also made several unsuccessful attempts to interview the Complainant.

The DCM in this case was completed by the 180-day deadline, July 22, 2023. However, through inadvertence, the completed DCM was not properly transmitted until July 24, 2023. Accordingly, this DCM was untimely.

SUMMARY OF INVESTIGATION:

A. OPA Complaint



On January 23, 2023, OPA received a Blue Team Complaint from the Named Employees' supervisor, Witness Supervisor #1 (WS#1). WS#1 submitted a report on behalf of the Complainant, who alleged that the Named Employees rudely overtalked the Complainant. The Complainant also reportedly felt he was arrested in retaliation for asking the Named Employees for a supervisor. WS#1 noted that he was the responding supervisor and found probable cause to arrest the Complainant for violating an NCO.

B. Computer-Aided Dispatch (CAD) Data

OPA reviewed the related CAD report. The initial dispatch remarks were, "[REPORTING PARTY'S] PARTNER IS VIOLATING NCO. NO [WEAPONS] SEEN. KNOWN TO HAVE A RIFLE. NOT [INTOXICATED]." As the Named Employees traveled to the call, updates indicated that a stolen vehicle was possibly involved and that the Complainant had a friend in the involved car. Another update suggested that the 9-1-1 call-taker instructed the Complainant not to allow anyone in the car. CAD data showed that the vehicle's information was checked and that it did not return stolen.

C. Body-Worn Video (BWV)

OPA reviewed relevant BWV of NE#1, NE#2, and WS#1's interaction with the Complainant. BWV showed:

The Named Employees arrived at the call location and were flagged down by the Complainant. The Named Employees investigated for about an hour, determining an active domestic violence NCO. Still, the Complainant was allowed to be at the listed address even though CM#1 was across the street. The Named Employees also determined that the alleged stolen vehicle was owned by the Complainant and CM#1 and decided against taking law enforcement action against CM#1, who possessed the car.

NE#1 told the Complainant they lacked probable cause to confiscate the car or arrest CM#1. The Complainant argued that the court order supported his position. NE#1 attempted to reply, but the Complainant talked over NE#1. NE#1 raised his voice and exclaimed, "Hey!" NE#1 then explained that the Complainant's issues must be brought before a court. The Complainant requested a supervisor. NE#1 radioed for WS#1.

While the Named Employees awaited WS#1, NE#2 further investigated the domestic violence NCO. NE#2 told NE#1 that the Complainant may have violated the NCO by sending a friend to take possession of the vehicle. NE#2 reviewed the order, which prohibited a third party acting on the Complainant's behalf from coming within 1000 feet of CM#1's vehicle. NE#1 admitted that NE#2 likely found probable cause to arrest the Complainant but deferred the decision to WS#1. WS#1 arrived and consulted with the Named Employees. WS#1 found probable cause to arrest the Complainant for directing a third party to violate the NCO.

The Complainant was arrested and was briefly interviewed by WS#1. The Complainant told WS#1 that the Named Employees were rude and believed that he was arrested in retaliation for asking for a supervisor.



D. Incident Reports

OPA reviewed NE#2's incident report and Witness Employee #1's (WE#1)—a backing officer—supplemental report. NE#2's report was consistent with what OPA observed on BWV. WE#1's report was also consistent with BWV. WE#1 noted that the Complainant's friend was seated inside CM#1's vehicle when he arrived at the incident location.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 was rude.

SPD employees "strive to be professional." SPD Policy 5.001-POL-10. 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. *Id.* Furthermore, the policy states: "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 derogatory, contemptuous, or disrespectful toward any person." *Id.*

Here, NE#1 briefly raised his voice to control the scene after the Complainant argued against the Named Employees' decision not to take law enforcement action. BWV showed NE#1 did not use derogatory, contemptuous, or disrespectful language. Instead, NE#1 appeared to diligently investigate a complex domestic dispute involving ongoing litigation between the parties. NE#1 explained to the Complainant that as a law enforcement officer, he had no authority to address the issues the Complainant wanted addressed. Outside of briefly raising his voice, NE#1 was cordial and polite throughout his engagement with the Complainant.

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

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 14. Retaliation is Prohibited

The Complainant alleged that NE#1 arrested him in retaliation for requesting a supervisor.

SPD employees are precluded from engaging in retaliation. SPD Policy 5.001-POL-14. SPD employees are expressly prohibited from retaliating against a person who engages in activities including, but not limited to, "oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy" or "who otherwise engages in lawful behavior." *Id.* Retaliatory acts are defined broadly under SPD's policy and include "discouragement, intimidation, coercion, or adverse action against any person." *Id.*



Here, NE#1 called for a supervisor at the Complainant's request. While WS#1 was en route, NE#2 further investigated the incident and found probable cause to arrest the Complainant for violating the NCO. When NE#2 conferred with NE#1, NE#1 agreed. However, NE#1 was not strongly in favor of arresting the Complainant, given that the Complainant was upset. NE#1 opted to defer to WS#1. NE#1 and NE#2 screened the incident with WS#1, who directed officers to make an arrest. Per SPD policy 15.410 - POL 3, arrests are mandatory for domestic violence NCO violations.

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

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

Named Employee #2 - Allegation #1

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

The Complainant alleged that NE#2 was rude.

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

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

Named Employee #2 - Allegation #2

5.001 - Standards and Duties 14. Retaliation is Prohibited

The Complainant alleged that NE#2

For the reasons at Named Employee #1 - Allegation #2, OPA recommends this allegation be Not Sustained - Unfounded (Expedited)

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