



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 10, 2023

FROM: DIRECTOR GINO BETTS   
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0115

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 11. Employees Will Be Truthful and Complete In All Communication	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)

***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 that Named Employee #1 (NE#1) lied about the functionality of security camera videos, which may have captured her assault. The Complainant further alleged that Named Employee #2 (NE#2) tampered with evidence and was "female-ist."

### **ADMINISTRATIVE NOTE:**

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employees. As such, OPA did not interview the named employees in this case.

On April 18, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

### **SUMMARY OF INVESTIGATION:**

OPA received a complaint and opened an intake investigation. During its investigation, OPA reviewed the OPA complaint, incident and supplemental reports, in-car video (ICV), case investigation report (CIR), and photographs. OPA also interviewed the Complainant.



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*A. OPA Complaint*

The Complainant spoke with OPA over the telephone. The Complainant's allegations concerned the investigation of an assault she suffered at a bus station. NE#2, a patrol officer, conducted the primary investigation, and NE#2, a detective, conducted the follow-up investigation. The Complainant previously filed an OPA complaint concerning NE#2's demeanor, investigated under 2022OPA-0168. The Complainant later alleged NE#1 lied by telling her the "videos [regarding an incident] weren't operable" when they were operable. She also alleged NE#1 told her that he was "not going to go with the videos but was going to go with the witnesses," even though the Complainant said there were no witnesses. The Complainant alleged NE#2 tampered with his ICV by "putting his arm inside the vehicle."<sup>1</sup> She also alleged NE#2 was a "female-ist."

*B. Incident and Supplemental Reports*

NE#2 wrote an incident report documenting the following:

NE#2 wrote that on February 5, 2022, at 3:55 AM, NE#2 was dispatched to an assault call. The Complainant—the putative victim—reported that someone threw something at her head, causing bleeding. NE#2 wrote that he responded to a bus station and saw the Complainant bleeding from her mouth. The Complainant reported that she saw Community Member #1 (CM#1) walk down a sidewalk while yelling, who then threw an unknown object at the Complainant, striking her face. NE#2 wrote that he requested CM#1's physical description, but the Complainant could not provide any information.

NE#2 wrote a supplemental report documenting the following:

NE#2 wrote that on March 1, 2022, the Complainant reported that the camera at the bus station was inoperable, but other cameras were in the area. The Complainant provided CM#1's physical description despite being unable to do so on February 5. The Complainant reported seeing CM#1 walk around the bus station with a stick. The Complainant said she photographed CM#1.

*C. In-Car Video (ICV)*

OPA reviewed NE#2's ICV when NE#2 responded to the bus station on February 5, 2022. OPA found no indication that NE#2 tampered with his ICV.

*D. Case Investigation Report (CIR)*

NE#1 wrote a CIR consistent with NE#2's reports. NE#1's CIR also documented the following:

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<sup>1</sup> OPA reviewed the Complainant's allegation that NE#2 "tampered" with his ICV. The Complainant based her allegation on observing NE#2 reach into his vehicle and appear to move equipment around. OPA reviewed all relevant documentation and conducted an in-person interview of the Complainant. A review of the SPD Policy Manual did not reveal a policy specific to moving ICV equipment, only tampering with ICV video. See SPD Policy 16.090-POL-2(2) Employees Will Not Tamper With, Alter, or Delete Video. OPA reviewed NE#2's ICV for the incident and found no evidence of manipulation. OPA did not classify this allegation for further review as there was no possible policy violation by NE#2. See OPA Manual 5.4(B)(i)(1).



This case was assigned to NE#1—a homicide and assault detective. The Complainant reported that she returned to the bus station, saw CM#1, and photographed CM#1. The Complainant reported that CM#1 had a stick in his backpack, which he used to assault the Complainant. NE#1 wrote that the Complainant sent photographs of CM#1 to NE#1, but none showed CM#1's face or identifying characteristics.

NE#1 wrote that he and Witness Employee #1 (WE#1)—a video specialist—visited the bus station and downloaded security camera footage. NE#1 wrote that the hard drive for the camera covering the area of the alleged assault did not work and did not appear to save any data. NE#1 wrote that he reviewed camera footage of the bus station's front door but saw no one. NE#1 wrote that he did not locate any independent witness to the alleged assault.

#### *E. Photographs*

The Complainant provided photographs to OPA purporting to be CM#1 and photographs depicting the bus station and the camera system's retrieval system. The Complainant said she obtained these photographs from NE#1's investigative file through a public disclosure request. OPA reviewed photographs uploaded by WE#1, which depicted error messages from the bus station's security camera.

#### *F. Interview*

OPA interviewed the Complainant. The Complainant said NE#2 arrived, spoke with the Complainant, and stuck his arm inside his police vehicle. The Complainant believed NE#2 tampered with his ICV with this motion. OPA asked the Complainant why she felt NE#2 was biased against women. The Complainant replied that she grew up with guys and felt "something there with [NE#2]." The Complainant also stated a female SPD employee "cringed" when she heard NE#2's name. The Complainant said she did not want to speak about that allegation further.

The Complainant said NE#1 told her he would not watch the videos but instead rely on witness testimony. The Complainant noted any potential witness would have been sleeping and, therefore, would not have witnessed the assault. The Complainant said NE#1 lied about the security camera's inoperability. The Complainant also said NE#1 later told her that one camera worked, but it did not show anything.

### **ANALYSIS AND CONCLUSIONS:**

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

##### ***5.001 - Standards and Duties 11. Employees Will Be Truthful and Complete In All Communication***

The Complainant alleged NE#1 lied to her.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications.

Here, the Complainant alleged NE#1 lied when he told her the bus station's security videos were inoperable but found out later that they were operable. NE#1 was truthful when he told the Complainant that the security video did not work. The camera covering the area of the alleged assault did not work. It did not appear to save data, as evidenced by the photographs WE#1 uploaded, which depicted error messages. NE#1 was also truthful when he told the Complainant that he reviewed camera footage of the bus station's front door but found no evidentiary value. The apparent inconsistency in NE#1's statements was likely predicated on two cameras covering different areas of the bus



station—one that was operable but of no evidentiary value (the front door) and another that was inoperable (the area of the alleged assault). The Complainant’s understanding of inoperable and operable cameras, which she learned from NE#1, is consistent with NE#1’s CIR. There is no evidence to suggest NE#1 was untruthful.

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***

The Complainant alleged NE#2 engaged in bias-based policing.

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. This includes different treatments based on gender. *See id.*

Here, the Complainant said NE#2 was “female-ist” because she felt there was “something there with [NE#2].” The Complainant also stated a female SPD officer “cringed” when she heard NE#2’s name. NE#2 responded to the scene and documented an incident report. OPA reviewed that report and his ICV. There is no evidence to suggest NE#2 treated the Complainant differently based on her gender, conducted an inadequate primary investigation, or otherwise engaged in bias-based policing.

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

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