




CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 24, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0231

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Lawful and Proper (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication	Not Sustained - Lawful and Proper (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 named employees responded to a domestic violence (DV) complaint. The Complainant alleged the named employees were dishonest and gained entry to her apartment under false pretenses.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's (OIG's) review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

On July 5, 2023, OIG certified OPA's investigation as thorough, timely, and objective.



During its intake investigation, OPA identified an allegation that NE#1 attempted unsuccessfully to remove an apartment door peephole to look into a residence without a warrant or exigent circumstances. OPA returned this allegation to the chain of command to be handled via a Supervisor Action.¹

SUMMARY OF INVESTIGATION:

The Complainant filed a web-based complaint alleging the named employees responded to her apartment concerning a DV complaint and then “lied about their intent to enter my home.” The Complainant alleged she let the officers enter “on false pretenses” and was then arrested.

OPA opened an intake investigation. During its intake, OPA reviewed the OPA complaint, the computer-aided dispatch (CAD) call report, incident report, and body-worn video (BWV). OPA attempted to interview the Complainant, but she did not respond to OPA’s telephone calls.

The evidence showed that, more likely than not, the following occurred.

Around 11:00pm on May 23, 2023, Community Member #1 (CM#1) called 9-1-1 to report that, thirty minutes earlier, his wife—the Complainant—scratched and hit him. CM#1 stated he was taking an Uber to the East Precinct. There, CM#1 met with Named Employee #1 (NE#1). CM#1 was crying while speaking to NE#1. CM#1 reported arguing with the Complainant,² who threatened to damage his property if he did not let her search his cell phone. Furthermore, CM#1 reported the Complainant scratched him on his chest and hip, causing injury, as she attempted to take his cell phone. In addition, CM#1 reported the Complainant scratched his neck and broke his necklace. CM#1 also reported trying to leave the apartment, but the Complainant blocked him with her body. CM#1 stated the Complainant permitted him to leave after he allowed her to search his cell phone.

NE#1 took photographs of CM#1’s injuries. NE#1 also reported the Complainant sent texts apologizing to CM#1.

NE#1 and two other officers, Named Employee #2 (NE#2) and Named Employee #3 (NE#3), went to the Complainant’s apartment. The officers knocked and attempted to call the Complainant without success. As the officers were beginning to leave, NE#1 called the Complainant and spoke with her. NE#1 stated that there was a disturbance and he wanted to check on the Complainant’s well-being. NE#1 asked the Complainant to come to the door so they could talk and confirm she did not have injuries. After the call, the officers resumed knocking on the Complainant’s door, but she did not answer. NE#1 called again and left a voicemail, again expressing that he was concerned about her and could not leave until he checked on her.

A short time later, the Complainant opened the apartment door. The named employees spoke with the Complainant thorough the open door. NE#2 asked the Complainant if she would step outside, but she refused. NE#3 told the Complainant they were checking on “a domestic” and needed to check everyone inside. NE#3 asked permission to enter the apartment, and the Complainant stated the officers could come inside. The officers spoke with the

¹ Where OPA determines an allegation involves a minor policy violation or training issue, OPA may direct an officer’s chain of command to address the issue through training, communication, and/or coaching. See OPA Internal Operations and Training Manual, Section 5.4(B)(ii).

² CM#1 described the Complainant as his “girlfriend” to NE#1, as written in NE#1’s police report – 2023-142162.



Complainant inside the apartment. The Complainant stated she and CM#1 had a verbal argument and no one was injured. The officers then placed the Complainant under arrest.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication

The Complainant alleged the named employees lied to gain entry to her apartment and arrest her.

SPD Policy 5.001-POL-11 requires Department employees to be truthful and complete in all communications. At the time of this incident, SPD Policy only explicitly detailed three exceptions to this policy, stating that employees could use deception for a specific and lawful purpose when, (1) there was an exigent threat to life or safety; (2) it was necessary due to the nature of the employee assignment; or (3) there was a need to acquire information for a criminal investigation. *See id.*³

OPA reviewed the documents related to the complaint, including BWV and SPD policies. BWV captured the interaction between the named employee and the Complainant. The named employees were not fully transparent when they said they were only there for a welfare check. That said, NE#3 did inform the Complainant the officers were there to investigate a “domestic” before requesting permission to enter the residence. After entering the apartment, the named employees also heard the Complainant’s side of the story: that the altercation was verbal only and did not result in injuries. To the extent the named employees’ actions even constituted a “ruse”—which is debatable—the named employees’ lack of full transparency here did not shock fundamental fairness and was needed to acquire information for a criminal investigation and to promote safety for all involved.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #3 - Allegation #1

5.001 - Standards and Duties 5.001-POL 11. Employees Will Be Truthful and Complete in All Communication

For the same reasons set forth above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

³ Since this incident, SPD has promulgated a policy governing the use of Patrol Ruses. *See* SPD Policy 5.300 – Patrol Ruses (eff. 11/01/2023).



Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**