



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 26, 2024

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0374

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Training Referral
# 2	15.400 - Domestic Violence Court Orders, 15.400-POL 3. Officers Make Mandatory Arrests for Court Order Violations	Not Sustained - Inconclusive
# 3	5.100 - Operations Bureau Individual Responsibilities, I. Patrol Officers	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.

EXECUTIVE SUMMARY:

The Complainant alleged the Named Employee (NE#1) failed to take the Complainant's domestic violence protection order violation seriously and was unprofessional during their interaction. Also, NE#1 allegedly violated SPD policy by not making a mandatory arrest for domestic violence court order violations and did not submit his police report prior to the end of his shift. OPA interviewed the Complainant and NE#1.

ADMINISTRATIVE NOTE:

On February 12, 2024, the Office of Inspector General (OIG) certified this case as thorough and objective, but did not certify this as timely. OPA acknowledges that the five-day notification that was due on September 5, 2023, was sent several days late. See 3.29.260.B of Seattle's Accountability Ordinance. OPA completed the investigation and interviews timely and the notice delay did not effect the thoroughness or objectiveness of the investigation.

SUMMARY OF INVESTIGATION:

During its investigation, OPA reviewed the OPA complaint, computer-aided dispatch (CAD) call reports, incident and supplemental reports, body-worn video (BWV), court documents, text message and OPA's interviews.

a. OPA Complaint

On August 16, 2023, the Complainant called 9-1-1 alleging her ex-husband, Community Member 1 (CM#1) violated a recently served domestic violence protection order (DVPO) and an active restraining order by sending a threatening text message to her at 2143 hours. No officers could come out at that time and the 9-1-1 Communications Center



called her back the next day on August 17, 2023. The Complainant was out of town the next two days and again reported the alleged DVPO on August 19, 2023.

On August 19, 2023, Named Employee 1 (NE#1) responded to a call regarding a domestic violence protection order (DVPO) violation. NE#1 contacted the Complainant who explained to NE#1 that she had a DVPO against Community Member 1 (CM#1) her ex-husband and he sent her a text message stating language including, "F*ck you, you F*cking c*nt. I'm going to mail [sic] your Canadian ass to the wall." The Complainant explained what occurred and showed the officer the text message and stated she had a DVPO that had been served on CM#1 on August 16, 2023. The Complainant explained NE#1 failed to take the Complainant's domestic violence protection order violation seriously and was unprofessional during their interaction and laughed. Also, NE#1 indicated that you can't prove anything and that she should not expect anything to come of this.

b. Text Message

NE#1 talked to the Complainant and read the text message from CM#1: "So, the owner of [x] came to me this afternoon to tell me I needed to step outside to be served by police officers. I mediatly got on the phone with the FBI and Immigration. F*ck you, you f*ing c*nt. I'm going to mail your Canadian ass to the wall. You committed a felony and you violated the terms of your Green Card. I'm also blocking you from taking [their child] to Canada anymore because you're a flight risk."

c. Court Documents – Proof of Service, DVPO and Restraining Order

On August 17, 2023, SPD Detective (SD#1) filed a proof of service document with King County Superior Court confirming he served the DVPO on CM#1 on August 16, 2023 at 1245 hours. This DVPO prohibited any contact between the Complainant and CM#1. This proof of service document was signed by SD#1.

NE#1 ran WACIC/NCIC records that revealed a restraining order between the Complainant and CM#1 served on 10/26/21 and expired on 10/26/26 from KCSC. CM#1 is restrained from conditions to include assaulting, threatening, abusing, PCO/Harassing. The court order was issued by the Police Department.

d. Body-Work Video (BWV)

OPA reviewed NE#1's BWV. In review of BWV, it confirmed the interactions between the Complainant and NE#1 as indicated in the interviews by both NE#1 and the Complainant. BWV did show NE#1 chuckled in the midst of indicating he would document the incident. BWV also showed NE#1 was trying to confirm if there was proof that CM#1 had been served. NE#1 had the Complainant's word that the DVPO was going to be served on the morning of August 16, 2023 on CM#1 by an SPD Detective and a text from CM#1 that he had just been served. He did not have verification in WASIC or NCIS that he had been served. The Complainant indicated CM#1 probably meant "nail". BWV showed NE#1 gave her a pamphlet and gave the Complainant information to upload the text message to Citizen Axon for evidence.



e. OPA Interviews

Complainant Interview

The Complainant indicated she called the non-emergency police line to report a violation of a DVPO. She had a copy of the text with her. She explained that when NE#1 showed up he kind of scoffed and rolled his eyes like he was making light of it. He said something like, “you can’t prove anything, don’t expect anything to come of this.” The Complainant said she tried to explain to NE#1 that the DVPO had been served on CM#1 earlier on August 16, 2023, prior to him sending her the text message. Furthermore, she explained there was an existing restraining order in place as well that CM#1 violated. The Complainant indicated that she believed the officer made light of the incident and in fact it was a serious matter. She explained that instead of the officer coming to take the information and wishing me a good day, he made light of the incident. The Complainant explained she was given a ten-year order with strict communication guidelines.

The Complainant stated she did not feel she was treated with respect and explained that every single day people die in situations from domestic violence. Furthermore, that survivors have been through a lot and should be treated with dignity and respect.

Furthermore, the Complainant explained on August 16, 2023, the DVPO was served on CM#1 at 12:38 p.m. and on August 16, 2023, the text was sent around 9:30 p.m. The Complainant was not notified by the court that CM#1 had been served; however, CM#1’s text said he had been served. His text started out, “today I have been served by police...” Also, a Seattle Police Detective told her he was going to serve CM#1 the morning of August 16, 2023.

The Complainant explained she was heartbroken for twenty-four hours after the interaction with NE#1 and was disheartened and heartbroken.

NE#1 Interview

NE#1 indicated he responded to the scene and spoke with the Complainant. The Complainant told him CM#1 was served with a DVPO on August 16, 2023 and the allegation occurred later in the day after the DVPO had been served. NE#1 explained he had questions about when CM#1 had been served with the DVPO and if it was done prior to the text message being sent to the Complainant. Additionally, NE#1 explained he was unsure if the threat was sufficient for a violation. NE#1 stated, “I didn’t feel that I had probable cause to make an arrest at that time not knowing more when when the order was served, and also if it had been served, no matter what he said it would have been a violation of a court order. But if it hadn’t been served, if there was a threat like I’m willing to kill you and then then that would have been to play but this is like I’m going to mail your Canadian ass to the wall ... I didn’t feel like that was you know, enough of a probable cause to make an arrest”. Additionally, he indicated that he believed the mandatory four-hour arrest time had expired since the original action occurred a few days ago.

NE#1 asked the Complaint questions about when the DVPO was served and he took a photo of the message and ultimately gave her a DV Pamphlet and completed his police report that evening. He thought when he left the interaction that evening that the interaction was fine. He did review that it appeared he laughed but indicated, “... during the interview process I’m not stern. I’m trying to be warm, open, friendly.” He acknowledged it appeared he chuckled a bit, but was relaxed and took things seriously and did not mean any disrespect.



NE#1 stated he did think of trying to locate CM#1, but knew the DV unit would follow-up with this allegation and they were probably going to contact CM#1. NE#1 indicated he felt he did the best he could and knew there was going to be follow-up on this matter.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 was unprofessional.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” 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. SPD Policy 5.001-POL-10. Additionally, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *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 that is derogatory, contemptuous, or disrespectful toward any person.” *Id.* Lastly, the policy states that Department employees, while on duty or in uniform, will not publicly ridicule “the Department or its policies, other Department employees, other law enforcement agencies, the criminal justice system or police profession. This applies where such expression is defamatory, obscene, undermines the effectiveness of the Department, interferes with the maintenance of discipline, or is made with reckless disregard for truth.” *Id.*

Here, the Complainant alleged that NE#1 failed to take the Complainant’s domestic violence protection order violation seriously and was unprofessional during their interaction by repeatedly indicating that there was no proof that CM #1 had been served prior to the sending of the text and questioning the seriousness of the circumstances. Furthermore, NE#1 chuckled and did not appear to take this situation seriously. NE#1 explained he did not intend to offend or disrespect anyone and attributed his response due to his relaxed interview style and trying to discern if there was proper service of the DVPO and the extent of the threat legally. Furthermore, he explained he took this matter seriously and provided the Complainant a DV pamphlet and referred this matter to the DV Unit. Here, NE#1 was not aware of any issues from his investigation with the Complainant. NE#1 explained he was trying to determine what occurred to take his next steps with this matter. Based on the evidence provided and in review of the totality of the circumstances, OPA finds there was a potential, but not willful violation of policy that does not amount to misconduct. However, a training referral to the officer’s chain of command will provide appropriate training and counseling.

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

- **Training Referral:** NE#1’s chain of command should discuss OPA’s findings with NE#1, review current SPD Policy 5.001-POL-10 with NE#1, and provide any further retraining and counseling that it deems appropriate in responding to domestic violence. The retraining and counseling conducted should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**



Named Employee #1 - Allegation #2

15.400 - Domestic Violence Court Orders, 15.400-POL 3. Officers Make Mandatory Arrests for Court Order Violations

OPA classified at intake a potential violation of NE#1's failure to make a mandatory arrest. SPD Policy 15.400- POL 3 requires Officers will make a mandatory arrest if there is probable cause to believe the suspect, of any age, has knowledge of a Protection Order and violated the terms of an order which: Restrains the suspect from acts or threats of violence; or Restrains the suspect from going onto the grounds of or entering a residence, workplace, school, or daycare; or Restrains the suspect from intentional contact with the victim. Violating a protection order with any assault or reckless endangerment is a felony. Violating a protection order where the suspect has at least two prior convictions for violating a Protection Order is a felony. The previous convictions need not involve the same victim. Exceptions: Officers will not arrest the subject if only other provisions of a Protection Order are violated, (e.g., visitation hours or obtaining counseling). This is contempt of court. If the order is violated with the permission or consent of the victim, the terms of the order are still valid.

In review of the complaint at intake, OPA found that NE#1 did not make a mandatory arrest; however, NE#1 indicated in his interview that he did not believe he had probable cause to arrest and did not have sufficient information to determine if proper service of the DVPO had been done. Furthermore, he stated he knew that the DV unit would probably follow-up with CM#1 in this matter. Additionally, there had been a two-day period since the initial call and NE#1 did not believe the four-hour arrest requirement was still applicable from an incident two-days prior. Therefore, OPA finds based on the evidence provided that the officer used his discretion in review of the totality of the circumstances.

Accordingly, OPA recommends this allegation be Not Sustained Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #3

5.100 - Operations Bureau Individual Responsibilities, I. Patrol Officers

OPA classified at intake a potential violation of NE#1's failure to complete his police report by the end of his shift.

SPD Policy 5.100(I)(A) requires that patrol officers' performance meet certain standards. This includes that they: "Monitor and take appropriate action regarding criminal activity in assigned area"; "Maintain close contact with the community"; "Display...necessary interpersonal skills..."; "Demonstrate consistent work habits which reflect a high standard of performance and initiative"; and "Remain professional at all times."

In review of the Complaint at intake, OPA found that NE#1 failed to submit his incident report on August 19, 2023 and turned it in ten days later on August 29, 2023. However, during the investigation and review of Mark 43 SPD logs, it showed NE#1 had completed his incident report on August 19, 2023, but his supervisor returned it to him for more information and upon being routed took a few days and was returned ultimately back to the Sergeant. In review of the totality of the circumstances, based on the evidence provided, OPA finds that NE#1 did file a report on the day of the incident; however, the time it took for NE#1 to receive the routing and routed it back to the Sergeant and was signed off, this caused the delay to finalize the report. Therefore, OPA finds based on the totality of the circumstances a potential violation occurred, but it did not occur as reported.



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

Recommended Finding: **Not Sustained - Unfounded**