



Issued Date: APRIL 23, 2024

From: Office of Police Accountability, Director Gino Betts JR.,

Case Number: 2023OPA-0396

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 6.140 – Locating a Cell Phone during an Emergency, 6.140POL-6. Officers May Request Historic Information Using Community Caretaking Only When an Emergency Exists and...

Finding: Not Sustained - Unfounded

2. **Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional

Finding: 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:

Named Employee #1 (NE#1) spoke with the Complainant about Community Member #1 (CM#1)—an allegedly suicidal teenager. The Complainant reported that CM#1 was in the woods and said she ingested a lethal amount of drugs. The Complainant alleged that NE#1 inadequately searched for CM#1 by failing to ping CM#1's cell phone for her location. It was alleged that NE#1 undermined public trust in the Department by inadequately searching for CM#1.

Administrative Note:

On April 16, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On September 11, 2023, the Complainant filed an OPA complaint, writing that CM#1 told him she ingested a lethal dosage of illegal drugs and was lost in the woods. The Complainant wrote that he immediately called 9-1-1 and requested SPD ping CM#1's cell phone to locate her. The Complainant wrote that he followed up with multiple 9-1-1 calls, and NE#1 told him to stop calling. The Complainant wrote that NE#1 refused to ping CM#1's cell phone but sent an officer

to take a missing person's report. The Complainant wrote that CM#1 was later found deceased. The Complainant wrote that an SPD detective later told him a ping warrant could have been secured in less than 30 minutes, indicating that CM#1 could have been found and potentially saved.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), missing person's report, and supplement report. OPA also interviewed the Complainant, WO#1, and NE#1.

Computer-Aided Dispatch Call Report On August 28, 2023, at 12:26 AM, CAD call remarks noted, "[REPORTING PARTY] CALLING FOR FAMILY FRIEND, SAYS FRIEND'S DAUGHTER CALLED HIM AND STATED SHE HAD CONSUMED A POSSIBLY LETHAL DOSE OF UNK[NOWN] NARC[OTICS], NO KNOWN [WEAPONS]." The CAD call report indicated that at 12:30 AM, the Complainant—the reporting party—believed CM#1 was near the Seattle Center. CM#1's physical description was broadcast at 12:31 AM.

SPD officers were dispatched to the Seattle Center at 12:33 AM, and Seattle Center security searched the premises at 12:37 AM. SPD officers logged back into service at 1:17 AM after searching the Seattle Center for 37 minutes. The Complainant called back twice for an update. The call was cleared at 4:52 AM after officers could not locate CM#1.

At 5:25 AM, CAD call remarks noted, "SEE PREV[IOUS] [CAD CALL REPORT], [REPORTING PARTY] CALLING BACK, UPSET THAT THE JUV[ENILE] LISTED HAS NOT BEEN LOCATED OR HER PHONE PINGED, STATES HE'S SPOKEN WITH [WASHINGTON STATE PATROL] AND [KING COUNTY SHERIFF'S OFFICE] AND THEY TOLD HIM TO KEEP CALLING SEATTLE FOR INFO[RMATION] AND TO [ATTEMPT TO LOCATE] THIS JUV[ENILE]." The CAD call report indicated that the Complainant called, saying CM#1 was lethargic, disoriented, and alone in the woods. At 5:35 AM, NE#1 requested that the call be priority 2 and that two patrol officers respond to the Complainant's location. Two officers were dispatched at 8:19 AM. CM#1's aunt called at 8:28 AM, requesting that CM#1 be listed as missing. SPD officers arrived at the Complainant's location at 8:41 AM, cleared the call at 11:24 AM, and documented the incident in a missing person's report.

Body-Worn Video (BWV) On August 28, 2023, NE#1 called the Complainant. That call was captured on BWV, capturing the following:

The Complainant said CM#1 was missing and suicidal. The Complainant consented to SPD pinging CM#1's cell phone, claiming he owned the phone. NE#1 explained that cell phone pings go through the service provider since SPD could not search cell phone locations. NE#1 said obtaining a ping warrant would be difficult based on what the Complainant described, but NE#1 said he would dispatch an officer to write a missing person's report. NE#1 also indicated that officers would gather evidence to see whether a ping warrant could be obtained.

Missing Person's Report and Supplement On August 28, 2023, Witness Officer #1 (WO#1) wrote a missing person's report, documenting that the Complainant reported that CM#1 was in the woods and ingested narcotics. The Complainant also reported that CM#1 previously attempted suicide and overdosed. WO#1 wrote that he spoke with CM#1's aunt and mother, who agreed that CM#1 should be listed as missing. WO#1's missing person's report was consistent with the events captured on his BWV when WO#1 responded to the Complainant's residence.

On September 6, 2023, Witness Officer #2 (WO#2) wrote a supplement report documenting that on September 5, 2023, the Complainant reported that CM#1's body was in Woodinville.

OPA Interview – Complainant On September 13, 2023, OPA interviewed the Complainant, whose statements were consistent with the abovementioned evidence. The Complainant expressed frustration about SPD refusing to ping CM#1's cell phone after he reported CM#1's apparent suicide attempt. He believed SPD should have pinged CM#1's cell phone. He said he became upset after an SPD detective told him that the detective could have gotten a ping warrant within 30 minutes. He said the FBI pinged CM#1's cell phone and notified Woodinville police about CM#1's location, and Woodinville police found CM#1's body.

OPA Interview – Witness Officer #1

On March 25, 2024, OPA interviewed WO#1, whose statements were consistent with the abovementioned evidence. WO#1 said SPD supervisors authorized cell phone pings. WO#1 said he told the Complainant that his service provider could locate CM#1's cell phone after the Complainant claimed he owned that cell phone. WO#1 did not believe a ping was necessary since the Complainant said he would contact his service provider to ping CM#1's cell phone.

OPA Interview – Named Employee #1

On March 29, 2024, OPA interviewed NE#1, whose statements were consistent with the abovementioned evidence. NE#1 was concerned that CM#1's mother possibly urged the Complainant to call the police to locate CM#1. NE#1 said CM#1's mother was prohibited from communicating with CM#1 because CM#1 had a protection order against CM#1's mother. NE#1 also expressed concern about the Complainant's relationship with CM#1, noting that the Complainant was the subject of prior domestic violence (DV) and sexual assault incidents.

NE#1 said he reviewed SPD Policy 6.140-POL-6 and noted that the word "immediate" did not apply in this situation because the call was over six hours old. NE#1 did not believe a cell phone ping was warranted because pings require substantial proof. For example, NE#1 said SPD's intelligence unit did not believe it could obtain a ping warrant after NE#1 requested one for a triple homicide case. NE#1 also noted that the Complainant and CM#1's DV and sexual assault history presented challenges for securing a ping warrant. NE#1 believed the situation was a priority 3 call, which he described as a paperwork call since CM#1 was missing for a few days, had spoken with the Complainant during that period, and had a history of running away. NE#1 said he did not proceed with a ping warrant because the responding officer—WO#1—did not believe the cell phone ping criteria were met.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

6.140 – Locating a Cell Phone during an Emergency, 6.140-POL-6. Officers May Request Historic Information Using Community Caretaking Only When an Emergency Exists and:

The Complainant alleged that NE#1 inadequately searched for CM#1 by failing to ping CM#1's cell phone.

Officers may request historical information using community caretaking only when an emergency exists, and (1) someone likely needs immediate assistance for health or safety reasons, (2) a reasonable person in the same situation would similarly believe that there was a need for immediate assistance, (3) there is a reasonable basis to believe that locating a cell phone is necessary to provide the needed assistance, (4) the claimed emergency is not a mere pretext for an evidentiary search, and (5) the danger is such that even if the search warrant were diligently pursued, the emergency requires locating the cell phone before a warrant could be obtained. SPD Policy 6.140-POL-6.

Here, officers quickly responded after the Complainant reported that he believed CM#1 was near the Seattle Center. Officers searched the area for 37 minutes without success. The Complainant called again, reporting that he believed CM#1 was alone in the woods, requesting a cell phone ping. Accordingly, there is insufficient evidence that a cell phone ping was warranted or required under the circumstances.

First, the Complainant's credibility was questionable after he reported different locations where he believed CM#1 was located. Second, the Complainant claimed he owned CM#1's cell phone, so WO#1 appropriately advised the Complainant to contact his service provider to locate it. Third, NE#1 and WO#1 did not believe the cell phone ping criteria were satisfied, concluding instead that it was a missing person situation based on CM#1 being missing for a few days, having contact with the Complainant during those days, and having a history of running away. Fourth, the CAD call report indicated that CM#1's aunt called the police, requesting that CM#1 be listed as missing. Fifth, the Complainant and CM#1's DV and sexual assault history called to question his motivation for locating her. Sixth, NE#1 started his shift several hours after the Complainant's first 9-1-1 call, calling to question the immediacy of the situation.

Additionally, SPD Policy 6.140-POL-6 gives officers discretion, stating they "may" request historical information. It does not mandate officers to request historical information if specific criteria are satisfied.

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

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 – Allegation #2

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

It was alleged that NE#1 undermined public trust in the Department by inadequately searching for CM#1.

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.

Based on the information known to him, NE#1 exercised reasonable discretion in searching for CM#1. NE#1 increased the urgency of the call by reprioritizing the call from priority 3—the lowest priority—to priority 2. NE#1 spoke with the Complainant and dispatched WO#1 to write a missing person’s report. NE#1 told the Complainant that while NE#1 did not believe there was enough evidence for a ping warrant, he did not rule it out, saying officers would investigate further. Overall, there is insufficient evidence that NE#1 acted unprofessionally when NE#1 explained to the Complainant his limited options based on the information reported.

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

Recommended Finding: **Not Sustained - Unfounded**