

Issued Date: MARCH 10, 2024

From: Director Gino Betts, Office of Police Accountability 

Case Number: 2023OPA-0402

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 15.410 - Domestic Violence Investigation, 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident
 - a. **Finding:** Not Sustained - Training Referral (Expedited)

2. **Allegation #2:** 15.410 - Domestic Violence Investigation, 15.410-TSK-2 Officer's Report and Narrative
 - a. **Finding:** Not Sustained - Training Referral (Expedited)

3. **Allegation #2:** 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing
 - a. **Finding:** 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) responded to a domestic violence (DV) call involving the Complainant and her partner, Community Member #1 (CM#1). NE#1 arrested CM#1 for DV assault. The Complainant alleged that NE#1 failed to photograph the hotel room where the incident occurred. The Complainant also alleged that NE#1 failed to document her damaged dentures. It was alleged that NE#1 failed to document the presence of alcohol and the parties' relationship history. Finally, the Complainant alleged that NE#1 inadequately investigated the case based on the parties' sexual orientation.

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 employee. As such, OPA did not interview the named employee involved in this case.

Summary of the Investigation:

On September 12, 2023, the Complainant filed an online OPA complaint, writing that her girlfriend, CM#1, was arrested for assault. She wrote, “Not one of these officers went up to my room to see the damage and I repeatedly said that my girlfriend shattered my teeth[,] and it was never put in the police report.” She also wrote, “I feel like this wasn’t taken seriously at all because we are gay.”

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident report, and NE#1’s training record. OPA also interviewed the Complainant.

On June 25, 2023, at 12:59 AM, CAD call remarks noted, “CALLER SAID THEY WERE BEING ASSAULTED AT [A HOTEL] THEN DISC[ONNECTED], NO ANS[WER] ON [CALLBACK].”

NE#1 responded to a parking lot and activated his BWV, which captured the following events. NE#1 approached the Complainant, who said she and CM#1 argued at a pride festival, then returned to their hotel room. She said CM#1 was drunk, punched her face several times, destroyed items in the bathroom, and threw items at her. She said CM#1 damaged her dentures, which cost \$10,000. She said there were eight to ten prior incidents during their six years together. She declined a medical evaluation.

NE#1 approached CM#1, who said the Complainant was angry and tried to remove her from their hotel room. CM#1 denied any physical altercation and denied breaking the Complainant’s dentures. CM#1 believed the Complainant broke her own dentures. CM#1 had a laceration on her left arm but did not know what caused it. NE#1 asked to look inside the hotel room, but CM#1 objected. An officer told NE#1 that the Complainant had food on her back. NE#1’s incident report noted, “[The Complainant] stated that the items thrown were food products and I did notice that [the Complainant] had food product on her upper back/shoulder.” NE#1 spoke with other officers and decided to arrest CM#1. NE#1 handcuffed CM#1.

NE#1 wrote an incident report describing his DV investigation. That incident report is described below in Named Employee #1 – Allegation #2.

On September 14, 2023, OPA interviewed the Complainant, whose statements were consistent with the evidence summarized above. She expressed concern that officers failed to document damage to her dentures, which she said were worth \$10,000. She also expressed concern that officers failed to enter the hotel room and photograph the damage and items thrown around. She was unaware that CM#1 objected to police entry but thought officers could enter for their investigation. She believed officers did not investigate seriously based on the parties’ sexual orientation.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

15.410 – Domestic Violence Investigation, 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident

The Complainant alleged that NE#1 failed to photograph the hotel room where the incident occurred.

When completing a DV investigation, an officer will, among other things, photograph the scene, including any damaged or disrupted property; photograph the victim's injuries and appearance, such as evidence of a physical struggle; and photograph the suspect's injuries if possible. See SPD Policy 15.410-TSK-1.

Here, NE#1 lacked consent to enter the hotel room because CM#1 objected. See SPD Policy 6.180-POL-2(3) (prohibiting officers from entering when a cohabitant or roommate objects, even if another person consents). Because NE#1 could not lawfully enter the hotel room, he could not photograph the scene.

However, NE#1 documented seeing food on the Complainant's upper back and shoulder area. This would be consistent with the Complainant's claim that CM#1 threw items at her. NE#1 also saw a laceration on CM#1's left arm. Thus, NE#1 should have attempted to photograph both the Complainant and CM#1 as policy directed. Ultimately, OPA recognizes that NE#1 is an inexperienced officer having completed field training on April 27, 2023. His probationary phase ended October 6, 2023. A training referral is recommended under these circumstances.

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

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 15.410-TSK-1 with NE#1, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral (Expedited)**

Named Employee #1 – Allegation #2

15.410 – Domestic Violence Investigation, 15.410-TSK-2 Officer's Report and Narrative

The Complainant alleged that NE#1 did not document damage to her dentures. It was alleged that NE#1 failed to document the presence of alcohol and the relationship history between the parties.

When writing a DV report, an officer will strive to document, among other things, damage to property, the presence of alcohol or drugs, and the relationship history between the parties, including its length, type, and past incidents of violence. See SPD Policy 15.410-TSK-2.

Here, NE#1 failed to document several claims reported to him. First, the Complainant alleged that CM#1 damaged her dentures, which she said were valued at \$10,000. Second, the Complainant alleged that CM#1 was drunk when they argued. Third, the Complainant described prior incidents in her six-year relationship with CM#1. Although NE#1's incident report was generally consistent with the information reported to him, it lacked specific details concerning damage to property, the presence of alcohol, and the relationship history between the parties. As discussed in Named Employee #1 – Allegation #1, NE#1 is an inexperienced officer. A training referral is recommended under these circumstances.

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

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policy 15.410-TSK-2 with NE#1, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral (Expedited)**

Named Employee #1 – Allegation #3

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 inadequately investigated the case because of the parties' sexual orientation.

Biased policing means “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well as other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. It includes different treatments based on sexual orientation. See *id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

Here, NE#1's investigation included interviewing the Complainant and CM#1, evaluating the Complainant for physical injuries, and attempting to search their hotel room with both parties' consent. Nothing in NE#1's investigation suggested his decisions or actions were influenced by bias. There is no evidence in the record to corroborate the Complainant's allegation.

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

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

