



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 15, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN, ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0233

Allegations of Misconduct & Director's Findings

Named Employee #1

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
# 2	16.130 – Providing Medical Aid, 16.130-POL-2 Sworn Employees Providing Medical Aid, 1. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life, Sworn Employees Will Request Medical Aid, if Needed, and Render Appropriate Medical Aid Within Their Training as Soon as Reasonably Possible	Not Sustained - Unfounded

Named Employee #2

Allegation(s):		Director's Findings
# 1	15.410 – Domestic Violence Investigation, 15.410-TSK-1 Patrol Officer Primary Investigation of a Domestic Violence Incident	Not Sustained - Training Referral
# 2	5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 3	16.130 – Providing Medical Aid, 16.130-POL-2 Sworn Employees Providing Medical Aid, 1. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life, Sworn Employees Will Request Medical Aid, if Needed, and Render Appropriate Medical Aid Within Their Training as Soon as Reasonably Possible	Not Sustained - Unfounded
# 4	15.410 – Domestic Violence Investigation, 15.410-POL-2. Officers Make Arrests with Probable Cause	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) and Named Employee #2 (NE#2) investigated a domestic disturbance incident between the Complainant and her partner, Community Member #1 (CM#1). The Complainant reported that CM#1 took her items and assaulted her. The Complainant alleged that the named employees failed to offer her medical treatment and refused to arrest CM#1 based on bias. The Complainant alleged that NE#2 failed to arrest CM#1 for domestic violence (DV). It was also alleged that NE#2 inadequately investigated a DV incident.



ADMINISTRATIVE NOTE:

On October 11, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

A. OPA Complaint

On May 26, 2024, the Complainant submitted an OPA complaint. She claimed that CM#1 stole her items and assaulted her, causing a bruised lip, a black eye, and scratch and bite marks. The Complainant alleged that the named employees ignored her, refused to arrest CM#1 for assault, and failed to act based on bias.

OPA investigated the complaint by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident report, and the Complainant's photograph. OPA also interviewed the Complainant and named employees.

B. Computer-Aided Dispatch (CAD) Call Report, Body-Worn Video (BWV), and Incident Report

On April 28, 2024, at 8:19 AM, DV assault was coded into CAD. Dispatch noted that someone flagged down NE#2 to report DV assault.

BWV captured the following:

NE#2 encountered CM#1 on a sidewalk. CM#1 reported the following to NE#2. CM#1 and the Complainant argued the prior night because CM#1 wanted to end the relationship. CM#1 left their apartment, intending to go to her sister's place, but returned. The Complainant and CM#1 engaged in a "scuffle" when the Complainant grabbed CM#1's phone, refused to return it, and pushed CM#1 away. CM#1 and the Complainant fell into a closet door, causing it to break. The Complainant also took CM#1's car title.

CM#1 requested her phone and car title be returned but did not want the Complainant arrested. NE#2 explained that state law mandated an arrest for DV but said he would not arrest the Complainant because CM#1 showed no visible injuries, the parties intended to separate, and the struggle over CM#1's phone did not sound like an assault.

The named employees and CM#1 relocated to the couple's apartment, and CM#1 entered. The Complainant exited and reported that CM#1 repeatedly punched her head and took her passport and keys.¹ CM#1 denied taking the Complainant's items. NE#2 reapproached the Complainant and told her about CM#1's denial. The Complainant insisted that CM#1 took her items and smashed her phone. The Complainant denied assaulting CM#1, denied taking CM#1's items, and

¹ NE#1 stayed with the Complainant outside and engaged in a conversation unrelated to the investigation.



alleged that CM#1 assaulted her. The Complainant showed her neck and extended her hands toward the named employees.²

NE#2 reapproached CM#1. CM#1 said the Complainant had her phone and likely hid it somewhere. CM#1 consented to NE#2 searching her car. NE#2 searched CM#1's car but did not locate the Complainant's passport or keys. NE#2 returned to the apartment and looked at the Complainant's phone, which appeared to be broken. CM#1 insisted that the Complainant had her phone and car title.

The named employees and the parties relocated to CM#1's car parked outside. The Complainant opened the trunk with a key and retrieved items she claimed belonged to her. CM#1 then located the car title in the trunk and claimed that the Complainant just placed it there. The Complainant denied having CM#1's car title or phone. NE#2 provided a DV pamphlet to CM#1 and told her he would document the incident in a report.

NE#2's incident report was consistent with BWV observations. However, it omitted pertinent details, described below in Named Employee #2 – Allegation #1.

C. OPA Interviews

On June 11, 2024, OPA interviewed the Complainant. The Complainant said CM#1 took her items and then assaulted her. The Complainant said she bled from her hand and had scratch and bite marks, but when she reported the assault to the named employees, they did not ask whether she needed medical treatment. The Complainant said she extended her arms to show her injuries, but the named employees did not photograph them. The Complainant said she photographed her face and sent it to OPA.³ The Complainant believed the named employees dismissed her injuries, failed to investigate her injuries, and refused to arrest CM#1 because they looked forward to their shift ending. The Complainant believed the named employees should have arrested CM#1.

On August 6, 2024, OPA interviewed NE#1. NE#1 said he was NE#2's backing officer. NE#1 said he could not recall whether he discussed with NE#2 about arresting either party. NE#1 said he did not observe injuries on the Complainant's hands that warranted medical treatment. NE#1 said neither party requested medical treatment. NE#1 said he lacked probable cause to arrest either party because both parties had conflicting accounts and lacked visible injuries. NE#1 denied the suggestion that bias impacted his investigation.

On August 6, 2024, OPA interviewed NE#2. NE#2 said CM#1's explanation of the altercation did not suggest an assault occurred. NE#2 believed arresting the Complainant was unwarranted because CM#1 lacked injuries, did not complain about pain, did not want the Complainant arrested, and merely wanted her items returned. NE#2 said he lacked probable cause for an arrest, citing conflicting accounts from both parties, no observable injuries, no independent witnesses, and no damage in the apartment except for a damaged phone. NE#2 said he did not observe injuries on the Complainant but acknowledged he should have photographed her, even though he typically does not photograph nonexistent injuries. Based on his three-year experience as an emergency medical technician,

² OPA reviewed BWV and did not observe physical injuries on the Complainant's neck or hands.

³ The Complainant's photograph of her face depicted a red mark below her left eye.



NE#2 did not believe the Complainant required medical attention. NE#2 believed his investigation was thorough but acknowledged he should have documented more details in his report. NE#2 denied the suggestion that bias impacted his investigation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

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

The Complainant alleged that the named employees refused to arrest CM#1 based on bias.

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. 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.

OPA found no evidence suggesting the named employees were biased against the Complainant in any way. The named employees interviewed both parties and attempted to locate items the parties alleged were taken from them. The named employees had legitimate reasons for declining to arrest CM#1. Both parties had conflicting accounts and showed no observable injuries. Moreover, both accounts lacked corroboration, given the lack of independent witnesses and damage in the apartment. Overall, the evidence suggests the named employees declined to arrest CM#1 because of insufficient probable cause for DV, not bias.

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

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #1 – Allegation #2

16.130 – Providing Medical Aid, 16.130-POL-2 Sworn Employees Providing Medical Aid, 1. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life, Sworn Employees Will Request Medical Aid, if Needed, and Render Appropriate Medical Aid Within Their Training as Soon as Reasonably Possible

The Complainant alleged that the named employees failed to request medical treatment for her.

Recognizing the urgency of providing medical aid and the importance of preserving human life, sworn employees will request medical aid, if needed, and render appropriate medical aid within their training as soon as reasonably possible. SPD Policy 16.130-POL-2(1).

The Complainant said she bled from her hand and had scratch and bite marks that she alleged were caused by CM#1. However, when the Complainant showed her neck and extended her arms toward the named employees, OPA observed no physical injuries on the Complainant’s neck or hands. Consistent with BWV observations, the named employees told OPA that they did not observe injuries on the Complainant and, therefore, believed medical



treatment was unnecessary. Finally, the Complainant did not request medical treatment throughout her contact with the named employees. Requesting medical aid under these circumstances was unwarranted.

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

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #2 – Allegation #1

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

It was alleged that NE#2 inadequately investigated a DV incident.

When completing a DV investigation, an officer will, among other things, follow SPD Policy 15.180, including writing a complete, thorough, and accurate report;⁴ photograph the scene, including any damaged or disrupted property; photograph the victim's injuries and appearance, such as physical marks or evidence of a physical struggle; photograph the suspect's injuries, hands, and appearance; and complete a DV supplement. See SPD Policy 15.410-TSK-1.

OPA observed several deficiencies in NE#2's investigation. First, policy required NE#2's incident report be complete, thorough, and accurate. While the report accurately described both parties' accounts, it omitted pertinent details. Specifically, it did not describe NE#2's physical observations of both parties (that both parties did not show injuries) and did not articulate NE#2's reasons for declining to arrest either party (that both parties had conflicting accounts, no injuries, and no corroboration). Second, policy required NE#2 to photograph damaged property. NE#2 did not photograph the Complainant's broken phone. Third, policy required NE#2 to photograph the victim's and suspect's appearance. NE#2 did not photograph either party. Although both parties did not show injuries, NE#2 should have photographed them since both parties alleged a physical altercation. Also, the Complainant implied she had physical injuries, claiming "[CM#1] has done it all to me" while displaying her hands and neck. Photographs documenting the parties' appearances would have been material. Fourth, policy required NE#2 to write a DV supplement. NE#2 did not write one. While NE#2 lacked probable cause for DV assault, he was investigating a DV incident. Whether he executed an arrest or not was immaterial to his responsibility to write a DV supplement. See SPD Policy 15.410-TSK-1(8) ("When an officer is completing a domestic violence investigation[,] they will[] [c]omplete the Domestic Violence Supplement, including an assessment of the presence/ownership of firearms").

As examined above, NE#2's DV investigation fell short in several respects. Overall, however, OPA finds these errors to be potential, but not willful, violations that do not rise to the level of misconduct. Importantly, OPA credits NE#2's self-reflection and candor in his OPA interview. He stated:

I believe the investigation was complete. Hindsight being 20/20 I could have probably documented things better. It's definitely not my best report. I don't feel it's representative of

⁴ See SPD Policy 15.180-POL-5.



what I usually produce. I mean getting this, getting this notice, I went back and looked at it and then reviewed the body worn and I was thinking, "Why didn't I put that in the report?" But not--it was not a good report. I could have documented it better. But I don't think I did the wrong thing.

....

I think in the future, I will probably take photos of non-injuries, just to document that they aren't there. It's always a learning, learning process.

OPA agrees with NE#2's self-assessment. OPA also notes that NE#2 has not received any sustained findings, training referrals, or supervisor actions for the same or similar conduct during his eight years with SPD. Accordingly, OPA recommends this allegation be Not Sustained – Training Referral. OPA emphasizes the seriousness that SPD treats DV investigations. NE#2 is on notice that any similar failures to fully document a DV incident in the future would likely result in sustained findings.

- **Training Referral:** NE#2's chain of command should discuss OPA's findings with him, review SPD Policy 15.410-TSK-1 with him, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented on Blue Team.

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

Named Employee #2 – Allegation #2

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

For the reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #2 – Allegation #3

16.130 – Providing Medical Aid, 16.130-POL-2 Sworn Employees Providing Medical Aid, 1. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life, Sworn Employees Will Request Medical Aid, if Needed, and Render Appropriate Medical Aid Within Their Training as Soon as Reasonably Possible

For the reasons at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #2 – Allegation #4

15.410 – Domestic Violence Investigation, 15.410-POL-2. Officers Make Arrests with Probable Cause



The Complainant alleged that NE#2 refused to arrest CM#1 for DV assault.

An officer must arrest a person without a warrant when the officer has probable cause to believe the person is age 18 or older and assaulted a family or household member within the preceding four hours, and the officer believes a felonious assault occurred, an assault occurred resulting in bodily injury to the victim (whether visible or not), or any physical action occurred intending to cause another person reasonably to fear imminent serious bodily injury or death. SPD Policy 15.410-POL-2. When the officer has probable cause to believe family or household members assaulted each other, the officer does not have to arrest both people. *Id.* The officer must arrest the person whom the officer believes to be the primary physical aggressor, considering that the primary physical aggressor is not always the person who struck first, the intent to protect DV victims, the comparative extent of injuries inflicted or serious threats creating fear of physical injury, and the DV history of each person involved, including whether the conduct was part of an ongoing pattern of abuse. *Id.*

For the reasons noted at Named Employee #1 – Allegation #1, NE#2's investigation uncovered insufficient probable cause for DV assault. Although the Complainant submitted to OPA a photograph of her face depicting a red mark below her left eye, that mark was not visible at the time the named employees responded to the apartment. However, neither the timing nor source of the injury could be established. The photograph was dated one day after the incident date, which could suggest that bruising occurred overnight.

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

Recommended Finding: **Not Sustained – Unfounded**