



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 13, 2024

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

CASE NUMBER: 2024OPA-0266

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	16.090 - In Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 1. Notification of Recording.	Sustained
# 2	5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion	Not Sustained - Training Referral

Imposed Discipline

Written Reprimand

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion	Not Sustained - Training Referral

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties, 5.001-POL 6. Employees May Use Discretion	Not Sustained - Training Referral

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), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) responded to Community Member #1's (CM#1) civil standby request to retrieve a dog from her ex-husband, the Complainant. A court order awarded the dog to CM#1 but was reportedly subject to reconsideration. The Complainant alleged that the named employees exercised unreasonable discretion by enforcing a civil court order late at night. It was also alleged that NE#1 failed to provide a recording advisement to the Complainant.

ADMINISTRATIVE NOTE:

On October 25, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.



SUMMARY OF INVESTIGATION:

A. OPA Complaints

On June 17, 2024, the Complainant and his attorney each submitted an OPA complaint, describing a June 10 court ruling in a divorce proceeding that awarded the family dog to CM#1. The attorney wrote that CM#1 was advised that property transfers would not occur until after June 20, the end of the reconsideration period. The attorney wrote that CM#1, against such advisement, acquired police assistance on June 14 in retrieving the dog from the Complainant's home late at night. The attorney expressed confusion about why the police enforced a civil and still pending court order. The Complainant's OPA complaint was consistent with his attorney's OPA complaint.

OPA investigated the complaints by reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), incident report, court documents, emails, and texts. OPA also interviewed the Complainant and named employees.

B. Computer-Aided Dispatch (CAD) Call Report

On June 14, 2024, at 7:12 PM, CAD call remarks noted, "... [REPORTING PARTY] REQ[UESTED] CIVIL STANDBY TO RETRIEVE HER DOG FROM HER EX[-]HUSB[AND] AT LOC[ATION]. [REPORTING PARTY] HAS NEVER SEEN [WEAPONS] AT THIS HOUSE, BUT HAS SEEN BULLETS IN THE GARAGE. [REPORTING PARTY] HAS NO [WEAPONS]."

C. Body-Worn Video (BWV)

BWV captured the following:

NE#1 reviewed court documents and spoke with CM#1 outside, with NE#3 present.¹ NE#1 told CM#1 her petition for a protection order was denied, but the dog was awarded to her. NE#1 returned to his patrol vehicle and spoke with the Complainant on the phone without providing a recording advisement.² The Complainant said his attorney intended to file, within 10 days, a motion to reconsider the court's June 10 order that awarded the dog to CM#1. NE#1 said the "final court order" required the Complainant to surrender the dog to CM#1, and the police intended to "collect the dog." The Complainant reiterated the 10-day reconsideration period as permitted under the state's divorce code. NE#1 said he could not reach the attorney and asked the Complainant if he could contact her. The Complainant said he could provide her phone number but noted the time was 11 o'clock on a Friday night. NE#1 said he would not "rip the dog" out of the Complainant's hands but would document the Complainant's defiance to the order. NE#1 again asked to speak with the attorney, noting his unfamiliarity with divorce law. NE#1 asked whether the Complainant intended to surrender the dog that night. The Complainant replied, "Tonight? No." NE#1 and the Complainant exchanged information. NE#1 stated, "You guys can sort this out in court. Like I said, this is a civil matter. This is not a law enforcement issue." NE#1 ended the call.

NE#1 exited his patrol vehicle and reapproached NE#3 and CM#1. NE#1 said the Complainant could file a reconsideration motion within 10 days, during which he intended to retain the dog. NE#1 said he would document

¹ CM#1 spoke limited English, requiring NE#2—a Russian-speaking officer—to respond to assist with translation.

² CM#1 remained with NE#3. While crying, CM#1 alleged that the Complainant assaulted her and threatened to kill her.



the dispute and that nothing would be resolved that night. NE#3 asked why they were unable to retrieve the dog, given the court order awarding it to CM#1. NE#1 replied that the Complainant refused to surrender it within the 10-day reconsideration period and noted that the dispute was a civil matter. NE#1 photographed the court documents.

NE#2 arrived. The named employees discussed the situation. NE#1 said the court awarded the dog to CM#1, but the Complainant defied the civil order by unlawfully retaining CM#1's property.³ NE#2 said the order superseded the attorney's claims. NE#3 said the order was currently effective. NE#1 suggested warning the Complainant that he was committing theft by withholding property he did not own. CM#1 said the dog was worth \$3,000. NE#1 replied, "So, it's a felony-level theft." NE#2 noted unreported domestic violence (DV) the Complainant allegedly committed.

The named employees drove to the Complainant's home and contacted him at the front door. NE#1 did not provide a recording advisement. NE#1 acknowledged the Complainant's right to request a reconsideration of the court's order but said the dog currently belonged to CM#1. NE#1 said the Complainant was unlawfully withholding CM#1's property. NE#2 said the Complainant could retrieve the dog if the court modified its order. The Complainant asked whether the named employees intended to "confiscate the dog officially." NE#1 replied affirmatively, saying the Complainant could be liable for felony DV theft. NE#1 said he would not forcibly enter or apply for a warrant but would document the incident. NE#3 said, "Go get the dog, please." The Complainant replied affirmatively, retrieved the dog and its accessories, and handed them to NE#1.

NE#1 handed the dog and its accessories to CM#1. NE#1 asked NE#2 to tell CM#1 that the Complainant could reacquire the dog if the court modified its order. NE#2 spoke to CM#1 in Russian.

D. Court Documents

On June 10, 2024, a King County Superior Court judge signed a "Final Divorce Order." Among other things, it stated:

[CM#1] shall be granted and conveyed the following real and personal property, clear of any right, title or interest of [the Complainant] therein, excepts as otherwise provided herein:

...

b. [Dog name] the dog and all [Dog name]'s accessories, equipment, and supplies.

...

Under the order's "Additional Findings of Fact," section 5 stated:

[Dog name] the dog: The Court finds that while not a gift, the dog is community property and will be awarded to [CM#1] given that she was the main caretaker of the dog.

E. Email Correspondence

³ NE#1's incident report stated, "I determined that without additional information or documentation from [the Complainant] that would contradict the court's order, [] the order in [CM#1's] possession superseded any direction of [the Complainant's] attorney."



In an email sent to CM#1 on June 14, 2024, the Complainant's attorney advised CM#1 to cease communications with the Complainant. The attorney wrote that the court's order would not be enforced during the reconsideration period, meaning the Complainant would not be surrendering the dog. The attorney wrote that the Complainant was instructed to call the police if CM#1 approached the Complainant's home.

F. OPA Interviews

Complainant

On July 1, 2024, OPA, with his attorney's consent, interviewed the Complainant. His statements were consistent with the above-mentioned evidence. He believed the final court order was pending because he had 10 days to file a reconsideration motion. He said he surrendered the dog because he did not want to be charged with a felony. He believed the named employees should not have retrieved the dog late at night when his children were sleeping.

Named Employee #1

On August 12, 2024, OPA interviewed NE#1. NE#1 said he had "very limited" experience with civil standbys but had substantial experience with court orders of a criminal nature. NE#1 could not recall specific training on handling a civil court order. OPA asked NE#1 why he decided to retrieve the dog when he initially decided to document the incident. NE#1 said a court awarded the dog to CM#1, so they performed a DV civil standby for CM#1, who sought police assistance in retrieving the dog. NE#1 also said prudence motivated them to contact the Complainant once more to see whether he would surrender the dog. NE#1 believed contacting the Complainant late at night was appropriate because they did not ring the doorbell, NE#1 was unaware that children were present, and the contact was "non-intrusive." NE#1 believed he exercised reasonable discretion in performing a civil standby, noting that CM#1 was awarded the dog, and their intrusion was "minimal."

Named Employee #3

On August 12, 2024, OPA interviewed NE#3. NE#3 said he responded to this call to enforce a "final court order" awarding the dog to CM#1. NE#3 likened the enforcement of the order to a civil standby, allowing the parties to retrieve their property. OPA asked NE#3 why he decided to retrieve the dog when NE#1 initially decided to document the incident. NE#3 said they exercised due diligence and discretion to assist CM#1, a DV victim who called 911 several times. NE#3 believed contacting the Complainant late at night was appropriate because they did not know the Complainant's schedule, and the Complainant did not have to answer the door. NE#3 noted that the Complainant failed to produce documentation disputing the court order. NE#3 believed he exercised reasonable discretion by supporting a DV victim and enforcing an order.

Named Employee #2

On September 5, 2024, OPA interviewed NE#2. NE#2 minimized his involvement with this call, saying his primary role was to translate Russian. NE#2 recalled reviewing the court documents and being told that a court awarded the dog to CM#1. NE#2 denied hearing NE#1 tell NE#3 his decision to document the incident. NE#2 said he advised NE#1 and NE#3 to seek voluntary compliance when retrieving the dog, recognizing that they could not compel the Complainant to surrender it. NE#2 did not opine on whether contacting the Complainant late at night was appropriate but deferred to NE#1's and NE#3's judgment. NE#2 believed he did not violate any SPD policy during this call, emphasizing his role as a translator, not the primary officer.

ANALYSIS AND CONCLUSIONS:



Named Employee #1 – Allegation #1

16.090 – In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 1. Notification of Recording

It was alleged that NE#1 failed to provide a recording advisement to the Complainant.

Sworn employees will notify persons that they are being recorded as soon as practical, and the notification will be on the recording. SPD Policy 16.090-POL-2(1).

A preponderance of the evidence established NE#1's failure to provide a recording advisement to the Complainant on two different occasions (during a phone conversation and at his home). NE#1 is aware of the requirements of SPD's notification policy, as he was counseled twice—once on February 26, 2022, and again on September 28, 2022—for failing to provide recording advisements.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 – Allegation #2

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

The Complainant alleged that the named employees exercised unreasonable discretion by enforcing a civil order late at night.

Employees are authorized and expected to use discretion in a reasonable manner consistent with the department's mission and duties of their office and assignment. SPD Policy 5.001-POL-6. Discretion is proportional to the severity of the crime or public safety issue being addressed. *Id.*

NE#1 correctly identified the nature of the dispute and the forum in which it should be adjudicated. In his concluding remarks to the Complainant over the phone, NE#1 stated, "You guys can sort this out in court. Like I said, this is a civil matter. This is not a law enforcement issue." Given these limitations, NE#1 should have only documented this incident.

However, once the named employees discussed the situation, they decided to enforce a court order by retrieving the dog, believing the Complainant committed theft by withholding property a court awarded to CM#1. Their understanding was misplaced. As noted above, NE#1 recognized the civil nature of the dispute. This should have signaled that enforcement of the order be adjudicated in court, not by the police. Washington State law provides civil remedies in situations where a party refuses to surrender property under a divorce order, like contempt or replevin. Moreover, the Complainant could not have committed theft because he did not "wrongfully obtain or exert unauthorized control over" the dog, intending to deprive CM#1 of it. See RCW 9A.56.020(1)(a) (emphasis added).⁴ The Complainant also lacked the requisite mental state to commit theft. Here, the Complainant followed the advice of his attorney, who instructed that no property transfers would occur during the 10-day reconsideration period.

⁴ RCW 9A.56.020 defines "theft" in three different scenarios. The most applicable here is subsection (1)(a) ("To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him or her of such property or services").



The Complainant also reasonably believed the court could modify its order by returning the dog to him. Thus, OPA cannot conclude that the named employees exercised reasonable discretion under these circumstances.

Nevertheless, the named employees exercised due diligence by contacting both parties to the dispute, reviewing the court order, and discussing its provisions. The evidence shows the named employees were primarily motivated to enforce a “final court order,” even though they lacked the legal authority to enforce it. They held a good faith, but mistaken, belief that a court ordered a property transfer and that intentionally withholding property violated the order and constituted theft. While a preponderance of the evidence shows the named employees’ decision-making process did not constitute misconduct, it necessitates a training referral.

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

- **Training Referral:** The named employees’ chains of command should discuss OPA’s findings with them, including the importance of recognizing their limitations in civil disputes, and provide any other retraining and counseling they deem necessary. Any retraining and counseling should be documented and maintained in Blue Team.

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

Named Employee #2 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

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

- **Training Referral:** The named employees’ chains of command should discuss OPA’s findings with them, including the importance of recognizing their limitations in civil disputes, and provide any other retraining and counseling they deem necessary. Any retraining and counseling should be documented and maintained in Blue Team.

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

Named Employee #3 – Allegation #1

5.001 – Standards and Duties, 5.001-POL-6. Employees May Use Discretion

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

- **Training Referral:** The named employees’ chains of command should discuss OPA’s findings with them, including the importance of recognizing their limitations in civil disputes, and provide any other retraining and counseling they deem necessary. Any retraining and counseling should be documented and maintained in Blue Team.

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