



City of Boston, Massachusetts
Office of Police Accountability and Transparency
Evandro Carvalho, Executive Director

CIVILIAN REVIEW BOARD - CASE #238

INVESTIGATOR: Diana Vergara

DATE OF INCIDENT: August 20, 2023 **DATE OF FILING:** August 20, 2023

COMPLAINANT: The Complainant

COMPLAINT SUMMARY: Complainant alleges disrespectful treatment by a BPD officer.

OFFICER(S):

1. The Officer

DISTRICT: Boston Police Department / D-4

ALLEGED VIOLATION OF RULE:

1. BPD Rule 102§9: Respectful Treatment
2. BPD Rule 113 - Public Integrity Policy: Canon Four (4)

Rule 102 § 9 Respectful Treatment: Employees shall, on all occasions, be civil and respectful, courteous and considerate toward their supervisors, their subordinates, and all other members of the Department and the general public. No employee shall use epithets or terms that tend to denigrate any person(s) due to their race, color, creed, gender identity, or sexual orientation except when necessary in police reports or in testimony

Rule 113 - Public Integrity Policy: Canon Four (4): Police officers shall at all times be prepared for the proper discharge of their duties; knowledgeable in the law and legal procedures; competent in the use of authorized weapons and tactics; respectful of other elements in the criminal justice system; and possessing the necessary temperament and attitude to effect the cause of public safety and justice.

RECOMMENDED DISPOSITION:

Rule 102§9: Respectful Treatment **Unfounded.**

Rule 113 - Public Integrity Policy: Canon Four (4) **Unfounded.**



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OPAT staff recommends to the Civilian Review Board that this case be considered **Unfounded**. The BPD Officer did not violate any rules or procedures during this incident. After reviewing the body-worn camera (BWC) footage, Investigator Vergara observed the alleged Officer listening to everyone's point of view, attempting to defuse the situation, and found possible solutions to the disagreement. At no point did Investigator Vergara observe the alleged Officer roll their eyes at the Complainant or the Complainant's friend. Investigator Vergara also spoke to the witness, who stated that the Complainant was arguing with two individuals who were holding a parking spot with no vehicle. Based on the BWC footage, the alleged Officer was explaining to the Complainant what the female had reported. The alleged Officer stated that the female told them that the individual threatened the Complainant because the Complainant had hit them with the car while backing up and that they were going to hit them even more if they continued doing so. Investigator Vergara noticed that the Complainant was never observed disputing the allegation with the alleged Officer. Based on the BWC footage, the alleged Officer was sympathetic and provided the Complainant with momentary solutions. The alleged Officer asked the Complainant to double park up the Street for a minute so the Complainant could check on their cat. The alleged Officer also tried to find a solution to the situation by walking around and finding an empty parking spot for the Complainant.

Further, the alleged Officer held the parking spot so the Complainant could park their vehicle. Based on the BWC footage, the alleged Officer was not rude or condescending and did not raise their voice. On the BWC footage, the alleged Officer is observed saying, "This whole thing is ridiculous, and this is not a police matter. There are many things going on in the city right now, and this should not be a call. You guys are adults, and you guys should have figured it out without us coming here." When the alleged Officer stated this, they were referring to the parking spot disagreement that none of the individuals or the Complainant wanted to give up and that it was something that they should have resolved as adults. The alleged Officer also mentioned on the BWC footage that it is a matter of courtesy over the person who is already outside saving the parking spot. According to the police report, the alleged Officer also remained at the scene until all parties left the area. At no moment on the BWC footage did the Complainant and the witness seem to be in danger or threatened. It was also observed on the BWC footage that upon the Officer's arrival, the Complainant and the witness did not have a physical object restricting their vehicle from leaving the scene if they felt unsafe and threatened by the individuals. The alleged Officer also carried out their duties by writing a police report.



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During the Investigation, the Complainant was unresponsive during numerous attempts made by Investigator Vergara to discuss the allegation being made. Due to the Complainant's unresponsiveness, Investigator Vergara was unable to interview the Unknown witnesses mentioned in the complaint who witnessed the alleged damage to the Complainant's vehicle.

On May 21, 2024, the Civilian Review Board reviewed the case report and voted unanimously (6-0), with one board member abstaining, to change OPAT's recommended disposition of **Unfounded** to **Not Sustained** for BPD Rule 102§9 Respectful treatment and agreeing with OPAT's disposition of **Unfounded** for BPD Rule 113 Canon 4.

INVESTIGATION SUMMARY

Document list

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|---------------------------------------|-----------------------------------|----------------------|
| 1. Incident Report #1 | 2. Boston Police Incident History | 3. Witness interview |
| 4. Incident Report #2 | 5. Dispatch Records | 6. Officer BWC |
| 7. Alleged Officer's Body-Worn Camera | 8. 911 Call Tape | |

Case Summary:

On August 20, 2023, the Office of Police Accountability and Transparency (OPAT) received a complaint filed by the Complainant regarding a Boston Police Department ("BPD") Officer who was allegedly disrespectful in their interaction with them.

The Complainant alleged that on August 20, 2023, they called the police because they were feeling unsafe trying to park their car in the Back Bay area of Boston. There was an individual who stood in a street parking spot as they were trying to back in. The Complainant stated, "The individual would not move and claimed that I was hitting them with my car. Their friend showed up in a black Mercedes, got out of the car, and began



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banging on my driver's side window. The Complainant stated that they called the police and told the officers who arrived that they felt unsafe and threatened by the unknown individuals who were attempting to assault them. According to the Complainant, the officer was extremely rude and condescending. The Complainant further alleged that the officer said, "They were wasting their time, and there are so many other important things we could be doing right now." The Complainant said they felt demoralized to get such a response from the officer. The Complainant stated that they called for help because they were feeling unsafe in the situation. According to the Complainant, the officer rolled their eyes and suggested to them that they should have just double parked.

Additionally, the Complainant said that after the officers diffused the situation, they found another parking spot and moved their vehicle there. The Complainant stated that the officers said they would wait until they left to leave the scene. The Complainant said when they left the scene and returned to retrieve their vehicle, it had been keyed. The Complainant stated that witnesses approached them and said that the two unknown individuals from the altercation dumped beverages on the vehicle while also keying it. The Complainant told OPAT staff that they wanted to ask the Officers to wait until both parties left the scene but hesitated since the officer made it seem like they were wasting their time by calling 9-1-1 for help. The Complainant stated that at the time of the incident, they were very scared and just needed help de-escalating the situation. The Complainant said they felt ashamed for asking the police for help and believed the officer did not handle the situation well. The Complainant believes that the officer did not do their job and did not have anyone's best interest at heart.

Document/Video/Other Investigation Technique Summary

On August 23, 2023, Investigator Vergara sent a records request to the Boston Police Department.

On August 25, 2023, Investigator Vergara was unable to obtain any surveillance footage since there were no cameras at the scene.

On August 28, 2023, Investigator Vergara spoke to the Complainant's friend, "the witness", who stated that the Complainant was arguing with two individuals who were holding a parking spot with no vehicle. The witness stated that they had to call the police because the two individuals were being difficult. The witness stated that the male Police Officer was more understanding and calm. The witness stated that the female Officer made them feel as if they were wasting the officer's time. The witness stated that the officer was not



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understanding and told the Complainant to double park. The witness stated that it is illegal to double park. The witness stated that they understand that being an Officer is hard, but the Officer needs to have more empathy.

On August 28, 2023, September 1, 2023, and September 6, 2023, Investigator Vergara made several attempts to contact the Complainant for an interview. The Complainant was unresponsive, and Investigator Vergara was unable to speak with them.

On September 13, 2023, Investigator Vergara obtained and reviewed the 911 call recordings and did not find any pertinent information related to the alleged police misconduct.

On September 13, 2023, Investigator Vergara obtained and reviewed the Dispatch records and did not find any pertinent information related to the alleged police misconduct.

On September 19, 2023, Investigator Vergara received and reviewed the BWC footage of another Officer at the scene. At the 4:58 mark, Investigator Vergara observed one of the individuals state, "This is nuts. They are wasting y'all's time. They backed up to me, saying I threatened them." At no point did Investigator Vergara hear the alleged Officer say to the Complainant or the female that they were wasting their time. Investigator Vergara did not hear the alleged Officer say, "There are so many other important things we could be doing right now." Investigator Vergara did not observe the alleged Officer suggest to the Complainant that they should have double parked in the City of Boston nor did the alleged Officer roll their eyes at the Complainant and the witness. At the 4:58 mark, the Complainant agreed and understood what the Officer was telling them regarding the reason why the individual was standing outside so their friend could do a U-turn and park the car.

On September 19, 2023, Investigator Vergara received and viewed the body-worn camera footage of the alleged Officer. At the 4:49 mark, Investigator Vergara observed when the alleged Officer stated, "If someone is standing there, are you going to back into someone who is in the middle of the street? No!" The alleged Officer also stated, "This whole thing is ridiculous, and this is not a police matter. Many things are going on in the city right now, and this should not be a call. You guys are adults, and you guys should have figured it out without us coming here." At 5:22 mark, the alleged Officer stated to the Complainant "You are saying they mistreated you because you are taking the spot. They are saying they threatened you because you hit them. This whole situation is ridiculous." At the 6:35 mark, the alleged Officer stated, "Just double park there and check on the cat. It's only going to take you a few minutes." The alleged Officer provided this answer to the Complainant because the Complainant stated that the only reason they were there was to check on their cat, and they were not going to take long. At the 6:58 mark, the alleged Officer told the



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Complainant, “If you keep backing up, you are just going to hit them.” At the 07:01 mark, The witness stated, “ If we both don't park here, would that be a solution?” To which the alleged Officer replied, “You guys would rather have no one park here at all?” At the 7:13 mark, the Complainant stated, “There is no reason for this to be happening.” At the 9:41 mark, the alleged Officer stated to an unknown bystander, “This is not a police matter; it’s crazy, calling the police like calling their buddies.” Investigator Vergara observed the alleged Officer walking to the end of the street to look for a parking spot and waiting in the parking spot until the Complainant parked the car. At no point did Investigator Vergara observe the alleged Officer being rude and condescending to the Complainant and the witness. The alleged Officer tried to diffuse the situation by bringing different solutions to both parties.

On October 23, 2023, November 6, 2023, and November 15, 2023, Investigator Vergara made several attempts to contact the alleged Officer and their colleague. The alleged Officer and their colleague were unresponsive to the requests sent for an interview made by Investigator Vergara and did not reach back out to schedule an interview.