



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

CIVILIAN REVIEW BOARD COMPLAINT #196

INVESTIGATOR: Diana Vergara

DATE OF INCIDENT: May 4, 2023

DATE OF FILING: May 12, 2023

COMPLAINANT: The Complainant

BPD EMPLOYEE(S):

1. **-Operator #1**
2. **-Operator #2**
3. **-Operator #3**
4. **-Operator #4**
5. **-Operator #5**

DISTRICT: Boston Police District C-11

ALLEGED VIOLATION OF RULE:

Rule 102§ 4 Neglect of Duty: This includes any conduct or omission which is not in accordance with established and ordinary duties or procedures as to such employees or which constitutes use of unreasonable judgment in the exercising of any discretion granted to an employee.

Rule 102§17 Police Service: Employees, while on duty, shall promptly respond to all persons requesting service, insofar as it is within their duties and is consistent with Department rules and policies.

Rule 324§3 Initial Call-Taking Procedure (See Rule)

Rule 324A§4 Criteria for Assigning Priority Statuses (See Rule)

OPAT FINDINGS AND RECOMMENDED DISPOSITION:

BPD Operator #1 - **Not Sustained**

BPD Operator #2 - **Not Sustained**

BPD Operator #3 - **Not Sustained**



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BPD Operator #4 - **Not Sustained**

BPD Operator #5 - **Not Sustained**

Rule 102§ 4 Neglect of Duty: **Not Sustained**

Rule 102§ 17 Police Service: **Not Sustained**

Rule 324§ 3 Initial Call-Taking Procedure: **Not Sustained**

Rule 324A§ 4 Criteria for Assigning Priority Status: **Not Sustained**

OPAT staff recommends to the Civilian Review Board that this case be considered **Not Sustained**. Based on the evidence collected, Investigator Vergara was not able to prove or disprove the Complainant's allegation. Investigator Vergara did not observe anywhere in the evidence collected when the Complainant first called the Boston Police Department to report the alleged incident about the gun threat. Investigator Vergara was only able to confirm that the Complainant called 911 on May 4, 2023 and said, "Last night the neighbor pulled out a gun and it took you guys an hour to get here and I didn't want to come outside when BPD finally came. They didn't have a gun today, but he had one yesterday and every time the police came to the house, they went into their house and didn't open the door."

Based on the evidence gathered, Investigator Vergara did not observe when BPD allegedly told the Complainant that there was an active shooting that took higher priority; however, Investigator Vergara did observe the event "Shot Spotter Activation (SSA). Next Available Unit" on the CAD sheet and the Event Chronology for Incident history dated May 4, 2023, at 12:30 AM. Investigator Vergara also observed that on the turret tape Incident History at 12:21 AM, Operator #1 was still requesting police units for the SSA. Investigator Vergara also observed on the Turret tape that other priority calls were being handled before the Complainant's. Calls such as Vandalism, K-9 assistance, and missing teenagers were attended to before the Complainant's call at 1:29:07. According to the Union Representative's interview, the reason why the Complainant's call took longer to get assistance was because of the SSA. The Boston Police Department had received so many calls that they had to go by priority. They also stated that based on the CAD sheet, the Complainant's call was labeled as a Priority 5 because it was defaulted for a Loud Party. Investigator Vergara listened to the direct call made from the Complainant's phone to District C-11 on May 4, 2023. However, at no point did the Complainant mention that the neighbor was making threats to them with a gun or BPD, saying that there was an active shooting that took higher priority. The call was for a music complaint.

Investigator Vergara did not observe a police report filed by the Complainant but was able to obtain a police report made by the Complainant's neighbor about harassment and noise complaints against the Complainant. In the police report, the neighbor stated that the



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Complainant had said that they would “send people after them and have their people come by and shoot their place up.” The police report revealed that there had been no in-person confrontation and that the issues had been occurring from both parties yelling through the apartments. According to the Complainant, they stated that they had called 911 because their downstairs neighbor was knocking on their door with a firearm. Based on the Turret tape for Incident History, the Complainant stated that “they didn't see their neighbor and only heard the banging on the door.” At the 12:06:56 mark, the Complainant further says, “They did not know what else to do besides get into an altercation with them because they didn't let them sleep, and BPD needed to do something.” Based on the interview with the Complainant, they said that there is a current “harassment order” that was issued on May 3, 2023, for firearm threats and loud music. However, Investigator Vergara was able to listen to the Turret tape for Incident History and noticed that the Complainant stated at the 10:22:06 mark, “The 1st-floor neighbor was yelling in the hallway because I filed some protection papers against them, but the order had not been given to them yet.” The Complainant said that they were not arguing with their neighbor but they were banging on their door and going crazy. The Complainant stated that they didn't have a problem because their landlord was kicking their neighbor out. She also stated, “I just want them to leave me alone because I am getting a protective order since they won't stop with the harassment.” At the 10:24:14 mark of the turret tape, the Complainant stated, “Last night the issue was that it was 1:00 AM, 2:00 AM, and I had to call you all because they had a car stereo system that kept blasting music past 2:00 AM.” At the 10:24:38 mark of the turret tape, the Complainant stated, “The landlord told me to continue to call the police because they were trying to get them out of the building because no one wants to live with them in the building.”

According to the Officer's body-worn camera footage for May 4, 2023, at the 1:18 mark, the Complainant stated that “the only issues were the high music and the neighbor's dog barking.” At the 2:00 mark of the body-worn camera footage, the Complainant stated “I kept calling the police because of the loud music”. At the 2:51 mark, they stated, “last night, my neighbor was playing their music, and I asked them to turn it down.” They stated that “the neighbor started banging, and then I started jumping on the floor too.” The Complainant added that in the morning their neighbor was sitting in the car trying to intimidate them. They stated that they were not scared to live anywhere. At the 05:31 mark, the Complainant stated that their neighbor threatened to punch them in the face. Furthermore, at the 06:96 mark, the Complainant asked the officer to go speak with the neighbor and tell them to leave them alone and that he would go to jail next time if he bothered her.



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Due to the lack of evidence regarding the initial call, Investigator Vergara was unable to prove or disprove the allegation of when the Complainant called the night before because the neighbor allegedly had a gun. The Complainant also stated that there were no surveillance cameras or witnesses when the incident happened. Due to the lack of interview participation from the BPD employees identified in the complaint, Investigator Vergara was unable to prove or disprove the allegations made by the Complainant.

On May 21, 2024, the Civilian Review Board voted unanimously (6-0) to agree with OPAT’s recommended disposition of **Not Sustained**, with one board member abstaining from voting due to not being present during the discussion of the case.

INVESTIGATION SUMMARY

Document list

1. Event Search Result	2. Event Search Result	3. Event Information
4. Walk-In Police Report (Filed by the Complainant's neighbor on 5/5/23)	5. Event Chronology Incident History	6. Event Chronology Incident History
7. CAD Sheet Incident History	8. Turret Tape Incident History	9. Complainant’s call to District C-11& Turret Tape Incident History
10. 911 Call & Turret Tape	11. CAD Sheet Incident History	11. Body Worn Camera: Officer #1
12. Body Worn Camera: Officer #2	13. Body Worn Camera: Officer #3	14. Interview: BPD Officer



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15. Interview: Union Representative		
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Case Summary:

On May 12, 2023, the Office of Police Accountability and Transparency (OPAT) received a complaint filed by the Complainant regarding a Boston Police Department (“BPD”) employee. The Complainant alleged that on May 3, 2023, the Complainant called BPD when their neighbor's son, whom the Complainant has a restraining order against, approached their front door with a gun. BPD informed the Complainant that there was an active shooting that received a higher priority. According to the Complainant, the police did not show up until about an hour later, and they believed that the Boston Police Department failed them.

Document/Video/Other Investigation Technique Summary

On May 15, 2023, Investigator Vergara spoke to the Complainant, who stated that the night before the alleged threat with the gun, their downstairs neighbor kept playing loud music. The Complainant stated that on May 3, 2023, the Complainant called 911 because their downstairs neighbor was knocking on their door with a firearm. The Complainant stated that when she called 911, the Operator told them that there was an active shooting. The Complainant also stated that the police arrived at the house at 2:23 AM and did not do anything. The Complainant said that there is a current harassment order that was issued on May 3, 2023, for firearm threats and loud music. The Complainant stated that there were no surveillance cameras or witnesses when the incident happened. The Complainant stated that they have no video of the incident.

On May 18, 2023, Investigator Vergara reviewed the Event Result Search and noticed that BPD was called to the Complainant’s address twice on May 4, 2023, at 8:55 AM under Incident History and on May 4, 2023, at 10:23 PM under Incident History. Both incidents were for a Disturbance/ Loud Party. Based on the time shown, these two Incident Histories don't match the time given by the Complainant.

On May 18, 2023, Investigator Vergara received an Event Information sheet for the Incident and observed a remark made on May 4, 2023, at 10:24 PM. This remark shows that the Complainant called 911 and stated to the Operator, “Last night, males flashed a gun



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at them, but they did not see a weapon today.” The Initial Type for the call was Disturbance/ Verbal/Altercation/Argument and was finalized with code 15P (Disturbance, Drunk, Services Rendered) by the Operator. Investigator Vergara did not observe any remarks regarding Shot Spot Activation (SSA).

On May 19, 2023, Investigator Vergara reviewed a walk-in threat Police Report dated May 5, 2023, from the Boston Police Department. The report is about harassment and noise complaints being made by the Complainant’s neighbors. The neighbor stated that the police had come to the house several times for various complaints. In the report, it is observed that the neighbor stated that the Complainant had said that they would “send people after them” and “have their people come by and shoot their place up.” It was also observed on the police report that the parties stated that there had been no in-person confrontation and that the issues had been occurring from yelling through the apartments.

On May 19, 2023, Investigator Vergara received the Event Chronology for Incident History. Investigator Vergara noticed that on May 4, 2023, at 00:30:51, an Operator wrote, “ UNITS ON SSA. NEXT AVAILABLE. At 1:28 mark. Officers were dispatched to the location of the incident. At the 1:33 mark, an Operator wrote that the Officer arrived at an event and was later marked closed at the 1:38 mark.

On June 19, 2023, Investigator Vergara received and reviewed the CAD Sheet for Incident History and observed that the Initial and Final Type of the incident was labeled as Disturbance/ Loud Party. Investigator Vergara also observed that an Operator updated the CAD Sheet at 00:30:51 with “ UNIT ON Shot Spotter Activation (SSA). NEXT AVAIL”. Investigator Vergara did not observe any remarks about a gun or threats on the CAD sheet. The CAD Sheet revealed that BPD Officers were dispatched to the Complainant's home at 1:18 AM.

On June 19, 2023, Investigator Vergara listened to the Turret tape for Incident History and observed that at the 12:16 AM mark, Code 1 (Rapid Response) was still in use for the SSA. At the 12:21 AM mark, an Operator requested units for the SSA. At the 1:29 mark, Officers responded to the Operator. Further, At 1:29 mark, an Operator broadcasted, “The tenant wants to make a complaint about another tenant because they are playing loud music, and they turned off the music, but now they are making threats to them. At the 1:29 mark, Officers were dispatched to the location. Investigator Vergara did not observe any other pertinent information on the Turret tape.



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On June 23, 2023, the Complainant stated that the police had shown up twice at the house and told the neighbor that if they came there again, they would give the neighbor a fine. The Complainant also stated that she did not know what else to do besides getting into an altercation with him because he didn't let them sleep, and BPD needed to do something. The Complainant also stated that the last two times police showed up, her neighbor refused to open the door. At 12:08:08 mark, the Complainant stated that it was her third time calling the police about the music. An Unknown Officer from C-11 told the Complainant, "Our shift is just getting started, and the best I can do is send out a unit," to which the Complainant agreed. It is observed that the Complainant doesn't mention any threats being made to her on the call. At 12:08:30, the Complainant stated that she told her landlord about this. She stated, "I feel like I am having a party in my own house." Investigator Vergara did not observe any comments regarding a gun or threats.

On June 23, 2023, the Boston Police Department informed Investigator Vergara that there were no police reports for both Incident Histories because they were miscelled out with 14P (Police Services Traffic, etc.) and 15P(Disturbance, drunk). According to BPD, officers responded and got a code disposition to close the incident.

On June 26, 2023, Investigator Vergara received and reviewed the 911 Call and the Turret Tape for the Incident History. At the 10:21 mark on May 4, 2023, an Operator answered a phone call, but no one answered back. At the 10:22 mark, the Operator called back and said, "This is BPD; you dialed 911. Are you okay?" The Complainant stated her 1st-floor neighbor was yelling in the hallway because they filed some protection papers against them. They stated that the order had not been given to them yet. The Complainant stated that they were not arguing with their neighbor, but they were banging on the door and going crazy. They stated that they didn't have a problem because their landlord was kicking them out because they were a safety risk to their kids. The Complainant also stated on the call at the 10:23 mark, "Last night, the neighbor pulled out a gun, and it took you guys an hour to get here, and I didn't want to come outside when BPD finally came." At the 10:23:19 mark, the Complainant stated, "It took you an hour to respond when I told you they had a gun." At the 10:23 mark, the Complainant stated, "They didn't have a gun today, but they had one yesterday, and every time the police came to the house, they went into



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their house and didn't open the door.” The Complainant stated that he didn't see them and only heard the banging on the door.

At the 10:24 mark, the Complainant stated, “I just want him to leave me alone because I am getting a protective order since they won't stop with the harassment.” At the 10:24 mark, the Complainant stated, “Last night the issue was that it was 2:00 AM, 1:00 AM, and I had to call you all because they have a car stereo system and kept blasting the music at 2:00 AM.” At 10:24 mark, the Complainant stated, “The landlord told me to continue to call the police because they were trying to get them out of the building because no one wants to live with them in the building.” At the 10:24 PM mark, the Operator stated, “The call is in. I am going to send the next available unit to check it out.” It was observed at 10:24 when the Operator broadcasted on the radio, “ I need units 3 and 4 to address a neighbor dispute.” At 10:24, the Operator stated, “Neighbor dispute, a male in their 20's with braids.” At the 10:25 mark, the Operator broadcasted on the radio, “ Caller is saying last night the male flashed a gun at them, but they didn't see a weapon today.” At 10:28, Officers stated on the radio, “ We don't see anything showing. Do you mind giving them a call to see if they want to speak to us?” At 10:28, the Operator called the Complainant to inform them that the Boston Police were outside looking for them. At the 10:28 mark, the Complainant stated that they would send their daughter to open the door.

On June 26, 2023, Investigator Vergara received and reviewed the CAD Sheet for Incident History and observed that at the 22:24 mark, the Operator wrote, “Last night males flashed a gun at her, but they did not see a weapon today.” Investigator Vergara noticed that the Initial and Final Type of the incident was Disturbance/ Verbal & Verbal altercation/ Argument. Investigator Vergara also noticed that the Disposition Code for this call was 15P (Disturbance- Service Rendered).

On June 30, 2023, Investigator Vergara received and reviewed the body-worn camera footage of an Officer for May 3, 2023. Investigator Vergara observed two Officers outside the Complainant's house at 10:33 PM. BPD informed Investigator Vergara that there were no other BWC records related to this day.



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On June 30, 2023, Investigator Vergara reviewed the body-worn camera video footage of an Officer for May 4, 2023. At the 14:05 mark, The Complainant stated that they called BPD last night, and it took them an hour to respond. They also stated that they called BPD at 1:30 AM, and BPD called them back at 2:30 AM. By then, the neighbor had already turned the music down. At the 1:18 mark, The Complainant stated that the only issues were the loud music and the dog barking. At the 2:00 mark, The Complainant stated that they kept calling the police because of the loud music. At the 2:51 mark, they stated that last night, the neighbor was playing their music, and the Complainant asked them to turn it down. They stated that the neighbor started making loud banging noises, and then they started jumping on the floor too. The Complainant stated that in the morning, the neighbor was sitting in the car, trying to intimidate them. The Complainant said that they were not scared to leave anywhere. At the 05:31 mark, the Complainant stated that their neighbor was telling the Complainant that they were going to punch them in the face. At the 06:96 mark, the Complainant asked BPD to talk to the neighbor and tell them to leave them alone, and that they are going to jail next time if it continues. At the 7:04 mark, BPD tells the Complainant that they will talk to them and tell them to leave them alone. At the 7:06 mark, the Complainant asked BPD to have a temporary order for the night, which BPD told them no since it was harassment. At the 7:18 mark, they stated that last night, their neighbor threatened to shoot them.

On June 30, 2023, Investigator Vergara reviewed the body-worn camera video footage of a BPD Officer for May 4, 2023. At the 1:18 mark, the Complainant stated that “the only issues are the high music and the dog.” At the 2:00 mark, The Complainant said they kept calling the police because of the loud music. At the 7:04 mark, Officers told the Complainant that they would talk to them and tell them to leave them alone. At the 7:06 mark, the Complainant asked BPD to have a temporary order for the night, which BPD told them no since it was harassment. At the 7:18 mark, the Complainant stated that “last night their neighbor threatened to shoot them.”

On December 8, 2023, Investigator Vergara interviewed a BPD Officer who was named on Incident History on May 4, 2023. Present during the interview was a Union Representative. The Officer stated that they didn't remember when they received the call from the Operator, when they arrived at the Complainant's address, or when they left the area. The Officer stated that the call was for a loud party, to which they responded with their partner. The



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Officer said that they don't remember writing the report for this call. They stated that on the CAD sheet, under the disposition to close the event, they used 14P because they asked for a callback, and nobody came to the door. The Officer also stated that they walked around the premises and they didn't hear any loud music. Investigator Vergara provided a copy of the CAD sheet to the Officer to refresh the officer's memory of events. The Officer stated that according to the CAD sheet, he was dispatched at 1:28 AM, arrived at the scene at 1:33 AM, and left at 1:38 AM. The Officer stated that he does not remember where he was stationed before he attended to the call but stated that according to the CAD sheet, at 00:30:51, he was attending the SSA. The Officer stated that they were not worried about a person with a gun or any threats for the Complainant's call. The Officer stated that the call was for a loud party, and they were not aware of any threats made with a gun. The Officer stated that they don't recall hearing the Dispatcher mention anyone making threats with a gun. The Officer stated that they would let them know about the threats with the gun if they were on the notes. The Officer further stated that there are procedures for responding to a call where there are threats with a gun. The Officer said that he doesn't remember talking to anybody. The Officer stated that he and his partner's BWC showed them knocking on the door, but nobody answered, so they left. The Officer further stated that not even the Complainant's neighbor answered the door. The Officer said that he could not recall if the Complainant had called before regarding the same incident.

On December 8, 2023, a Union Representative was present during the interview with an Officer and added that reaching out to the parties is the first thing to do when dealing with threats with a gun. Officers need to find out if the person making the threats is on the scene, gather information from both parties, and write a report. He also stated that this call was labeled as a Priority 5 because it was defaulted for a Loud Party. He also stated that a Priority 1 event would be, for example, Assault and Battery. He further commented that operators are in charge of labeling the calls, and officers go in and investigate. If they do not find the parties, the Officers give a disposition, and it's closed out. The Union Representative stated that if all units are responding to a major incident, BPD tries to send a police officer as soon as possible. The Operator would give out that information over the radio so one cruiser could be pulled away from the major incident. The Union Representative said if everyone were responding to a major accident, it would take a while for officers to arrive at the scene. The supervisor could activate the Emergency Deployment Teams (EDT), which would allow a unit from another area or district to come over and handle the call. He also stated that in this incident, there were no notes on the CAD Sheet about a person with a gun, and the only note was from the Loud Party. He also added that they will not be allowed to remove a unit from a major incident for a Loud Party because it's not a pressing active matter that puts anyone in danger. The Union



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Representative also stated that if the call were for making threats with a gun, they would elevate the Priority of the call. The Union Representative also stated that the Complainant's call took longer to get assisted because of the SSA and because BPD receives so many calls that they have to go by Priority.

On February 27, 2024, Investigator Vergara sent interview requests to three Operators who were named in Incident History. However, Neal O'Brien contacted Investigator Vergara to inform her that after a discussion with Local 888 President Thomas McKeever, Operator(s) will not be present at the interview. All of the Operators declined the interview requests sent by Investigator Vergara.