



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

CIVILIAN REVIEW BOARD COMPLAINT #255

INVESTIGATOR: Diana Vergara

DATE OF INCIDENT: September 27, 2023 **DATE OF FILING:** September 29, 2023

COMPLAINANT: Complainant

COMPLAINT SUMMARY: Complainant alleges harassment and defamation by a BPD officer.

OFFICER(S):

1. Avila, Mariana Victoria, ID #144324

DISTRICT: Boston Police Department E-13

ALLEGED VIOLATION OF RULE:

Rule 102§Sec. 3 Conduct:

Rule 102§ 18 Personal Business

Rule 113§ Public Integrity Policy, Cannon 8

Rule 114§ 2 Scope

Rule 102§Sec. 3 Conduct: Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department. Conduct unbecoming an employee shall include that which tends to indicate that the employee is unable or unfit to continue as a member of the Department, or tends to impair the operation of the Department or its employees.

Rule 102§18 Personal Business: Employees of the Department shall not engage in personal business while on duty and shall avoid all activities not relating directly to their Departmental responsibilities.

Rule 113§Public Integrity Policy, Canon 8: “Employees shall conduct their private affairs so as not to reflect unfavorably on the Boston Police Department; or in such a manner as to affect their ability to perform their duties honestly, effectively, fairly, and without impairment.”



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Rule 114 Harassment § 2 Scope: All employees are expected to conduct themselves in a professional manner with respect and concern for their fellow employees and members of the public.

COMPLAINT SUMMARY:

On September 29, 2023, Complainant, (the “Complainant”) filed a complaint with the Office of Police Accountability and Transparency (OPAT) regarding Boston Police Officer Marianna Avila. She alleged that Officer Avila harassed her and defamed her character.

The complaint stemmed from a September 2022 incident that appears to have occurred at the complainant’s job, Pre-school, which is also the preschool where Officer Avila’s child attended. It appears Officer Avila believed her child had been physically abused at the school. She filed a 51A and a police report against the Complainant and two other staff members. The Complainant was placed on administrative leave during the Department of Children and Families investigation. Initially, the DCF found the Complainant responsible but reversed their decision during the appeal. Upon returning to work around October 2022, while walking with children from work, Officer Avila drove by in a police cruiser, made eye contact with the Complainant, and rolled her eyes. Shortly after this encounter, Officer Avila filed another 51A complaint against the Complainant for neglect with DCF. That complaint was immediately dismissed.

She also believed that BPD Detective Ana C. Almeida called her workplace to harass her on behalf of Officer Avila. Due to these incidents, the Complainant believed that she was harassed and began to worry for her safety and the safety of her family at a point where she had difficulty leaving home for fear of retaliation from Officer Avila.

OPAT FINDINGS AND RECOMMENDED DISPOSITION:

Avila, Mariana Victoria # 144324:

Rule 102§ 3 Conduct: **Sustained**

Rule 102§ 18 Personal Business **Sustained**

Rule 113§ Public Integrity Policy, Cannon 8 **Sustained**

Rule 114§ 2 Scope **Sustained**

OPAT staff recommends to the Civilian Review Board that this case be considered **Sustained**. Based on the evidence, Investigator Vergara determined that while on duty Officer Avila posted several messages on her Facebook page and tagged local news anchors about the Complainant's personal information.



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In accordance with the Boston Police Discipline Matrix, the OPAT staff recommends to the Civilian Review Board that Officer Avila be issued a **2-5 day suspension, and required to participate in training focused on ethical standards**. Officer Avila's disciplinary record includes one (1) prior violation of Conduct Unbecoming.

CRB FINDINGS:

In the matter of OPAT Case #255, with regard to Officer Avila and the violations of BPD Rule 102§3 Conduct, Rule 102§ 18 Personal Business, Rule 113§8 Public Integrity Policy, the Civilian Review Board reached a unanimous decision (6-0) to **Sustain**. With regard to the allegation of the violations of BPD Rule, 114§ 2 Scope the Civilian Review Board voted unanimously (6-0) to adopt a disposition of **Not Sustained** Based on the Discipline Matrix established by the Boston Police Department

The Civilian Review Board has recommended that Officer Avila be issued a **2-5 day suspension**

INVESTIGATION SUMMARY

Supporting Evidence

1. Complainant's interview	2. Witness #1 interview	3. BPD Avila's interview
4. Witness # 2' Interview	5. BAT Sheets 2/16/23 & 09/11/23	6. Police report I# 222084118 10/31/22
7. Department of Children and Families (DCF) Fair Hearing Decision (Reversed) 07/14/2023	8. Link- Investigation Outcome. (No death, serious, or child abuse identified)	9. Officer Avila's Facebook page
10. Early Education and Care Investigation (EEC) 12/21/2022	11. Attorney Dunlap's statement on behalf of his client, Detective Ana C. Almeida's involvement in I# 222084118	

Investigation:

On October 30, 2023, Investigator Vergara spoke with the Complaint, Officer Avila, other than being her son's teacher. She was and is confused as to why the Officer was targeting



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her. She noted that both DCF allegations against her from Officer Avila were dismissed and expressed a desire for the Officer to leave her alone, citing safety concerns and significant anxiety. She also shared the Fair Hearing Decision from DCF, which she appealed on March 10, 2023, resulting in a "Reversed" conclusion. Investigator Vergara later confirmed this fact by reviewing the DCF report.

On November 12, 2023, Investigator Vergara was able to find Officer Avila's Facebook page depicting three (3) posts from February 16, 2023, at 9:25 AM, February 16, 2023, at 9:25 PM, and September 11, 2023, at 2:34 PM. The posts were regarding the Complainant and the alleged incident. The post had a photo of a child's side face, a DCF determination form, and a link to the EEC Investigation Outcome.

On November 13, 2023, Investigator Vergara spoke over the telephone with Witness # 1, the Complainant's co-worker. Though she was not present during Officer Avila's son's incident, she verified that BPD Detective Ana Almeida called her inquiring about the Complainant. Investigator Vergara later confirmed that Detective Almeida was assigned to the BPD criminal case regarding the incident. She also spoke with a DCF worker about 51As 51A that Officer Avila filed, which were all dismissed. Most importantly, Witness # 1 confirmed that she saw Officer Avila driving slowly around the school, which believed was likely searching for the Complainant to file another report. This is important because it corroborates the Complainant's statement that Officer Avila was coming to the school to harass her.

On December 4, 2023, Investigator Vergara interviewed Officer Avila, represented by attorney Peter D. Pasciucco. She confirmed she filed the DCF and a police complaint against the Complainant. She knew Detective Almeida was investigating the police matter but claimed she did not know that the DCF's initial decision had been reversed. She claimed that on September 27, 2023, she was patrolling the Jamaica Plain area but was unaware that the Complainant had returned to work. She noted that she spotted the Complainant from the corner of her eye but did not make eye contact or react. She confirmed she stopped her cruiser briefly to verify that it was in fact the Complainant before leaving the area.

When asked about her February Facebook posts regarding her son's injuries and DCF investigations, she said she was unaware that the DCF findings were reversed when she posted. She also claimed she did not remember whether she was working she posted on Facebook. Investigator Vergara later confirmed through BPD's BAT sheet that Officer Avila was on duty on both days and times when she made the posts.



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During the interview Officer Avila showed a lack of concern for the Complainant's well-being. For example, when shown the OPAT's complaint summary, Officer Avila responded, *"She can feel whatever she wants to feel because clearly, nobody cares about my feelings when it comes to my child." "We know the whole lingo about how people feel about BPD when they start saying 'I feel for my safety didn't feel threatened all this time, and all of a sudden a DCF complaint came up, and now she feels threatened."* Finally, she noted that she left her gun in the car when she was at the school and expressed frustration that no one apologized to her.

On December 12, 2023, Investigator Vergara spoke to Witness # 2, who worked at the Preschool and has known Officer Avila for two months and has nothing bad to say about her. She expressed that the Complainant was absent when she started working for the school due to an investigation.

CONCLUSION

Officer Avila violated Rule 102§3 Conduct, Rule 102§ 18 Personal Business, Rule 113§ Public Integrity Policy, Canon 8, and Rule 114§ 2 Scope when she posted several messages on her Facebook, attacking the complainant, while on duty and she also drove by the school several times seemingly intimidating the Complainant.