



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 24, 2018

CASE NUMBER: 2017OPA-0646

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	Bias-free Policing - 5.140 - Bias-Free Policing, 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	Professionalism - 5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	Bias-free Policing - 5.140 - Bias-Free Policing, 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	Professionalism - 5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	Bias-free Policing - 5.140 - Bias-Free Policing, 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	Professionalism - 5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	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:

The Complainant alleged that the Named Employees were unprofessional during their interactions with the Complainant and engaged in Bias Policing.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

Bias-free Policing - 5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

The Named Employees responded to a domestic disturbance. When they arrived at the residence, the Complainant, who was Asian-American, informed the officers that his mother was not letting him into the home and requested that the officers kick down the door. The officers indicated that they could not do this, but offered to contact his mother to help resolve the situation. The officers warned the Complainant against destroying property in and



around his mother's house. The officers told the Complainant that he should contact the police if he needed further assistance.

The officers left the scene, but shortly thereafter they received a call from the Complainant's mother in which she alleged that the Complainant was trying to break into the home. The officers returned to the scene and spoke with the Complainant's mother. She indicated that the Complainant had moved out of their home a week prior and only had limited things left there. She stated that she changed the locks when he moved out. She stated that the Complainant suffered from bi-polar disorder and had been acting inappropriately towards her. The officers warned the Complainant's mother that she was not permitted to change the locks on a tenant who had not yet moved out and that, if she did so, she could be subject to civil proceedings.

The officers then spoke with the Complainant. The Complainant stated that he had been homeless for the last week, but that he had not yet moved out of his mother's house. The Complainant wanted the officers to document that his property had been destroyed, but he could not specifically identify what property that was. His mother denied destroying any of his property. The officers reported that the Complainant appeared unhappy with the situation and the lack of a resolution. The Complainant also spoke with a supervisor, Named Employee #2 (NE#2). He was further unsatisfied with this conversation. When the officers left the residence for a second time, the Complainant was in his vehicle but had not yet driven away.

After the incident, the Complainant spoke with a Department Lieutenant and made several complaints against the Named Employees. He asserted that they were "rude" and "aggressive" towards him and treated him "poorly." He also stated that the officers laughed at him and tried to get him to say that he no longer lived at the residence, which was incorrect. The Complainant further intimated that the Named Employees also were biased towards him based on his status as a member of minority. As a result of this conversation, the Lieutenant referred this matter to OPA and the instant investigation ensued.

OPA interviewed all three of the Named Employees. Each denied engaging in biased policing during the incident. OPA attempted to interview the Complainant, but he pointed OPA to his statement to the Lieutenant and refused to provide a further recorded statement.

The officers' interactions with the Complainant and the Complainant's mother were captured in their entirety by In-Car Video (ICV). I note that, after reviewing the video, I found no evidence on the ICV of the officers laughing at the Complainant or trying to convince the Complainant that he did not live at his mother's residence.

SPD policy prohibits biased policing, which it defines as "the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual." (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

Based on my review of the objective evidence in this case – most notably the ICV – I find no evidence that the Named Employees engaged in biased policing. While Named Employee #3 (NE#3) and to a lesser extent NE#2 engaged in argumentative conversations with the Complainant (as discussed more fully below), this does not constitute bias. Moreover, the fact that the officers did not kick down the door of the Complainant's mother's



residence and arguably took her side over the Complainant's also does not constitute bias. The officers had no legal authority to kick down the door to the residence and I agree with their decision not to do so.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

Professionalism - 5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.)

From a review of the video, I find that Named Employee #1 (NE#1)'s demeanor during his interaction with the Complainant was professional and consistent with the Department's expectations and policy. As such, I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #2

Professionalism - 5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.)

The ICV reflects that, at one point during their action, the Complainant contended that he was told that kicking down the door was legally acceptable and NE#2 indicated to him that this was not the case. In response, the Complainant asserted that this was not what had been told to him. NE#2 stated: “I said exactly that and yes it is recorded.”

The fact that NE#2 and the Complainant may have argued about this point does not constitute unprofessionalism on NE#2's part. I find no evidence in the record that NE#2's conduct during his interaction with the Complainant violated SPD policy. As such, I recommend that this allegation be Not Sustained – Unfounded.



Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegation #2

Professionalism - 5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.)

NE#3 and the Complainant engaged in several argumentative interactions. At one point, NE#3 told the Complainant: “you’ve had an attitude since we got here.” NE#3 explained that he was annoyed with the Complainant and the tone of his voice as captured by the ICV reflected that annoyance. NE#3 stated that he was annoyed because the Complainant was repeatedly asking them to kick down his mother’s door, which they could not and would not do, and he was, in NE#3’s opinion, continuously unreasonable.

At another point, when the Complainant was speaking to NE#2, NE#3 interjected and told the Complainant to not put words in his mouth. At his OPA interview, NE#3 acknowledged that, in hindsight, he should not have interrupted the Complainant’s discussion with NE#2 and made that statement and should have waited until after the incident to address this issue with NE#2.

On a third occasion, the Complainant stated to NE#3: “you’re still talking to me.” In response, NE#3 said: “I can talk to you if I want to.” NE#3 told OPA that he was again annoyed when he made that statement. NE#3 recognized that his tone and demeanor were rude in that instance. However, NE#3 denied that his overall conduct was unprofessional.

I understand why NE#3 may have been frustrated by his interaction with the Complainant. However, I find that he made several statements that were unnecessary and were borderline unprofessional. That being said, I do not believe that his conduct was so clearly outside of policy as to warrant a sustained finding. Instead, I conclude that a training referral is the appropriate disposition.

- **Training Referral:** NE#3 should receive re-training on the Department’s professionalism policy by his chain of command or another entity that his chain of command deems appropriate. NE#3 should further receive counseling from his chain of command concerning the Department’s expectations of his conduct and the requirement that he strive to act professionally even when dealing with difficult or unreasonable individuals. This re-training and associated counseling should be memorialized in a PAS entry.



Seattle
Office of Police
Accountability

CLOSE CASE SUMMARY

OPA CASE NUMBER: 2017OPA-0646

Recommended Finding: **Not Sustained (Training Referral)**