



## CLOSED CASE SUMMARY

ISSUED DATE: MARCH 4, 2019

CASE NUMBER: 2018OPA-0987

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Unfounded)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 14. Retaliation is prohibited	Not Sustained (Unfounded)

***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 contacted SPD and requested their assistance in enforcing a Vulnerable Adult Protection Order (VAPO) that the Complainant believed was in place at the time. The Complainant alleged that, after the Named Employees arrived on scene, they inappropriately chose not to enforce his VAPO or take action against the female perpetrator of an alleged domestic violence incident because of their gender bias. The Complainant also alleged that the Named Employees failed to assist the Complainant because they were retaliating against the Complainant for having complained in the past to OPA about one of the Named Employees.

**ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were dispatched to a report of a protective order violation. The Computer Automated Dispatch (CAD) system provided information to NE#1 and NE#2 about their dispatch, which included the following text, “[Complainant] has no contact order against female in [a specific



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apartment], female threw away males (sic) belongings today and threw a coffee cup at [the Complainant], medics declined, separated now.” While in route to the call, NE#1 checked his Mobile Data Terminal (MDT) for protection orders associated with the Complainant, but found none listing the Complainant as a protected person. When NE#1 and NE#2 arrived on scene they listening to the Complainant’s description of events and his desire for NE#1 and NE#2 to enforce his VAPO against the alleged perpetrator or to have her arrested for domestic violence. NE#1 and NE#2 explained to the Complainant that they were unable to take the actions he requested because there was insufficient evidence of domestic violence and no evidence of the VAPO he described. Ultimately, NE#1 and NE#2 documented the incident and suggested that the Complainant take the incident report to court to determine why there was no records concerning the VAPO.

The Complainant’s allegation that the Named Employees failed to take action due to a gender bias were captured on Body Worn Video (BWV). The Complainant specifically stated that he believed that NE#1 and NE#2 chose not to take any law enforcement action because his allegation of domestic violence was against a female. He further contended that the Named Employees’ decision was based on their retaliating against the Complainant for filing previous OPA complaints against NE#1.

During its investigation, OPA contacted the King County Superior Court (KCSC) and confirmed that there was not a valid VAPO in the system. OPA further established that there was no VAPO in effect at the time of this incident. OPA learned from the KCSC that there were administrative and/or legal issues associated with the Complainant’s VAPO filing that required the attention of the Complainant and his attorney before the VAPO could be validated and issued by the KCSC.

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 gender. (*See id.*) If the Complainant’s allegation in this case was true, it could have constituted a violation of policy.

Based on OPA’s review of the evidence, there is no indication that either of the Named Employees engaged in biased policing. The Named Employees acted based on the facts available to them at the time and not due to the gender of the Complainant or that of his alleged perpetrator. That there was no bias on the part of the Named Employees is further confirmed by the BWV of this incident. Furthermore, the Named Employees’ statement to the Complainant that there was no VAPO in effect at the time of the incident was accurate and was supported by the information obtained by OPA from the KCSC. As such, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

### **Named Employee #1 - Allegation #2**

#### ***5.001 - Standards and Duties 14. Retaliation is prohibited***

SPD policy precludes its employees from engaging in retaliation. (SPD Policy 5.001-POL-14.) SPD employees are specifically prohibited from retaliating against a person who engage in activities including, but not limited to, “oppos[ing] any practice that is reasonably believed to be unlawful or in violation of Department policy\_” or “who otherwise engages in lawful behavior.” (*Id.*) Retaliatory acts are defined broadly under SPD’s policy and include “discouragement, intimidation, coercion, or adverse action against any person. (*Id.*)



For the reasons discussed above, there is also no evidence that either of the Named Employees engaged in any retaliatory actions against the Complainant in their handling of this incident. Instead, they did not take law enforcement action because there was not a valid VAPO in effect at the time. As such, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

**Named Employee #2 - Allegations #1**

***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**

***5.001 - Standards and Duties 14. Retaliation is prohibited***

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Unfounded.

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