



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 11, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0435

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded
# 2	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	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 alleged that the Named Employee was racially biased in his engagement with him. The Complainant further alleged that the Named Employee accused him of intensifying a situation for which the Complainant originally requested police.

SUMMARY OF INVESTIGATION:

The Complainant filed an online complaint with OPA alleging that Named Employee #1 (NE#1) was racially biased and unprofessional. OPA opened this investigation.

During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report and Supplement, and Body Worn Video (BWV). OPA also interviewed the Complainant and Named Employee. NE#1's entire response to, and investigation of, this incident was recorded on his BWV. As such, these underlying facts are not in credible dispute.

The Complainant called 911 to report that a female, Community Member #1 (CM#1), tried to steal his food and attempted to pepper spray him when he pursued her. NE#1 was the primary officer who attended the call. Two Witness Officers also attended the call.

After arriving at the scene, NE#1 contacted CM#1 outside her apartment building. CM#1 told NE#1 that an argument began after she and the Complainant, one of her neighbors, had a disagreement about politics and civic matters. CM#1 stated that she realized that she and the Complainant "were not on the same page" in their thinking about the issues in the discussion, so she left. She alleged that the Complainant followed her and began calling her names to which she responded by calling him names. The Complainant followed CM#1. Independent footage of the incident, which was provided later by the Complainant, confirmed this version of events.



CM#1 also reported to NE#1 that the dispute escalated when she took a bag of fruit from a communal table in the lobby of their building. CM#1 stated that tenants often put items like this out on this table to share with other residents. CM#1 stated that the Complainant closely followed her and screamed that the fruit was in fact, his. CM#1 stated that, as the Complainant continued to follow her, she tried to spray him with pepper spray and threw the fruit at the Complainant. CM#1 said she then called 911.

After speaking with CM#1, NE#1 entered the apartment building and went to speak with the Complainant. The Complainant confirmed that he and CM#1 got into an argument about policing and city politics. The Complainant stated that he started recording the incident and showed NE#1 the video. The Complainant told NE#1 that he and CM#1 separated, but later saw each other again in their building lobby. The Complainant stated that he was unloading his groceries in the kitchen when he saw that CM#1 took a bag of his fruit. The Complainant said that CM#1 refused to put the food back, so he followed her. The Complainant said that CM#1 then threw the fruit at him and tried to pepper spray him.

Both the Complainant and CM#1 told NE#1 that they never wanted to speak with each other again. NE#1 advised both parties that was a smart decision, provided them with business cards, and left. No arrests were made.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 engaged in bias-based policing based on his race.

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-POL.) This includes different treatment based on the race of the subject. (See id.)

The Complainant stated that NE#1 “turned the tables” on him when he was the one who requested police and that this would not have occurred if he was not an African American male. The Complainant believed that the female got preferential treatment as a White woman. BWV captured NE#1 telling the Complainant that CM#1 did “the right thing by walking away (from their argument) and that he “...could easily stop engaging with her.” NE#1 stated walking away is an action “that anybody can take at any time.” The Complainant admitted that he followed CM#1 and continued to shout at her.

After the Complainant gave NE#1 his version of events and showed him the recording on his phone), NE#1 stated to the Complainant “...It looks to me from your video that you're being a little bit more of an instigator than she is. I just want you to...let you know that. Okay.” NE#1 told OPA that “...the video...from my perspective (showed)...kind of the opposite of what he thought it did. And I was just trying to inform him of that, of that information.” NE#1 acknowledged he did not have to tell the Complainant his opinion of the video. NE#1 told OPA that he did, “to provide more information for him. I think more information is always a good decision in this line of work and trying to explain, as I did with him, all the information that I had at that time, and looking at the video that's what, that's what I thought.”



The Complainant alleged that NE#1 told him that he did not need to see a second video of an interaction between the Complainant and CM#1, and as a result the Complainant believed that NE#1 had a racial bias towards him. But BWV showed the Complainant describing the second video as being from the prior year. When the Complainant mentioned the other recording, NE#1 said nothing and continued with his questions. This was not demonstrative of racial bias. It was reflective of the fact that a video from a year prior was not relevant to NE#1's primary investigation.

Ultimately, given the totality of the above, OPA concludes that the Complainant's actions, not his race, were the basis for the law enforcement action taken towards him. OPA finds no indication that bias played any part in this. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 was unprofessional by talking to him in a condescending manner.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (Id.) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (Id.)

When asked by OPA about the Complainant's statement that he spoke with him in a condescending tone, NE#1, "I do apologize that he felt that way. It wasn't my intention. Sometimes during my job, it's important that I get out information to people in an orderly and prompt fashion. And I think that may have, executing that may have made him feel that that what he was saying I didn't think was important, which was not the case."

OPA reviewed the BWV and identified that NE#1 spoke with both involved parties and attempted to reflect the events back to them, to possibly resolve the matter from reoccurring. OPA reviewed the BWV and did not note any condescension in the tone or explanation by NE#1 to the Complainant. Regardless, OPA accepts that the Complainant was unsatisfied with the outcome of his complaint to SPD relating to what is alleged to be an ongoing issue with CM#1.

NE#1 also spoke with the Complainant with respect to how CM#1 took food, which was not clearly identified as the Complainant's. The Complainant appeared to understand how this could have been the interpretation. The Complainant stated that CM#1 only walked away because he started recording her. Indeed, the Complainant provided independent footage, which—if anything—underscored his own escalatory behavior during the initial confrontation. OPA found that throughout the exchange with the Complainant that NE#1's engagement was one which would have the tendency to bolster trust in the Department, not the opposite. On concluding the call, NE#1 gave the Complainant a business card and case number. The Complainant thanked NE#1.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**