
Issued Date: MARCH 31, 2024

From: Director Gino Betts JR., Office of Police Accountability

Case Number: 2023OPA-0439



Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing
Finding: Not Sustained - Unfounded (Expedited)
- 2. Allegation #2:** 15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence
Finding: Not Sustained - Lawful and Proper (Expedited)

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:

Named Employee #1 (NE#1) responded to a vehicular collision involving the Complainant and Community Member #1 (CM#1). The Complainant alleged that NE#1 engaged in racially motivated bias-based policing by primarily speaking with CM#1. The Complainant also alleged that NE#1 conducted an incomplete investigation.

Administrative Note:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On November 2, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

On October 3, 2023, the Complainant submitted an OPA complaint, explaining that CM#1's vehicle rear-ended his own. He wrote that CM#1 was "under the influence of both drugs [and]

alcohol.” He wrote that NE#1 engaged in racially motivated bias-based policing by only speaking with CM#1 and failing to investigate CM#1’s impairment.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), traffic crash report, and collision report. OPA also spoke with the Complainant.

On September 29, 2023, at 9:34 PM, CAD call remarks noted, “2 VEH[ICLE] ACCIDENT, TRUCK [VERSUS SEDAN], BLOCKING, UNK[NOWN] INJURIES, DRIVER OF TRUCK IS STUMBLING.”

NE#1 responded to the incident location and activated his BWV, capturing the following:

NE#1 contacted the Complainant and CM#1. NE#1 documented their information and said he would photograph the cars. NE#1 asked the Complainant whether he thought his vehicle was drivable. The Complainant replied yes and described where CM#1 struck him. NE#1 approached CM#1 and noted that CM#1’s mouth was bleeding, but CM#1 declined a fire department evaluation. NE#1 asked CM#1 what happened. CM#1 admitted fault, saying he was looking at Google Maps. CM#1 denied drinking alcohol but admitted to consuming fentanyl a few hours earlier. NE#1 noted that CM#1’s eyes were “super constricted.” CM#1 consented to field sobriety tests.

The Complainant told NE#1 that he stopped for pedestrians crossing the street. The Complainant said CM#1 struck his rear. NE#1 discussed possible options the Complainant could pursue to resolve the collision. NE#1 said CM#1 was at fault. The Complainant left after NE#1 said he was free to leave.

A drug recognition expert (DRE) arrived and evaluated CM#1. The DRE did not find evidence of impairment.

A witness officer wrote traffic crash and collision reports consistent with the abovementioned evidence. The collision report indicated that CM#1 was cited for speeding.

On October 23, 2023, OPA spoke with the Complainant. He said NE#1 did not ask him about what happened and felt ignored because he was Asian. He denied hearing NE#1 make racial statements. He expressed concern that CM#1 was not cited or arrested. He believed NE#1 primarily spoke with CM#1.

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 that NE#1 engaged in racially motivated bias-based policing by primarily speaking with CM#1.

Biased policing means “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well as other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. It includes different treatments based on race. See *id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

Here, BWV captured NE#1 speaking with both parties. However, NE#1 talked to CM#1 longer based on CM#1’s bloody mouth and the information reported to him. CM#1 admitted causing the collision and consuming fentanyl a few hours earlier, requiring a DRE to evaluate CM#1. The evidence at the incident location corroborated the Complainant’s inculpability. NE#1 also suggested options the Complainant could consider for resolving the collision, such as contacting his insurance company or a small claims court action. NE#1 documented both parties’ information. The Complainant also acknowledged that NE#1 made no racial statements. The record reflects no evidence of race impacting NE#1’s investigation.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

Named Employee #1 – Allegation #2

15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence

The Complainant alleged that NE#1 conducted an incomplete investigation.

For primary investigations, officers must conduct a thorough and complete search for evidence. SPD Policy 15.180- POL-1. Sworn personnel must know how to collect the most common physical evidence that might be encountered in a primary investigation. *Id.* Only evidence impractical to collect or submit to the Evidence Unit shall be retained by the owner. *Id.* Officers shall photograph all evidence retained by the owner. *Id.*

Here, NE#1 spoke with both parties, documented both parties’ information, and instructed a witness officer to photograph the vehicles. The Complainant was unaware that a DRE evaluated CM#1 and cleared him after the Complainant left the scene. The Complainant was also unaware that CM#1 was later cited for speeding. Under these circumstances, NE#1 conducted a thorough and complete investigation.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**