



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 24, 2018

CASE NUMBER: 2018OPA-0461

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint	Not Sustained (Lawful and Proper)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 3	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 4	5.140 - Bias-Free Policing 5. Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	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 Employees stole money from him. It was also alleged that Named Employee #1 may have engaged in biased policing, may have failed to report an allegation of biased policing, and may have failed to assist the Complainant in filing a complaint.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 2. Employees Will Assist Any Person Who Wishes to File a Complaint



The Complainant was investigated by officers employed by the BSNF Railway when he illegally stopped on the railway tracks and was smoking marijuana in his car. SPD officers, including the Named Employees, arrived on scene and Named Employee #2 (NE#2) subjected the Complainant to field sobriety tests. Based on the Complainant's performance, NE#2 and Named Employee #1 (NE#1) conferred and decided that there was sufficient probable cause to place the Complainant under arrest. NE#1 effectuated the arrest.

At the time of his arrest, the Complainant asserted that he was experiencing pain from handcuffs. NE#1 reported the complaint of pain to a supervisor and helped ensure that a Type I use of force investigation was completed. As discussed more fully below, the Complainant also alleged that money had been stolen from him. NE#1 also reported this claim to his supervisor. His supervisor came to the scene, interviewed the Complainant, and, based on the nature of the allegation, initiated an OPA complaint.

SPD Policy 5.002-POL-2 states that Department employees will assist any person who wishes to file a complaint. The policy further instructs that "employees will assist the complainant by taking the complaint and passing it on to a supervisor or OPA." (SPD Policy 5.002-POL-2.)

As set forth above, NE#1 complied with this policy when he reported both the Complainant's complaint of pain and the allegation that money had been stolen from the Complainant to a supervisor. That supervisor then made an OPA referral. Notably, under SPD policy, NE#1 was required to report allegations of misconduct to either OPA or a supervisor. When he reported to his supervisor, he acted consistent with policy.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

When the Complainant was removed from his vehicle and investigated for DUI, his wallet and keys were put on the hood of his car. Once the Complainant was placed under arrest, NE#2 stored his personal property, including the wallet, in a paper bag. NE#2 then took the paper bag to the precinct. The paper bag was later given to NE#1. NE#1 transported the Complainant to Swedish Hospital. NE#1 brought the paper bag along with them. While at the hospital, the Complainant stated that money had been stolen from his wallet. He first contended that \$700 had been taken, but later claimed that the missing amount was \$100.

Both NE#1 and NE#2 stated that they did not open or inventory the wallet. NE#2 recalled that there appeared to be a significant amount of money in the wallet, but he did not know how much. Named Employee #3 (NE#3) was at the scene of the arrest, but did not touch or take custody of the wallet at any time. All of the Named Employees denied taking money from the Complainant.

The Named Employees' interactions with the Complainant were virtually all captured on Body Worn Video (BWV). Based on a review of that video, there is no evidence that they took the Complainant's money.



I note that the Complainant also believed it possible that the BSNF Railway officers took his money. As such, he could not definitively identify who engaged in this activity or, for that matter, when this conduct allegedly occurred.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

Had the Named Employees stolen money from the Complainant, that conduct would, of course, have been contrary to policy. However, based on the information in the record, there is insufficient evidence to conclude that the Named Employees did so. Moreover, the Complainant did not foreclose the possibility that the money could also have been taken from him by the BSNF Railway officers. As such, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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

Named Employee #1 - Allegation #3

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

The Complainant alleged that he was subjected to biased policing. However, he claimed that the bias was on the part of the BSNF Railway officers, not NE#1. As such, it is unclear why this allegation was classified against NE#1.

Regardless, there is no evidence that he engaged in biased policing. Accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #4

5.140 - Bias-Free Policing 5. Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing

The Complainant made an allegation of biased policing in NE#1's presence; however, the allegation was against the BSNF Railway officers, not against NE#1 or any other Department employee. NE#1 did not report the allegation of bias to a Department supervisor. He stated that he did not do so because a Department employee was not the subject of the complaint. He told OPA that had a Department employee been the subject, he would have reported the allegation as required by policy.

OPA also interviewed NE#1's supervisor. The supervisor agreed with NE#1 that there was no obligation to report a bias allegation made against a non-SPD employee and stated that, at the very least, the policy was unclear in this regard.

SPD Policy 5.140-POL-5 requires employees to call a supervisor in response to allegations of biased policing. This includes providing sufficient information to the supervisor to allow a determination as to what occurred and what the nature of the bias allegation is. (SPD Policy 5.140-POL-5.)

I agree with both NE#1 and his supervisor that SPD policy did not require him to report a bias allegation made against a member of another law enforcement agency. As such, I recommend that this allegation be Not Sustained – Unfounded as against him.



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

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

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)**

Named Employee #3 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

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)**