



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 22, 2019

CASE NUMBER: 2018OPA-0973

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 10. Employees Shall 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 engaged in biased policing by not taking law enforcement action during a domestic dispute. The Complainant also alleged that NE#1 was unprofessional towards her.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was 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

Police were called to family dispute that turned physical. The incident stemmed from the exchange of children for a custodial transfer in a parking lot. The Complainant in this case is the paternal grandmother of the children being exchanged. During this encounter, several assaults allegedly occurred between the mother of the children and the Complainant, the Complainant’s son and the mother’s new boyfriend, and between the mother and the Complainant’s son. When the officers responded, the situation was volatile and they reported difficulty determining who was the primary aggressor. This was due both to the chaotic nature of the incident, as well as because of the conflicting information that was provided by the involved parties. Independent witnesses were interviewed by the officers; however, those individuals only witnessed parts of the interactions and could not provide a conclusive recounting as to who was the primary aggressor.



Based on the above, the officers made the decision to call a supervisor, Named Employee #1 (NE#1), to the scene. NE#1 spoke with the involved parties and ultimately decided that there was insufficient evidence to determine who the primary aggressor was. As such, no one was arrested.

The Complainant later initiated this investigation with OPA. She contended that, because she and the other involved individuals were all White, no arrests were made. She alleged that, had the involved individuals been of different races, the officers would have taken someone into custody.

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.*)

From OPA’s review of the record, including the Department video that fully captured the incident, I find no evidence indicating that NE#1 engaged in biased policing or acted in any type of a discriminatory manner towards the Complainant. As discussed above, this was an emotionally charged incident in which it was unclear, based on the information available to the officers, who the primary aggressor was. As such, and under these circumstances, I do not find the decision not to make an arrest to have been unreasonable, let alone inappropriately based on bias. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

The Complainant also alleged that NE#1, as the supervisor on scene, was unprofessional due to SPD’s purported failure to take action and make an arrest.

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.)

As discussed above, the evidence was inconclusive as to who was the primary aggressor. This was due to the conflicting accounts provided by the involved parties and the fact that the video did not clearly establish what had occurred. I do not find the decision to not make an arrest to have been an incorrect one and it certainly was not unprofessional. Moreover, I find that NE#1 interacted with the Complainant calmly and respectfully and tried to address her concerns as well as he could given the complexity of the situation. At no time, did he treat her in a manner inconsistent with the Department’s policies or expectations.

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

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