



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 10, 2019

CASE NUMBER: 2018OPA-1032

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	5.140 - Bias-Free Policing 5. Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing	Not Sustained (Training Referral)

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)

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 did not timely respond to a collision that he was involved in and that this late response was based on his race and gender. OPA further alleged that Named Employee #1 may have failed to report an allegation of bias to his supervisor in potential violation of policy.

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 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

Officers, including the Named Employees, were dispatched to a hit and run collision. When they arrived, they met with an individual who informed the officers that his wife (referred to here as the Subject) had been involved in a collision with a car driven by the Complainant. The individual (referred to here as the husband) told the Named Employees that the Complainant stopped next to the Subject at a stop light and, at that time, spat on the Subject’s vehicle. The spit hit the passenger side window where the Subject’s daughter was sitting. The husband further explained that the Complainant engaged in reckless driving, which included making a sharp turn to move in front of



the Subject. At that point, the Subject could not evade the Complainant and the collision occurred. The husband stated that the Subject got out of her vehicle and photographed the scene and the condition of both cars. The husband indicated that the car was driven back to his residence by the Subject. He stated that the Subject did so because of the length of time it took the police to respond and because the Complainant's erratic conduct was causing her to fear for the safety of herself and her daughter, who was in the car at the time of the collision. The Named Employees also spoke to a security guard who was at the scene. The security guard relayed that he observed a disturbance involving the Complainant.

The Named Employees then made contact with the Complainant. He was emotional and repeatedly stated that he called for police assistance three hours prior. A supervisor was called to the scene. The Named Employees, and later the supervisor, continued to interact with the Complainant. Based on his behavior at that time, the officers concluded that it was likely that the Complainant was experiencing behavioral crisis. He appeared to be suffering from paranoid delusions, including that he was being followed by numerous individuals ("gang-stalking") and that there was a "conspiracy against" his cellphone. The Complainant told the Named Employees that he wanted to file a complaint due to the manner in which he was treated by SPD during this incident. Moreover, at one point, he also alleged that, had he been a White woman, the officers would have responded sooner.

After completing their on-scene investigation, the Named Employees went to the husband's and Subject's home in order to speak with the Subject. The Subject provided an account consistent with that conveyed by the husband. She indicated that the Complainant spat on her vehicle, caused the accident, and behaved in a concerning manner.

The Named Employees memorialized their investigation in a General Offense Report. They also generated a Traffic Collision Report, as well as a Crisis Template for the Complainant based on his behavior.

As discussed above, the Complainant made an allegation of biased policing. Specifically, he contended that, had he been a White woman, the officers would have more promptly responded to the scene of the collision. 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.*)

Based on OPA's review of the record – most notably, the Body Worn Video that fully captured the Named Employees' response to this incident, there is no indication that the Named Employees engaged in biased policing. To the contrary, the evidence in this matter shows the opposite – that the Named Employees' response to this incident and the law enforcement action they took had nothing to do with the Complainant's race and/or gender. For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #1 - Allegation #2

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



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.)

Here, Named Employee #1 (NE#1) summoned a supervisor to the scene. He appeared to do so in response to the Complainant's direct request to speak with a supervisor. However, prior to that statement, the Complainant also asserted that, had he been a White woman, the officers would have more timely responded to the scene. When the supervisor arrived, NE#1 briefed him as to what had occurred, but did not specifically notify the supervisor of the allegation of bias. From OPA's review of the record, it is unclear whether NE#1 heard the Complainant's statement and, if he did, that he recognized that it was a potential allegation of bias. Moreover, while NE#1 did not explicitly report the allegation of bias to a supervisor, he did call the supervisor to the scene. That being said, the supervisor did not conduct a Bias Review, as was required by policy, because this information was not relayed to him by NE#1 and because the Complainant did not reiterate his allegation of bias to the supervisor.

I conclude that NE#1 should have reported the Complainant's allegation of bias and the failure to do so was technically contrary to policy. However, based on the totality of the evidence, I find that NE#1 should receive a Training Referral rather than a Sustained finding.

- **Training Referral:** NE#1 should be retrained concerning the elements of SPD Policy 5.140-POL-5 and specifically the requirement to summon a supervisor to the scene in response to an allegation of biased policing. NE#1 should be counseled concerning his failure to do so here and should be reminded to more closely comply with this policy moving forward. This retraining and associated counseling should be documented and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**

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)**