



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 6, 2018

CASE NUMBER: 2017OPA-1318

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #5

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #6

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 engaged in biased policing towards her husband. The Complainant further alleged that Named Employee #1 and Named Employee #2 engaged in unprofessional conduct.

STATEMENT OF FACTS:

This is the second complaint filed by the Complainant stemming out of a law enforcement response to her residence. The first complaint, investigated under 2017OPA-1257, concerned the arrest of the Complainant's daughter. The officers responded based on a call for service from the Complainant and her husband (referred to here as the subject). The officers learned that their daughter had thrown a chair through a glass patio door and had assaulted the subject. Both the daughter and another individual (who fled the scene) were taken into custody. The Complainant and the subject were both extremely upset with the officers' decision-making in that case. This included the subject repeatedly raising his voice at the officers, criticizing their response to the call, and using profanities (for example, at one point the subject told an officer to "get the fuck out of my yard"). Moreover, both the Complainant and the subject alleged that the officers had engaged in biased policing. OPA's investigation resulted in no Sustained findings. OPA deemed the allegation that the officers had engaged in bias and that one officer had been unprofessional to be unfounded.

Several weeks after this incident, officers responded to another call for service from the Complainant's residence. This response was fully captured by both In-Car Video (ICV) and Body Worn Video (BWV). The officers were specifically dispatched concerning a report that the subject was suicidal. The caller was the subject's friend. When officers arrived at the residence, the caller met them outside. He told them that he had been with the subject earlier that evening and that they had been drinking. The caller stated that the subject had then been involved in an altercation with his family and seemed upset. The caller had received a text from the subject in which the subject stated something along the lines of: "It'll only hurt for a minute." The caller viewed this statement as expressing the subject's suicidality.

The subject's and Complainant's daughter came out of the residence and spoke with Named Employee #1 (NE#1). She told NE#1 that the subject was upset and could be suicidal. However, she did not relay any overtly suicidal statements made by the subject. The Complainant also exited the residence and spoke with the officers. She confirmed that the subject did want to hurt himself, but further stated that if the subject saw the officers it would serve to escalate this matter. The Complainant asked the officers to leave and they told her that they could not.

The subject then walked out of his residence. He was agitated and immediately aggressive towards the officers. NE#1 tried to speak with the subject and to convince him to let the officers help him. At one point, the subject threatened to assault the officers and asked whether that would get him arrested. NE#1 stated that he did not want to arrest the subject. However, at that point, the subject pushed NE#1. The subject was then placed under arrest. After refusing to get inside of a patrol vehicle, the subject was transported to the King County Jail in an ambulance.

The Complainant filed this complaint with OPA, alleging that the Named Employees were biased towards the subject based on his race. The Complainant also claimed that NE#1 and Named Employee #2 (NE#2) engaged in unprofessional behavior during this incident.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

The Complainant alleged that NE#1's behavior during this incident was unprofessional in a number of respects. First, she contended that NE#1 perpetrated a "trespass" onto her property. Second, she alleged that NE#1 insisted on remaining on her property even though she told him that doing so was unhelpful to the situation. Third, she stated that NE#1's presence and his interactions with the subject unnecessarily escalated the incident.

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.)

With regard to the Complainant's allegations, NE#1 was not trespassing on the Complainant's property because he was responding for a call for service concerning the possibly suicidal subject. Moreover, while the Complainant wanted NE#1 and the other officers to leave, NE#1 was warranted in staying there to continue his investigation and to determine whether the subject was a present and continuing danger to himself. Lastly, I am not convinced that NE#1 did anything to escalate this matter. Indeed, I think he actively tried to do the opposite by attempting to reason with the Complainant. Notably, it was not until the subject pushed NE#1 that any law enforcement action was taken towards him.

For the above reasons, I do not find that NE#1 acted unprofessionally during this incident. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

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

As a general matter, the Complainant alleged that all of the Named Employees engaged in biased policing when they responded to her residence, interacted with the subject, and placed the subject under arrest. When interviewed by OPA, she did not directly articulate how the officers engaged in biased policing. She did, however, reference the fact that her husband was African-American living in a predominantly White neighborhood. Moreover, the Department video of this incident clearly indicated that the subject believed that he was being subjected to biased policing; however, the exact reasons for why he believed this to be the case are unclear.

OPA interviewed all of the Named Employees. Each one denied engaging in biased policing. They universally stated that their concerns regarding the subject's safety prevented them from leaving him at the home at the time the Complainant requested that they do so. They further contended that the subject's erratic behavior, threats to harm officers, and the fact that he pushed NE#1 was the basis for taking him into custody, not 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.) This includes different treatment based on the race of the subject. (*See id.*)

Based on my review of the evidence, I find no support for the claim that the Named Employees took adverse law enforcement action against the subject based on his race or his membership in any other protected class. Instead, I find that they responded to his residence because of a report that he was suicidal and that, after they arrived at the scene, multiple individuals, including the Complainant, confirmed that the subject could potentially harm himself. At that point, the officers could not leave the scene until they were satisfied that the subject was not a danger to himself or others. Moreover, when the subject began demonstrating aggressive and erratic behavior, threatened officers, and actually pushed NE#1, the officers were obligated to take him into custody. Lastly, in OPA’s opinion, the Department video of the incident conclusively establishes that the Named Employees did not engage in biased policing. Indeed, it is instead consistent with the Named Employees’ recounting of this incident. For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

In addition to NE#1 engaging in unprofessional conduct, the Complainant alleged that one other officer also lacked professionalism. With regard to this officer, the Complainant stated: “the officer next to [NE#2] became visibly aroused at the idea that restraint may happen and language around taking him to his knees was used.” OPA believes that the officer the Complainant described was NE#2, given where he was standing while at the scene.

At his OPA interview, NE#2 denied in engaging in any such unprofessional behavior. Moreover, from my review of the Department video relating to this incident, I find no support for the allegation that NE#2 was acting as the Complainant described. As such, I recommend that this allegation be Not Sustained – Unfounded as against him.

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

Named Employee #2 - Allegation #2

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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #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 #2), I recommend that this allegation be Not Sustained – Unfounded.



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

Named Employee #4 - Allegation #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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #5 – Allegation #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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #6 – Allegation #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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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