



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 8, 2018

CASE NUMBER: 2018OPA-0415

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 (Inconclusive)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)

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:

An anonymous Complainant alleged that the Named Employee made a disparaging statement directed towards Muslims.

ADMINISTRATIVE NOTE:

This case was submitted for review to the OPA Auditor on October 19, 2018. That review was completed on November 5, 2018, two days prior to the expiration of the 180-day deadline. However, based on an administrative error, this case was not routed to the OPA Director for completion of the DCM until November 8, 2018, one day after the 180-day deadline expired. As such, this DCM is submitted one day past the 180-day period.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

An anonymous Complainant, whom OPA presumes works for SPD, alleged that Named Employee #1 (NE#1) engaged in a private conversation while in a Department locker room during which he referred to Muslims as “fucking terrorists.”

OPA interviewed NE#1, who acknowledged that he was working on the date in question. NE#1 also acknowledged that he engaged in a conversation while in a Department locker room during which he discussed the potential movement of the United States’ embassy in Israel to Jerusalem. NE#1 stated that, during this conversation, he and another officer discussed current events occurring in Israel and the ongoing conflict between the Israelis and Palestinians. NE#1 denied that he made the statement attributed to him, that he disparaged Muslims in any fashion, or that he made any statement that could be deemed offensive to any social or religious group.



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.*) Lastly, the policy states that: “Employees shall not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning discernible personal characteristics.” (*Id.*)

If the allegation against NE#1 was true, it would constitute biased policing. While NE#1 admitted discussing the Israeli/Palestinian conflict and the potential movement of the embassy to Jerusalem and while he acknowledged that it was possible that other officers heard this conversation, he denied using disparaging terms to refer to Muslims. It is unclear, however, what motive another officer would have had to fabricate this allegation. Indeed, when asked whether he could think of a reason why a fellow officer would do so, NE#1 told OPA that he could not. Ultimately, for the reasons stated above and after evaluating the totality of the evidence, this matter cannot be proved or disproved by a preponderance of the evidence.

As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

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

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.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

As with Allegation #1, above, to the extent it could be proved that NE#1 made the statement attributed to him, it would constitute unprofessional conduct in violation of SPD policy. However, the evidence in the record is insufficient to either prove or disprove this claim. Accordingly, I recommend that this allegation be Not Sustained – Inconclusive.

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