



## ***CLOSED CASE SUMMARY***

ISSUED DATE: NOVEMBER 5, 2020

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0229

### **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	15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence	Not Sustained (Lawful and Proper)

#### **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)

#### **Named Employee #3**

Allegation(s):		Director's Findings
# 1	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 she was arrested because of an inadequate investigation conducted by Named Employee #1 (NE#1). In addition, the Complainant stated that NE#1 engaged in bias-based policing toward the Complainant, and that Named Employee #2 (NE#2) engaged in bias-based policing when he directed the officers of color to contact the Complainant. Lastly, the Complainant asserted that unknown SPD officers acted unprofessionally toward her when they laughed at her and made disparaging comments about her mental health status.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expediated Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation.



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**SUMMARY OF INVESTIGATION:**

On December 15, 2019, Seattle Police Department officers responded to a 911 call at the 1200 block of Second Avenue. It was reported that an individual was reportedly using a baseball bat to threaten the 911 caller. Prior to engaging with the involved parties, the officers, under the supervision of their Sergeant – NE#2, met and determined their tactical roles during the response, including who would contact the alleged aggressor. NE#2 asked if any of the officers were CIT (Crisis Intervention Training) certified and in possession of a 40 MM launcher. Based on their responses, NE#2 instructed the CIT-certified officer to contact the suspect, while the officer who indicated that he had a 40 MM launcher was instructed to act as a point person.

After this initial coordination, NE#1 spoke with the 911 caller, who stated that he felt threatened by the suspect's claim of having a baseball bat. Officers then moved on to the suspect's apartment, with the CIT and 40 MM launcher officers in front. Once at the suspect's apartment, the officer with the 40 mm launcher kept his weapon raised in the direction of the apartment door, from where the suspect ultimately emerged. The suspect – who is the Complainant in this case – expressed surprise at the way officers had arrived at her door, but ultimately asked the officers to come into her apartment so that she could relate her perspective of the incident.

For the next 20 minutes, the Complainant was given time to provide her viewpoint. The Complainant told the officers that she had gone into the hall with a bike pump and yelled at the 911 caller. According to the Complainant, she had instructed the 911 caller to exit his apartment, advising him that she had a baseball bat. When asked by officers, the Complainant stated that she did not actually have a bat, but again noted that she had a bicycle pump with her. Upon receipt of this information, officers placed the Complainant under arrest for harassment.

Four months later, the Complainant initiated this complaint with OPA. The Complainant alleged that NE#1 engaged in biased policing. The Complainant specifically contended that NE#1 failed to consider the Complainant's evidence, believing only the statement of the 911 caller. The Complainant also alleged that NE#2 was biased because he assigned two officers of color to speak with her instead of having White officers do so.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

SPD policy prohibits biased policing, which is defined 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-POL.) This includes different treatment based on the race of the subject. (*Id.*)

In this case, which was fully captured on Body Worn Video, NE#1 spoke with the 911 caller, the Complainant, and neighbors in order to develop a full perspective of the situation. NE#1 offered the Complainant substantial time to explain her case, only placing the Complainant under arrest once the Complainant acknowledged her involvement in the incident, thus corroborating the report made by the 911 caller.



While it is clear that the Complainant is dissatisfied with the outcome of this incident, there is no basis to conclude that NE#1 conducted an inadequate investigation or that any of the actions taken or decisions made by NE#1 were based on bias. For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #2**

***15.180 - Primary Investigations 1. Officers Shall Conduct a Thorough and Complete Search for Evidence***

SPD Policy 15.180-POL-1 requires that, in primary investigations, officers conduct a thorough and complete search for evidence. The policy further requires officers to collect evidence and states that only evidence that it impractical to collect shall be retained by the owner. (SPD Policy 15.180-POL-1.) Such evidence should be photographed. (*Id.*)

As stated above, NE#1 spoke with the 911 caller, the Complainant, and neighbors in order to develop a full perspective of the situation. NE#1 offered the Complainant substantial time to please her case, only placing the Complainant under arrest once the Complainant provided information indicated that she had, in fact, engaged in the behavior reported. There was no indication that NE#1's investigation was deficient or that NE#1 failed to properly search for or document evidence.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #2 - Allegation #1**

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

During her interview with OPA, the Complainant further stated that NE#2 engaged in bias-based policing when he assigned two African American officers to contact her instead of allocating this responsibility to White officers. The Complainant postulated that NE#2 was willing to have officers of color shoot her, thereby avoiding having White officers do so.

As stated above, officers were aware of the report that the Complainant had threatened an individual with a baseball bat. In light of these circumstances, NE#2 worked to determine what resources were at his disposal, ultimately deciding that a CIT-certified officer and officer with a 40 MM launcher would best lead their contact with the Complainant. While both officers were African American, no evidence was uncovered to suggest that NE#2 made the decision to allocate responsibilities to these officers based on their race, the race of other officers, or the race of the Complainant.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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



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**Named Employee #3 - Allegation #1**

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

The Complainant also told OPA that officers laughed at her and repeatedly questioned her about taking psychiatric medication.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) 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.*

BWV for this incident shows that the CIT-certified officer asked the Complainant whether she suffered from PTSD, as well as asked her whether she took medication for that condition. No other officer was seen talking about the Complainant’s mental health. In light of the nature of the police response, as well as the officer’s CIT skillset, it was logical that he would ask a foundational question concerning the Complainant’s mental health. The issue was not discussed any longer than necessary, nor was there any sign of unprofessional language or behavior used in reference to the Complainant’s mental health. Lastly, there was no evidence of any officer laughing during the course of the police response.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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