



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 2, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0300

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	15.190 - Auto Theft and Recovery 7. Officers Screen Certain Cases with the Auto Theft Unit	Not Sustained (Training Referral)
# 2	15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect	Allegation Removed

Named Employee #1

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EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employees did not properly investigate the theft of her vehicle and that this may have been based on bias towards her.

SUMMARY OF INVESTIGATION:

The Complainant called 911 to report that her vehicle had been taken by her daughter without permission. The Complainant noted that her daughter did not have a driver's license. The Named Employees were dispatched to the scene. The Named Employees spoke with the Complainant and she informed them of what occurred. Named Employee #1 (NE#1) – who was a student officer at the time – asked the Complainant questions concerning whether any domestic violence incidents had occurred between her and her daughter. The Complainant denied this. Eventually, NE#1 informed her that they were going to classify the case as a “domestic disturbance” rather than as a “stolen vehicle.” NE#1 gave her his card and the incident number. He told the Complainant that, if the daughter did not return the car, the Complainant should contact the Auto Theft Unit. NE#1 noted that, pursuant to SPD policy, stolen vehicle reports were not completed when the car was taken by a family member.



The Complainant later initiated this complaint with OPA. She contended that the officers improperly described the incident as a “domestic disturbance” instead of completing a stolen vehicle report. She believed that the officers should have done more to investigate this incident. Lastly, the Complainant alleged that the officers’ inaction may have been based on bias.

OPA’s investigation included reviewing the Body Worn Video of this incident. OPA further reviewed the report completed by NE#1. In that report, NE#1 recited the facts of the case and described the incident as a “domestic disturbance.” He did not characterize the incident as an auto theft within the report. However, after it was completed, he did route the report to the Auto Theft Unit. The report, as well as NE#1’s decision-making, was approved by his Field Training Officer – Named Employee #2 (NE#2). The report was also signed off on by their supervisor. OPA did not find any indication that the daughter’s taking of the car was screened with the Auto Theft Unit.

OPA lastly spoke with the Auto Theft Unit Sergeant. The Sergeant confirmed that policy requires that officers screen the taking of a car without permission by a family member with the unit. The Sergeant explained how such cases are investigated and what administrative steps are taken by the unit.

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 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.*)

While the Complainant believed that the officers’ alleged inaction was possibly based on bias towards her, the evidence suggests otherwise. Most notably, the officers did not simply use their discretion when they did not complete an auto theft report but, instead, acted consistent with policy. As such, the officers would have taken – and, indeed, were required to take – these same actions regardless of the Complainant’s race.

OPA understands how the outcome of the Named Employees’ investigation may have been frustrating for the complainant; however, the policy, not the officers, is the causal factor behind this result. Accordingly, OPA finds no basis to conclude that the officers engaged in biased policing and recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

Named Employee #1 - Allegation #2

15.190 - Auto Theft and Recovery 7. Officers Screen Certain Cases with the Auto Theft Unit

SPD Policy 15.190-POL-7 requires that officers screen a potential auto theft with the Auto Theft Unit where: “The complainant’s child (juvenile or adult) took the vehicle.” In addition, SPD Policy 15.190-POL-9 directs officers to “write a “suspicious circumstance” report if the complainant insists on receiving a report number.



The officers appeared not to satisfy either of these requirements here. First, as discussed above, there is no indication that the officers ever screened this incident with the Auto Theft Unit. While NE#1 routed the report to the Auto Theft Unit, this does not absolve the officers of also screening it. Second, NE#1 classified the report as a “domestic disturbance” instead of properly titling it as a “suspicious circumstance.” Even though NE#1 wrote the report, NE#2, as the Field Training Officer, approved it and also should have caught the error.

Ultimately, OPA finds that, while technically contrary to policy, these are minor issues better addressed by training rather than discipline. Accordingly, OPA recommends that this allegation be Not Sustained – Training Referral as against both officers.

- **Training Referral:** NE#1 and NE#2 should be retrained on SPD Policy 15.190-POL-7, which concerns the requirement to screen certain auto thefts with the Auto Theft Unit, and SPD Policy 15.190-POL-9, which instructs officers to classify reports in these cases as a “suspicious circumstance.” This retraining and any associated counseling should be documented, and this documentation should be maintained in an appropriate database.

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

Named Employee #1 - Allegation #3

15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect

SPD Policy 15.410-POL-3 applies to the investigation of domestic violence incidents and requires that officers investigating such incidents make reasonable efforts to protect the victim and arrest the subject.

NE#1 appropriately asked the Complainant questions to determine whether this was a domestic violence incident and, based on her answers, he determined that it was not. Given this, SPD Policy 15.410 is inapplicable to this case and, accordingly, OPA recommends that it be removed as against both NE#1 and NE#2.

Recommended Finding: **Allegation Removed**

Named Employee #2 - 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 #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #2

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

OPA recommends that this allegation be Not Sustained and refers to the above Training Referral (see Named Employee #1 – Allegation #2).



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

Named Employee #2 - Allegation #3

15.410 - Domestic Violence Investigation 3. Officers Will Make a Reasonable Effort to Protect the Victim and Arrest the Suspect

For the same reasons as stated above (see Named Employee #1 – Allegation #3), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**