



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MAY 28, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0700

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

| Allegation(s): |   | Director's Findings       |
|----------------|---|---------------------------|
| # 1            | 1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command | Not Sustained (Unfounded) |

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

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

| Allegation(s): |   | Director's Findings       |
|----------------|---|---------------------------|
| # 1            | 1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command | Not Sustained (Unfounded) |

#### **Named Employee #4**

| 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 that Named Employee #2 and Named Employee #4 were unprofessional, and that Named Employee #2 was biased towards him. The Complainant further alleged that Named Employee #1 and Named Employee #3 failed to appropriately exercise their supervisory responsibilities.

### **SUMMARY OF INVESTIGATION:**

The Complainant called 911 to report a parking violation that he observed near his residence. Just over six hours later, the Complainant called 911 again concerning the parking violation and spoke with Named Employee #2 (NE#2), a dispatcher. At one point during their conversation, NE#2 asked the Complainant if he had a license plate number. The



Complainant said: "I can walk back out there for you." NE#2 responded by telling the Complainant: "I don't want you to walk back out...do you remember what it is?" The Complainant replied: "I'll go back out there...I'm kind of done dealing with this." NE#1 again told the Complainant: "'I don't want you to go out, sir.'" The Complainant stated that he was going outside, and NE#1 acknowledged: "Okay, totally up to you." The Complainant responded: "That's correct...I don't know why you would telling me what to do, I'm a free individual...this is my street...this is my street...I'm safe."

The Complainant later complained to a supervisor, Named Employee #4 (NE#4), about how NE#2 spoke to him during the call. The Complainant told NE#4: "I feel he profiled me...based on my...and also based on my political affiliation. I feel that he was not interested in helping me with the situation...consistently talking down to me. He demeaned me...and I really want to know, where he gets off...demanding I not do something, if he's not a sworn law enforcement officer." The Complainant further alleged: "I was profiled...on gender, religious, political affiliation." NE#4 asked if the Complainant provided any of that demographic information to NE#2. The Complainant said that he did not, but that NE#2 knew that he was male. The Complainant added: "And he could tell that I was a pro law enforcement individual...and that I was a pro law and order individual by asking him to send a parking enforcement officer." The Complainant continued: "[NE#2] did not want to do that...instead he wanted to tell me what to do and order me around...when he is not a sworn law enforcement officer."

The Complainant then asked NE#4 who her supervisor was and stated that he was also going to file an OPA complaint against her. He stated: "Okay because you're discriminating against me as well...you're not answering my questions...you're contradicting yourself and you're continuing to fall back on the excuse that you want to listen to a recording and not take my account of the situation of what happened." The Complainant further asserted that he wanted to file OPA complaints against two other supervisors – Named Employee #1 (NE#1), the unit Lieutenant, and Named Employee #3, a manager – for their failure to supervise NE#2 and NE#4. An OPA referral was made and this investigation ensued.

As part of its investigation, OPA listened to the audio recordings of the Complainant's 911 calls. OPA further interviewed the Complainant. He reiterated his belief that NE#2 and NE#4 were unprofessional towards him and that NE#2 engaged in bias based on his membership in a number of protected classes. He also reasserted that NE#1 and NE#3 failed to supervise NE#2 and NE#4.

### **ANALYSIS AND CONCLUSIONS:**

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

##### ***1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command***

SPD Policy 1.020-POL-7 requires that the command employee, which would include NE#1 and NE#3, take responsibility for every aspect of their command.

As discussed more fully below, OPA finds that the Complainant's allegations against NE#2 and NE#4 are meritless and that they did not engage in any misconduct. Given this conclusion, OPA finds no basis to conclude that NE#1 and NE#3 failed to properly exercise their supervisory responsibilities.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#3.

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



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**Named Employee #2 - 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.*)

From a review of the audio recordings of the Complainant’s 911 call, OPA concludes that his allegation of bias on NE#2’s part is baseless. First, there is no indication that NE#2 knew that the Complainant was a member of the protected classes he identified, let alone discriminated against him because of them. Second, the audio recording simply belies any allegation that bias occurred. To the contrary, NE#2 was respectful and thorough during the call and acted entirely consistent with policy.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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

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

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

SPD Policy 5.001-POL-10 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-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.*)

The Complainant alleged that NE#2 treated him unprofessionally. Again, the audio recording of the 911 call is determinative.

During the call, NE#2 interacted with the Complainant calmly and respectfully. NE#2 did not raise his voice, use profanity, or speak to the Complainant in a contemptuous or derogatory manner. What appears to have made the Complainant the most upset was NE#2 telling him not to go outside; however, NE#2 clearly did so out of a concern for the Complainant’s safety and to ensure that he did not get into a confrontation with the owner of the parked vehicle. This is consistent with the approach other dispatchers have taken in similar cases reviewed by OPA. In any event, this was certainly not unprofessional in any sense.

Given that OPA finds that there is no evidence supporting the Complainant’s assertions concerning NE#2’s lack of professionalism, OPA recommends that his allegation be Not Sustained – Unfounded.

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

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

***1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command***



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 #4 - Allegation #1**

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

After reviewing the audio recording of the 911 call involving NE#4 and the Complainant, OPA concludes that NE#4 did not act unprofessionally. As with NE#2, NE#4 interacted with the Complainant calmly and respectfully, and did not raise her voice, use profanity, or speak to the Complainant in a contemptuous or derogatory manner.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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