



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JULY 14, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0036

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

#### **Named Employee #2**

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 Complainants alleged that the Named Employees both acted unprofessionally towards them, and that Named Employee #1 engaged in biased policing.

### **SUMMARY OF INVESTIGATION:**

The Named Employees were dispatched to a potential domestic incident between roommates. The involved parties to the domestic incident are the Complainants in this case and are referred to here as Complainant #1 and Complainant #2. Initially, Complainant #1 called 911 and said that Complainant #2 was trying to kick her out of their shared residence. However, she later called back and said that no response was needed. Pursuant to SPD policy, the Named Employees went to the scene anyway.

The officers' response to the incident was captured by Body Worn Video (BWV). The video indicated that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) knocked on the door. Complainant #2 responded and said that they were "good." NE#1 asked if they could come in and check on Complainant #1. Complainant #2 said no and asked Complainant #1 to come to the door. Complainant #1 also said that they were "good" and that there was nothing "physical" that occurred. NE#2 told Complainant #2: "Hold on, just chill out." NE#2 asked Complainant #2 what was going on. Complainant #2 responded: "I aint got shit to say to you all." Complainant #2 alleged that he was being treated as the aggressor and that neither he nor Complainant #1 touched each other. When NE#2 asked Complainant #2 why he felt this way, Complainant #2 referenced his belief that NE#1 was acting as if NE#1 was



going to pull his firearm out. Complainant #2 then disclosed that he had mental health problems and issues with authority. Complainant #2 walked away and went into the residence.

At the same time, NE#1 spoke with Complainant #1 inside of the residence. She told NE#1 that there was no assault, and he examined her hands for injuries. Complainant #2 then entered the residence. He alleged that NE#1 was: "Busting out here like he was gonna pull a gun out or something." NE#1 denied doing so as Complainant #2 made a motion as if pulling a gun from a holster.

Complainant #2 asked the officers to leave and requested their badge numbers. He said that he was asking for this information so that the officers would understand about his mental health status. He further told the officers that he did not like the police. NE#2 gave Complainant #2 a business card while NE#1 attempted to explain the officers' response to this incident. Both officers then departed. Probable cause was not developed for any crimes and no arrests were effectuated.

Both Complainants later filed OPA complaints alleging that the Named Employees' response to this incident and their handling of the case were unprofessional. The Complainants also alleged that NE#1 engaged in biased policing because he moved his hand to his firearm based on the Complainants' race. This investigation ensued.

#### **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.*)

The Complainants asserted that NE#1 engaged in biased policing when he reached towards his firearm during their interaction. They alleged that NE#1 did so because of their race.

From a review of the BWV, there is no indication that NE#1 ever reached towards or for his firearm. Indeed, he did not engage in any aggressive behavior towards the Complainants during this incident. Moreover, even had NE#1 reached for his firearm, there is no evidence to support the conclusion that this would have been based on bias rather than some other reason.

Ultimately, NE#1 did not engage in any racially motivated conduct during this incident and, instead, acted completely consistent with policy. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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

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

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



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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.*) 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 discussed above, the officers’ response to this incident, the investigation they conducted, and their interactions with the Complainants were all fully captured on BWV. The video disproved any contention that they acted inappropriately or unprofessionally. The Named Employees were required to investigate this incident due to the domestic relationship and they did so efficiently and respectfully. The Named Employees did not use any derogatory or contemptuous language and they were not dismissive of the Complainants. To the contrary, they made efforts to explain what they were doing and why.

While the Complainants may have been upset that they were the subject of the investigation, Complainant #1 called the officers, they did not unilaterally choose to go to the residence. Once dispatched, they were required to do their job and they did so here professionally and appropriately.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

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

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

For the same reasons as stated above (see Named Employee #1 – Allegation #2), OPA recommends that this allegation be Not Sustained – Unfounded.

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