



CLOSED CASE SUMMARY

ISSUED DATE: JULY 18, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0038

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	5.125-POL-2. Employee Personal Use of Social Media 1. Employees Shall Not Post Speech That Negatively Impacts the Department's Ability to Serve the Public	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:

It was alleged that the Named Employee engaged in biased policing and violated the Department's social media policy by posting racist and violent content.

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 alleged that Named Employee #1 (NE#1) was the operator of a Facebook page on which he posted multiple racist and offensive statements and memes, as well as made posts supportive of violence. The Complainant specifically identified that NE#1 posted that Harriet Tubman was a "monkey" and that he backed the insurrection that occurred in Washington, D.C. on January 6, 2021.

OPA conducted an internet search and verified that the Facebook account belonged to NE#1. OPA also reviewed multiple posts made on the Facebook account. OPA found no evidence of the two posts attributed to NE#1 by the Complainant. OPA further located no evidence that NE#1 made any other racist posts or posts suggesting or advocating for violence. While a number of the posts expressed political views, the content of these posts was squarely protected by the First Amendment.

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.*)



As discussed above, OPA found no evidence supporting the allegation that NE#1 made biased posts. Accordingly, OPA recommends that this allegation be Not Sustained - Unfounded.

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

Named Employee #1 - Allegation #2

5.125-POL-2. Employee Personal Use of Social Media 1. Employees Shall Not Post Speech That Negatively Impacts the Department's Ability to Serve the Public

SPD Policy 5.125-POL-2(1) outlines when an officer may be disciplined for social media posts, even when posted in the officer's personal capacity. Discipline may be imposed for any post that: (1) involves harassment or threats of violence; (2) "ridicules, maligns, disparages, expresses bias, or disrespect toward any race, religion, sex, gender, sexual orientation, nationality, or any other protected class of individuals"; (3) "suggests that Department personnel are engaged in behavior reasonably considered to be unlawful or reckless toward public safety"; or (4) otherwise violates laws and/or SPD policies.

From a review of the posts affiliated with NE#1's Facebook page, OPA found none that fell within the categories proscribed by this policy, including none that maligned protected classes or supported violence. Notably, the policy does not preclude the posting of political views, even where those views may not be held by the majority of Seattleites. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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