



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0441

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	15.120-Responding to Bias Crimes and Incidents 15.120-POL 3. Officers Will Document All Bias Crimes and Incidents on an Offense Report	Not Sustained - Unfounded (Expedited)
# 3	15.180-Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	15.120-Responding to Bias Crimes and Incidents 15.120-POL 3. Officers Will Document All Bias Crimes and Incidents on an Offense Report	Not Sustained - Unfounded (Expedited)
# 3	15.180-Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)
# 2	15.120-Responding to Bias Crimes and Incidents 15.120-POL 3. Officers Will Document All Bias Crimes and Incidents on an Offense Report	Not Sustained - Unfounded (Expedited)
# 3	15.180-Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report	Not Sustained - Unfounded (Expedited)

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)



# 2	15.120 - Responding to Bias Crimes and Incidents 15.120–TSK– 1 Responsibilities of the Patrol Sergeant When Responding to a Bias Crime or Incident	Not Sustained - Unfounded (Expedited)
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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:

On September 25, 2021, Named Employee #1 (NE#1) was flagged down by the Complainant, who reported to NE#1 that he was being harassed by his apartment management company. The following day, Named Employee #2 (NE#2) and Named Employee #3 (NE#3) responded to the Complainant's residence, where the Complainant made a similar report. The Complainant alleged that NE#1, NE#2, and NE#3 failed to consider evidence or document the Complainant's allegations of theft and harassment regarding his building management, conduct which he alleged had risen to the level of a "hate crime."

In addition, the Complainant alleged that Named Employee #4 (NE#4) failed to ensure that the police reports pertaining to this incident had been classified as a "hate crime," and that the actions of all Named Employees were motivated by the Complainant's mental health status and race.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

SUMMARY OF INVESTIGATION:

All relevant portions of the Named Employees' interactions with the Complainant were captured on Body-Worn Video (BWV). Accordingly, the relevant facts are not in credible dispute.

While NE#1 was responding to a separate incident, the Complainant approached NE#1 to report that his building management was setting fires in his apartment and stealing his packages. NE#1 took the Complainant's statement, reviewed video footage that the Complainant offered, then spoke with the building management.

Building management advised NE#1 that due to COVID-19 protocol, none of the tenants had access to the common areas, including the mail room. Instead, packages were left in the building lobby and tenants were advised to pick them up. Management also noted that the Complainant had caused a fire in his own unit, which had to be put out. An abatement company then came by with a moisture sensor device, to determine whether any residual moisture was in the Complainant's apartment. According to the manager, this moisture detection was what was depicted in the Complainant's video. NE#1 then returned to the Complainant, explained the situation, and ultimately wrote up the incident under 21-253179.

The next day, NE#2 and NE#3 responded to a call at the Complainant's residence. Once the officers arrived on scene, the Complainant again stated that he did not have access to his mail, which he considered to be a hate crime and



discrimination. NE#2 and NE#3 then allowed the Complainant to show them his mailbox, as well as his inability to access the mailroom. Subsequently, the Complainant entered into a monologue about unknown entities manipulating his possessions, which he considered to be hateful. The Complainant also showed the Named Employees a video of someone entering his apartment.

While NE#2 and NE#3 were on scene, the Complainant stated that he wished to file a bias complaint, at which point the officers called a supervisor (NE#4) to the residence. NE#4 responded to the scene and spoke with the Complainant, who stated that he believed the actions of the property management company to amount to a hate crime. In response, NE#4 explained that the actions described by the Complainant did not meet the standard of a hate crime, but rather needed to be addressed in civil court. NE#2 then wrote up the incident under 21-254090, which NE#4 reviewed and approved.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that Named Employee #1 failed to document a hate crime perpetrated against the Complainant, which the Complainant stated was based upon his mental health status and race.

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-POL.) This includes different treatment based on the race of the subject. (See *id.*) SPD Policy goes on to define a “hate crime offense” as including “physical damage to or destruction of the property of another person,” as motivated by the “race, color, religion, ancestry, national origin, gender, sexual orientation, gender expression or identity, or mental, physical, or sensory disabilities [...] homelessness, marital status, political ideology, age, or parental status” of the victim. (SPD Policy 15.120-POL 1).

In this case, the Named Employees worked with the Complainant to take down his complaint, then conferred with apartment management regarding the Complainant’s concerns. From the information provided by apartment management, it did not appear that management had any role in the fire within the Complainant’s apartment. Additionally, management indicated that no one in the complex had access to the mailroom, and that the Complainant was not being individually excluded from the room. OPA found no evidence to suggest that the Complainant was subjected to a hate crime as defined by SPD policy, and thereby no evidence to suggest that Named Employees did not report the incident as a hate crime due to bias toward the Complainant.

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

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

Named Employee #1 - Allegation #2

15.120-Responding to Bias Crimes and Incidents 15.120-POL 3. Officers Will Document All Bias Crimes and Incidents on an Offense Report

The Complainant alleged that NE#1 failed to document the Complainant’s concerns as a hate crime.



SPD Policy 15.120-POL-3 concerns primary investigations into allegations of malicious harassment and bias crimes. It requires that each such case be documented on a General Offense Report. (SPD Policy 15.120-POL-3.) The policy states that: “The offense of malicious harassment and any and all auxiliary offenses shall be listed.” (Id.) It further requires that: “The type of bias shall be indicated in the bias field of the GO report.” (Id.) Lastly, this policy mandates that where the crime at issue is a bias incident that does not rise to the level of malicious harassment, the “routing offense of ‘bias crimes routing’ shall be used.” (Id.) The Department’s expectation is that investigations into these crimes will be thorough and that there will be “special emphasis placed on preserving physical evidence.” (See SPD Policy 15.120-POL-2.)

As explained above at Named Employee #1, Allegation #1, there was no evidence to indicate to the Named Employees that a bias crime had occurred. Accordingly, there was no reason for any Named Employee to follow through with the steps outlined in SPD Policy 15.120-POL-3.

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

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

Named Employee #1 - Allegation #3

15.180-Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#1 failed to properly document the incident that he was reporting.

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. Even where victims of crime refuse to cooperate and to give a statement, officers are still required to document that fact in a report. (SPD Policy 15.180-POL-5.) Lastly, the Department’s expectation, which has been clearly conveyed to officers, is that this report will be completed prior to the end of their shift on the date of the incident.

As discussed above (see Named Employee #1 – Allegation #1), the Named Employees worked with the Complainant to document his complaint on two separate occasions, then conferred with apartment management regarding the Complainant’s concerns. However, the Named Employees reasonably—and correctly—determined that there was no further investigatory, or enforcement action required of them.

OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

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

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

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



Named Employee #2 - Allegation #2

15.120-Responding to Bias Crimes and Incidents 15.120-POL 3. Officers Will Document All Bias Crimes and Incidents on an Offense Report

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

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

Named Employee #2 - Allegation #3

15.180-Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report

For the reasons stated above (see Named Employee #1 – Allegation #3), OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #1

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

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

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

Named Employee #3 - Allegation #2

15.120-Responding to Bias Crimes and Incidents 15.120-POL 3. Officers Will Document All Bias Crimes and Incidents on an Offense Report

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

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

Named Employee #3 - Allegation #3

15.180-Primary Investigations 15.180-POL 5. Officers Shall Document all Primary Investigations on a Report

For the reasons stated above (see Named Employee #1 – Allegation #3), OPA recommends that this allegation be Not Sustained – Unfounded.

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



Named Employee #4 - Allegation #1

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

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

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

Named Employee #4 - Allegation #2

15.120 - Responding to Bias Crimes and Incidents 15.120-TSK-1 Responsibilities of the Patrol Sergeant When Responding to a Bias Crime or Incident

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

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