



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0444

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
# 2	5.001 – Standards and Duties 10. Employees Will 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 the Named Employee responded to a call regarding a call that she made about an individual who was in crisis and/or intoxicated. The Complainant alleged that he was unprofessional in his engagement with her and this may have been based on her race.

SUMMARY OF INVESTIGATION:

The Complainant made two separate calls to SPD for the same location, on the same day which were approximately three hours apart. During its investigation, OPA reviewed the complaint, Computer Aided Dispatch (CAD) Call Report, Incident Reports, In Car Video (ICV) and Body Worn Video (BWV). OPA also interviewed the Complainant, Named Employee #1 (NE#1), and NE#1's partner, Witness Officer #1 (WO#1).

The first call was detailed as "Suspicious person /Vehicle" and was logged as a priority three call at 8:30 PM. The call related to a male "hugging customers" and "being nuts." No assaults were noted but he was "grabbing employees and customers on their cheeks." This call was subsequently closed as "Suspicious; Unable to locate." NE#1 responded to this call and the Complainant alleged that she felt "belittled" by the way NE#1 spoke to her.

The second call was detailed as priority two "Disturbance Miscellaneous" and was linked to the first call. The call details were "Male in crisis wandering around, reporting party was saying that he put his hands around her neck in earlier call but was declining medics, was not hurt or assaulted but was very upset about the police response to the last call." NE#1 responded to the call accompanied by two witness officers.

A review of BWV for the second incident depicted the Complainant telling NE#1 that the male had left the scene. The Complainant said that the male was not drunk and was "dressed in a suit, dress shoes, he was Nigerian, well spoken. But he was obviously off...obviously off. But he did get very agitated when he saw...He kept trying to go in the back



room and the office. I was like you can't go back there. You can't go back there. Then he tried to like put his hand around my neck. And I was like you can't touch me...at all. And then he got kind of agitated and started speaking of me in third party." NE#1 obtained a description of the male from the Complainant and his direction of travel. ICV depicted NE#1 conducting a search of the area for the male. During this search, NE#1 was noted as saying, "A Black man in a 3-piece suit – Lady." The male subject of both calls was not located.

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

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.*)

The Complainant asserted that, "I felt like it was a color thing as opposed to him just being like 'I'm an officer screw you.' It felt like it was more of like a dismissiveness because of my color. I don't know why but it just felt that way."

NE#1 denied that his engagement or actions were as a result of any bias based on the race of the Complainant. NE#1 stated that in his engagement with the Complainant he accepted that his delivery could be perceived as "Blunt" and that he could have perhaps been more eloquent, but that he was polite. OPA's review of BWV for the second incident did not find the NE#1's delivery to be blunt and noted that he was polite throughout his engagement with the Complainant. There was no BWV for the initial incident but the Complainant's interaction with NE#1 on the second call would suggest that NE#1 had been cordial on the first call.

OPA finds that, more likely than not, NE#1 did not engage in bias-based policing. In reaching this conclusion, OPA considered the vague description of the alleged bias provided by the Complainant, NE#1 and WO#1's denial that NE#1 was rude during the interaction, and, most notably, the BWV of the second interaction.

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 Will Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further instructs that "employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers" whether on or off duty. (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.*)



The Complainant alleged that “the way that (NE#1) had reacted or his body language umm...made me feel like he was there...made me feel like...I was wasting his...he felt like I was wasting his time.” When interviewed, WO#2 did not notice anything disrespectful or dismissive regarding NE#1’s body posture. BWV of the second incident depicted NE#1 maintaining what could be described as an open body and relaxed position when speaking with the Complainant. Indeed, the Complainant was seen laughing and engaging with NE#1 when he entered the store.

OPA questioned NE#1 about the fact he went into the store to purchase a drink and a snack and whether this could be considered disrespectful rather than immediately going to look for the male subject of the call. NE#1 stated that he did not perceive it in that manner and saw it as more of an extended interaction with the Complainant.

OPA also questioned NE#1 regarding a statement he made when searching for the individual. NE#1 was noted as stating out loud in the patrol car, “A Black man in a 3-piece suit – Lady.” NE#1 stated that he made this statement as a form of reiteration of the call itself. NE#1 stated that he was exasperated and frustrated as this was the second call for this individual and he could not locate the male. WO#1 stated that he believed NE#1 made this statement out of frustration because the description was not very specific.

Despite the Complainant’s perception to the contrary, NE#1 responded professionally and in a way that did not bring SPD into any disrepute. OPA did not observe any evidence that NE#1 acted in an unprofessional manner.

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

Recommended Finding: **Not Sustained - Unfounded**