



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 5, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0097

Allegations of Misconduct & Director's Findings

Named Employee #1

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

Named Employee #2

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

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 #1 (NE#1) and Named Employee #2 (NE#2) asked to see the Complainant's identification due to the Complainant's 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:

The Complainant filed web complaint stating he called 911 because someone was trying to get into his apartment. The Complainant alleged that NE#1 and NE#2 asked him for his identification because he is a black man. The Complainant alleged that the named employees were smirking at him because "it was just a game to them" to get a reaction.

OPA opened this investigation. During its investigation, OPA reviewed the OPA Complaint, Computer Aided Dispatch (CAD) Call Report, Incident Report, and Body Worn Video (BWV). OPA also interviewed the Complainant.



The entire interaction between the named employees and the Complainant was recorded on BWV. The underlying facts are not in dispute.

The Complainant called 911 to report that he heard a woman outside his apartment trying to open the front door. NE#1 (a field training officer) and NE#2 (a probationary officer) responded to the Complainant's apartment complex. After a third officer (Witness Officer #1 or WO#1) arrived, the three officers took the elevator to the Complainant's floor, then NE#2 knocked on the Complainant's door and announced that he was a police officer. A person—later identified as the Complainant's caregiver—partially opened the door. NE#2 opened the door further and asked if the officers could enter. The Complainant replied that the officers could enter.

The officers entered the Complainant's apartment. Inside, the officers observed the Complainant—who was confined to bed—and his caregiver. The Complainant reported that an unknown female knocked on his door four or five times. The Complainant said that he told the unknown female to go away, but she continued to knock. The Complainant reported that the female was not sent by the caregiving agency.

NE#2 then asked the Complainant, "do you have your ID somewhere around here, I can grab, just so, for our report purposes?" The Complainant questioned the need for his identification but asked his caregiver to provide his identification to NE#2. The Complainant and the officers talked about the purpose of requesting identification and whether it was necessary. In summary, the officers explained that they requested the identification for entering the Complainant's accurate information in their report and that copying the information is easier than providing it verbally. The officers also explained that requesting an identification was a best practice. The Complainant also provided his perspective that his name was short, that he had been unable to walk since 1991, and—as the reporting party—he did not see the need for providing it. The Complainant also explained that, in his experience, officers did not usually ask for his identification.

NE#2 copied the Complainant's information from his identification and returned the identification after about ninety seconds. The officers apologized to the Complainant for requesting his identification.

After leaving the Complainant's apartment, NE#1 counseled NE#2 that he has discretion to ask for individuals' identifications but that it's generally a best practice to ask to ensure that they report accurate information. NE#1 also counseled NE#2 that it's best practice to provide the reason for the request for identification and inform the person that they are not required to give their identification.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged that NE#1 engaged in bias-based policing because NE#2—who NE#1 was training—asked for the Complainant's identification.

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 as 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.*



Generally, SPD officers are permitted to request, but not require, that people identify themselves during a voluntary contact. *See generally* SPD Policy 6.220-POL-1 (during voluntary contact, officers cannot use words or actions to indicate that person is not free to leave). *Cf.* SPD Policy 6.220-POL-2(5) (during a *Terry* stop, officers may request identification).

OPA finds that NE#2 made a voluntary request with which the Complainant voluntarily complied. While NE#2—a rookie probationary officer—could have used clearer language to convey that he was making a voluntary request (“do you have your ID somewhere around here, I can grab, just so, for our report purposes?”), he explicitly noted that that he was asking for the purposes of making his report. Moreover, after the Complainant questioned the necessity of providing his identification, NE#2 explained that the Complainant was not in trouble and that he wanted to use the identification to document his name as the “reporting party.”

OPA observed no evidence that NE#2 requested the Complainant’s identification due to racial bias. NE#2 stated that he wanted to identification to record the Complainant’s information as the reporting party for his incident report. NE#2 had the Complainant’s identification for only about ninety seconds during which time he wrote down the Complainant’s information and then returned the identification. Additionally, NE#1 and NE#2 were recorded on BWV discussing the incident after the fact. NE#1 continued to explain to NE#2 that asking for identification is the best practice because it ensures that that the information the officer records in their report is accurate. However, to the extent that the encounter noticeably upset the Complainant, NE#1 also provided NE#2 with appropriate feedback and coaching regarding his discretion to request an identification as well as best practices such as giving a reason for asking and explaining that providing identification is voluntary.

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

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

Named Employee #2 - Allegation #1

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

The Complainant alleged that NE#2 engaged in bias-based policing due to his race by asking for his identification.

For the reasons set forth above at Named Employee #1, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

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