



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 30, 2022

FROM: DIRECTOR Gino BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0133

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)

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:

Following a Type II use of force review, the Complainant (FRB) referred the Subject's allegation of bias-based policing to OPA. Specifically, the Subject alleged an Unknown Employee (UE) harassed him based on his military veteran status.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of the Inspector General's (OIG) review and approval, believed it could reach and issue a recommended finding based solely on its intake investigation, without interviewing the involved employee(s). Further, allegations against other involved employees were referred for Supervisor Action.

Specifically, during its review, FRB identified two issues for OPA referral. First, the Subject's bias complaint was not acknowledged by the Force Investigation Team (FIT). Second, while FIT evaluated the Taser deployment, it failed to investigate several scrapes on the Subject. OPA opened an investigation. At intake, OPA did not find evidence of bias-based policing but found two supervisors may have failed to conduct a bias review and an unknown employee may have failed to report the bias-based policing allegation. If proven, those allegations would violate:

1. SPD Policies 5.140-POL-6 Supervisors Conduct Preliminary Inquiry into Bias-Based Policing, 8.500-POL-1 Use of Force – General Principles 4 Each Reviewer Will Ensure That the Use-of-Force Report is Thorough and Complete,
2. 8.500-POL-1 Use of Force – General Principles 6 Reviewers Will Immediately Address Concerns That Arise During Use-of-Force Investigations or Review,
3. 8.400-POL-4 Use of Force – Type II Investigations 1 In Conducting a Type II Investigation, a Sergeant Will Respond to the Scene, and
4. 5.140-POL-5 Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing.



OPA returned those allegations to the chain-of-command for Supervisor Action:

Requested Action of the Named Employee's Supervisor: Please document by completing a Chain of Command Report, attaching the report to this case, and sending it to OPA through Blue Team.

- Discuss complaint and department policies with Named Employees.
- To the extent deemed necessary by the Chain of Command, please document in PAS. Please copy and paste the text of the PAS entry into the Chain of Command Report.

Generally, Supervisor Actions involve allegations of minor policy violations or performance issues best addressed through training, communication, or coaching by the employee's supervisor. *OPA Manual 5.4(B)(ii)*. OPA sends a memo mandating the employee's supervisor take specific, relevant action with the employee. *Id.* The supervisor has 15 days to complete the action and return the case to OPA for review. *Id.*

SUMMARY OF INVESTIGATION:

As noted above, several related allegations against other involved officers were handled by Supervisor Action. Additionally, OPA proposed an Expedited Investigation of UE's alleged bias-based policing. OIG reviewed and approved OPA's recommendation.

Accordingly, OPA reviewed FRB's Blue Team complaint, CAD Call Reports, Incident and Supplemental Reports, FIT's Type II Investigation, and Body Worn Video.

On December 2, 2021, a Community Member told SPD Officer #1 the Subject attacked her. Specifically, she indicated knowing the Subject for about four months and sharing a casual sexual relationship. Reportedly, the previous night, the Subject prevented her from leaving his apartment, yelled at her, pushed her against a wall, threatened to kill her, pushed her to the ground, pinned her, and strangled her unconscious. The Community Member also alleged the Subject punched her several times and threatened to push his thumbs into her eye sockets. SPD officers photographed her injuries. Later, the Community Member identified the Subject from a photo. The Community Member's 5-year-old child corroborated the Community Member's report.

On December 6, 2021, SPD Officer #2 responded to an apartment where the Subject was reportedly seen. SPD Officer #2 visually confirmed the Subject was there and requested backup. SPD officers surrounded the apartment and obtained a search warrant. As officers attempted to enter the apartment, the Subject yelled from an open window, "this is harassment." He then exited the window and fell to the ground. The Subject ran towards SPD officers yelling "this is harassment" and "I'm a veteran, this is harassment." The Subject struggled with officers. The Subject was Tased and arrested.¹ The Subject repeatedly claimed officers harassed him due to his military veteran status.

¹ The Subject was charged with Assault in the Second Degree and Felony Harassment based on the Community Member's report.



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 Named Employee #1—an unknown employee—engaged in bias-based policing by treating the Complainant differently due to his military veteran status.

“The Seattle Police Department is committed to providing services and enforcing laws in a professional, nondiscriminatory, fair, and equitable manner.” SPD Manual 5.140. SPD policy prohibits bias-based policing, defined 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.

Here, OPA found no evidence officers engaged in bias-based policing due to the Complainant’s veteran status or any discernable personal characteristic. Notably, there is no evidence SPD Officer #2 knew the Subject’s veteran status when he initiated the Subject’s apprehension. Further, there is no evidence officers treated him differently based on that status. Rather, the evidence is clear the Subject was arrested for a reportedly violent attack corroborated by visible injuries and eyewitness accounts.

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

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