



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 12, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0154

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	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	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	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	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 Named Employees #1 and #2 (NE#1 and NE#2, respectively) arrested the Complainant based on her mental health status. The Complainant also alleged both officers talked down to her and failed to address her needs.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) review and approval, believed it could reach and issue recommended findings based on its intake investigation, without interviewing the involved employees.

SUMMARY OF INVESTIGATION:

Witness Employee #1 (WE#1) sent this complaint to OPA via Blue Team. OPA opened an investigation.

During its investigation, OPA reviewed the OPA complaint, incident and supplemental reports, Computer-Aided Dispatch (CAD) call report, photographs, Seattle Fire Department's (SFD) arson investigation, and Body-Worn Video (BWV).



a. Computer-Aided Dispatch (CAD)

At 9:01am on May 12th, 2022, the Complainant called 911. The dispatcher noted: "Caller Sounds in Crisis, Thinks Nbrs (Neighbors) are yelling through the wall that they killed her 20 yo son, RP (Reporting Party) occasionally interrupts screening to yell for them to shut up, CT (Call-Taker) isn't hearing anyone else speaking."

At 9:50am, the Complainant called back. She threatened to set her room on fire because the police had not responded. That call disconnected.

At 10:18am, a 911 call-taker spoke with the Complainant's son, who requested the Complainant's involuntary commitment. At that time, reportedly, no fire was set.

At 12:09pm, the Complainant's son told NE#2 the Complainant still experienced delusions/hallucinations. At that time, the call was placed on "handled" status.

At 12:20pm, the Complainant called back reporting she accidentally started a small gasoline fire.

b. Incident Report¹

NE#2 spoke to the Complainant's son by phone. NE#2 was about to call the Complainant when he saw the reported gasoline fire at the apartment. NE#2 went to the Complainant's building, opened the entry door, and smelled a strong odor of gasoline in the stairwell. NE#2 went to the Complainant's apartment. Her door was open. There was no fire inside. NE#2 called out to the Complainant.

c. Body Worn Video²

NE#2 entered the Complainant's apartment and asked her whether there was fire. The Complainant replied, "no... not yet." NE#2 escorted the Complainant outside. As they exited, a SFD firefighter asked the Complainant if there was gasoline in the apartment. The Complainant stated she poured gasoline on the floor to protect herself from people coming through the walls and floors. NE#2 told a firefighter the Complainant was experiencing hallucinations. The Complainant protested, stating her actions were not due to her mental health. NE#2 stated the Complainant was a danger to herself and others.

NE#2 and NE#1 arrested the Complainant for attempted arson. While being handcuffed, the Complainant complained of shoulder discomfort. NE#2 and NE#1 used two sets of handcuffs to ease the Complainant's shoulder discomfort. NE#1 discovered a match in the Complainant's pocket. The Complainant stated she had matches "all over the place," including one in her hand. NE#2 took a blue match from the Complainant's left hand.

The Complainant made a bias allegation against NE#2 and NE#1. NE#2 asked whether she wanted a Bias Review. The Complainant replied in the affirmative, specifically claiming she was accused based on her mental health status. The Complainant also denied having a mental health problem and questioned why officers were not investigating her neighbors.

¹ NE#2 wrote the incident report.

² BWV captured NE#1, NE#2, and WE#1's incident responses, including interactions with the Complainant.



NE#2 reentered the Complainant's apartment and spoke with her son. NE#2 explained the Complainant was under arrest, which gave options for the Mental Health Court to help her.

At the North Precinct, WE#1 spoke with the Complainant. WE#1 asked whether she believed NE#2 and NE#1 arrested her based on her mental health status or due to her conduct. The Complainant replied, "I think that...because they keep...they blame everything on my mental health. You know, so I feel like it's...it's a part of discrimination cause it's not my mental health. I don't have a mental health problem, really. It's these people messing with me."

WE#1 asked whether the Complainant knew why she was arrested. The Complainant replied, "It was dangerous. Yes, I understand that, but it wasn't- it was the only thing I felt like? coming through my- my- cause they're coming underneath my floors. They're trying to kill me and my son."

WE#1 asked whether officers could have responded differently to make her feel they were unbiased. The Complainant suggested officers should have listened to the walls because neighbors were sawing through the roof to kill her and her son.

While at the North Precinct, the Complainant complained about handcuff discomfort. She got upset when NE#2 asked whether she would calm down for him to check the handcuff tightness. NE#2 told the Complainant he would get a second officer to help adjust her handcuffs. NE#2 and NE#1 adjusted the Complainant's handcuffs. The Complainant stated she was in pain. NE#2 placed four fingers between the handcuff and the Complainant's wrist to demonstrate their looseness.

WE#1 screened the bias allegation. The Complainant stated NE#2 dismissed her handcuff discomfort due to racial bias. WE#1 explained NE#2 briefly walked away to get a second officer to help adjust the handcuffs. The Complainant stated she understood.

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

For the reasons below at Named Employee #2 – Allegation #1, OPA finds this allegation against NE#1 is unfounded.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

For the reasons below at Named Employee #2 – Allegation #2, OPA finds this allegation against NE#1 is 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



The Complainant alleged NE#1 and NE#2 arrested her based on her mental health status.

SPD policy prohibits biased 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. That includes different treatment based on mental illness. See *id.*

OPA found no evidence NE#1 or NE#2 treated the Complainant different based on any discernible characteristic of a protected class. Here, the Complainant alleged NE#2 arrested her based on her mental health. However, the evidence clearly shows the Complainant’s arrest was based on her actions constituting probable cause she attempted arson. See RCW 9A.48.020 (Arson in the first degree) and RCW 9A.28.020 (Criminal attempt). Where officers lacked discretion based on “the severity of the crime (and) public safety issue being addressed,” the Complainant’s arrest was unavoidable. See SPD Policy 5.001-POL-6.

Overall, OPA found no evidence of biased policing against the Complainant.

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

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

The Complainant alleged NE#1 and NE#2 talked down to, did not listen to, and did not support her.

SPD Policy 5.001-POL-10 requires SPD employees “strive to be professional.” The policy further instructs, “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. Further: “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.* Last, Department employees must “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.*

Here, OPA found no evidence either named employee acted unprofessional. Both responded to an imminent and potentially disastrous situation for themselves, the Complainant, her son, and neighbors. Conversely, the evidence suggests their response achieved a peaceful resolution.

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

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