



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 15, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0265

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	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	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	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 Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were unprofessional and profiled him based on his baggy clothes.

ADMINISTRATIVE NOTE:

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

OIG also certified this Expedited Investigation as thorough and objective but found it untimely. OIG noted NE#2's 5-day notice was due August 26, 2022, under Article 3.6(A) of the Seattle Police Officers' Guild's collective bargaining agreement (SPOG CBA). OPA sent NE#2's 5-day notice on October 4, 2022. OPA acknowledges NE#2's 5-day notice was late but respectfully disagrees that it renders the entire investigation untimely. Moreover, unlike the 180-day timeline, the SPOG CBA does not impose a penalty for failure to timely serve a 5-day notice. Finally, OPA timely served the 30-day Classification Notice and completed the investigation within the 180-day investigation period.



SUMMARY OF INVESTIGATION:

The Complainant submitted an online OPA complaint about his August 19, 2022, encounter with the named employees. OPA opened an investigation.

During its investigation, OPA interviewed the Complainant and reviewed body worn video (BWV).

a. OPA Interview – Complainant

OPA interviewed the Complainant on September 1, 2022. The Complainant stated he called the police after an argument with a neighbor. The Complainant said the police arrived while he was still talking to a 9-1-1 call taker. He stated he told the call taker he planned to put his kids in the car and before talking with police. The Complainant described NE#1, NE#2, and Witness Officer #1 (a probationary student officer) waiting at the elevator when he exited with his family. The Complainant said the officers asked whether he called 9-1-1. The Complainant stated he confirmed he called 9-1-1 and continued towards his car with his kids. The Complainant stated officers questioned why he walked away. He stated he told them he was putting his kids in the car before talking with them. The Complainant alleged officers rolled their eyes and grew impatient.

The Complainant further alleged NE#1 and NE#2 approached his vehicle while gripping their guns. The Complainant stated he assumed the officers thought he was retrieving a weapon. The Complainant also alleged officers aggressively pressed him to speak with them. The Complainant said he told the officers to “forget it” because he no longer wanted to speak with them. The Complainant stated the officers then started to question his fiancée. The Complainant stated his fiancée told them she did not want to talk, which caused the named employees to become more aggressive and disrespectful. The Complainant also alleged he had not been drinking yet officers claimed to smell alcohol on him. Further, the Complainant said, as the named employees drove away, they slowed down, stopped behind his vehicle, pulled beside his vehicle, and shined bright lights to threaten him. The Complainant also alleged the officers profiled him due to his baggy clothes and coarse language.

b. Body Worn Video

OPA reviewed the named employees’ and Witness Officer #1’s BWV.

BWV showed officers contacting the Complainant at the elevator. NE#2 greeted the Complainant. The Complainant stated he was going to put his kids in the car but offered to talk with officers as he walked to the car. NE#2 told the Complainant they could talk after the kids were in the car.

The officers followed the Complainant out of the building to a public sidewalk. The officers approached the Complainant at his vehicle. NE#2 spoke with the Complainant as the Complainant was putting his children in the vehicle. After NE#2 told the Complainant he was being recorded, the Complainant said, “yeah, I know, of course, I know the laws and I know my rights, technically, I don’t have to talk to you right now.” NE#2 responded, “but you called me?” The Complainant replied, “exactly, so what I’m going to say bro is what I’m going to say because you seem like you got attitude and need to watch your mouth as a police officer.” The Complainant accused the officers of approaching him for “no reason.” NE#1 responded, “Sir, let’s back up a second, you called us because a neighbor was



threatening you?" The Complainant removed his phone to start recording the interaction and said he needed to call his lawyer. NE#2 responded by encouraging the Complainant to call his lawyer. NE#1 asked one of the Complainant's children if they needed police, but the child ignored the question. The Complainant raised his voice and demanded NE#1 get away from his vehicle, to which NE#1 responded "calm down." NE#2 said, "he says he's been drinking." The Complainant overheard NE#2's comment and responded, "I have not been drinking." NE#2 said he could smell alcohol on the Complainant. The Complainant replied, "I smell like alcohol, now I can't go anywhere, but I can't sit in my car bro. I got something for you guys, bro. I'm gonna call my lawyer." NE#2 replied "okay." The Complainant told the officers to leave. As the officers prepared to leave, NE#1 stated, "We're done. You called us man. You called us" and "You called us, buddy. So, I don't know what to tell you." The Complainant replied, "Don't come back, you hear? That's why I don't call you motherfuckers."

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 and NE#2 were unprofessional.

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. Among other things, the policy also instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." *Id.*

NE#1, NE#2, and Witness Officer #1's BWV recorded their entire interaction with the Complainant. At no point was NE#1 or NE#2's behavior unprofessional. Overall, their short interaction with the Complainant was confusing because the Complainant—the 9-1-1 caller—appeared upset about their presence. Ultimately, the officers disengaged with the Complainant rather than escalate the situation.

The officers accommodated the Complainant's desire to speak after loading his kids into his car. The Complainant stating, he did not have to speak with the officers appeared to confuse them— since he called 9-1-1. When NE#2 told the Complainant, "But you called me," the Complainant escalated by accusing NE#2 of having an "attitude" and telling NE#2 to "watch your mouth." NE#1 attempted to deescalate by stating, "Sir, let's back up a second. You called us because a neighbor was threatening you?" The Complainant responded by recording the officers and stating he was going to call his lawyer.

NE#2 commenting about the Complainant's possible intoxication was not unprofessional. Particularly where the comment was not directed at the Complainant, NE#2 smelled alcohol on him, and the Complainant's unprovoked, aggressive and confusing response to their presence. While NE#2 could have possibly shared his observation with his partners in a more discrete fashion, given the Complainant's already elevated disposition, that did not appear to escalate the Complainant's baseline.

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

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



Named Employee #1 - Allegation #2

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 engaged 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.

Here, OPA found no evidence of bias policing. BWV showed officers only attempted to gather information about the Complainant’s 9-1-1 call. No evidence supported the Complainant’s claim that officers treated him differently based on his clothes or any other discernible characteristic.

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

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

Named Employee #2 - Allegation #1

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

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

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

Named Employee #2 - Allegation #2

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

For the reasons set forth at Named Employee #1, Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

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