



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 23, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2023OPA-0095

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	Not Sustained - Unfounded

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

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:

An anonymous Complainant alleged that Named Employee #1 (NE#1)—a police captain—was drunk at a bar. The Complainant alleged NE#1 learned that other nearby patrons had an LGBTQ child and made derogatory statements about the LGBTQ community.

ADMINISTRATIVE NOTE:

The Office of Inspector General certified this investigation as thorough, timely, and objective on July 18, 2023.

SUMMARY OF INVESTIGATION:

An anonymous Complainant submitted an OPA complaint alleging that on February 23, 2023, NE#1 was “drunk with his friend at [a] bar” outside Seattle (the Restaurant). The Complainant wrote that NE#1 learned that other patrons “had a child that was part of the LGBT [sic] community” and “began trash-talking said community and made multiple comments about how he would never tolerate [his] children being gay or lesbian.” The Complainant wrote that NE#1 mentioned his “distaste for the LGBT community” multiple times and “let the others around him know he doesn’t approve of parents allowing their kids to be part of the LGBT community.” The Complainant provided the restaurant’s name, the date and time of the alleged incident, and wrote that the “entire restaurant bar staff” witnessed the incident. The Complainant did not provide contact information.

OPA opened an investigation, reviewing the complaint and interviewing NE#1 and two community members.



OPA interviewed Community Member #1 (CM#1)—the Restaurant’s manager—on March 3, 2023. CM#1 said SPD officers frequented the Restaurant and that she knew NE#1 was an SPD captain. CM#1 said she was unaware of a February 23, 2023, incident at the Restaurant or a related OPA complaint. CM#1 agreed to check with her staff to see whether anyone would speak with OPA. During a phone call on March 15, 2023, CM#1 said her staff was unwilling to participate in OPA’s investigation.

OPA interviewed NE#1 on April 6, 2023. NE#1 said he frequented the Restaurant and often met friends there. NE#1 said he met Community Member #2 (CM#2)—NE#1’s friend—and Community Member #3 (CM#3)—CM#2’s wife—there on February 23, 2023. NE#1 also said he knew some of the Restaurant’s staff, including the bartender. NE#1 denied recalling the specifics of his conversation with CM#2 and CM#3 but said they generally talk about sports, politics, and social issues. NE#1 said he typically errs on the side of political correctness. NE#1 said that CM#2 and CM#3 have an LGBTQ family member and that they were the only people near him on February 23rd that he knew had an LGBTQ family member. NE#1 denied making unprofessional or derogatory comments. NE#1 speculated that someone may have overheard them discussing an acquaintance who often made ignorant comments and misunderstood or that someone was intentionally “being mean” by filing an OPA complaint. NE#1 also denied being significantly intoxicated that evening.

OPA interviewed CM#2 on April 20, 2023. CM#2 described himself as NE#1’s friend. CM#2 said he met NE#1 less than two years ago, and they both frequent the Restaurant. CM#2 recalled that, on February 23rd, he and CM#3 sat at the end of the bar, an unknown patron sat next to them, and NE#1 sat next to the unknown patron. CM#2 said he and NE#1 discuss various issues but rarely discuss “heavy subjects.” CM#2 said he did not recall a February 23rd conversation with NE#1 that stood out, describing their conversation as “light-hearted.” CM#2 said he and NE#1 left the bar around 7:30 p.m., and neither was intoxicated. CM#2 denied hearing NE#1 disparage or discuss the LGBTQ community that evening. CM#2 believed that the bartender on February 23rd was a member of the LGBTQ community but did not recall the bartender taking issue with anything NE#1 said that night.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged NE#1 was unprofessional by making derogatory comments about the LGBTQ community while he was intoxicated at a bar.

SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. Further, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers,” whether on or off duty. *Id.*

Here, an anonymous Complainant made allegations against NE#1. The complaint contained some details that OPA could corroborate: (1) the Restaurant exists; (2) NE#1 was at the Restaurant on the listed date and time; (3) NE#1 was with friends; and (4) NE#1’s friends had family in the LGBTQ community. However, OPA could not follow up with the Complainant for further information, like corroborating evidence (i.e., eyewitnesses.)

CM#1 told OPA that her staff declined to participate in OPA’s investigation.



Conversely, along with an emphatic denial, NE#1 provided two witnesses whose daughter was the alleged target of NE#1's derogatory remarks. CM#2 provided a voluntary statement to OPA corroborating NE#1's denial. NE#1 also provided a plausible explanation that his conversation with CM#2 and CM#3 about a bigoted acquaintance was likely misunderstood.

Accordingly, where there is no evidence supporting the allegation and significant refuting it, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

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 that NE#1 engaged in bias-based policing by making prejudicial and derogatory comments about sexual orientation.

SPD policy forbids 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. This includes the expression, “verbally, in writing, or by other gesture—any prejudicial or derogatory comments concerning discernible personal characteristics.” SPD Policy 5.140-POL-2.

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

Recommended Finding: **Not Sustained - Unfounded**