

Issued Date: FEBRUARY 19, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0362

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing
 - a. **Finding:** Not Sustained - Unfounded (Expedited)

2. **Allegation #2:** 15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)

3. **Allegation #3:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
 - a. **Finding:** 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:

Named Employee #1 (NE#1) wrote an incident report based on her conversation with the Complainant. The Complainant alleged that NE#1 was rude, and her report was inaccurate and disrespectful to people with disabilities.

Administrative Note:

This case was approved for expedited investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On September 29, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

On August 23, 2023, the Complainant filed an OPA complaint. The Complainant said he was arguing with a security guard when a woman approached and threatened him with pepper spray. The Complainant said NE#1 called and wrote a report about the incident. The Complainant stated the report inaccurately indicated no weapons were involved, since pepper spray is a weapon. The Complainant said he was offended by NE#1's report referred to the Americans with Disabilities Act (ADA) as the "Adults with Disabilities Act."

OPA investigated the complaint, reviewing the incident report and body-worn video (BWV).

On July 27, 2023, NE#1 wrote an incident report. NE#1 documented computer-aided dispatch (CAD) call remarks, noting the following:

Remarks: JUST NOW, FEM POINTED A MACE AT RP IN HIS VEH DUE TO WHERE HE WAS PARKED. SEC WAS ASKING RP TO MOVE HIS [VEHICLE,] AND SHE [JOINED]. NO [WEAPONS.]

NE#1 wrote that she called the Complainant, who reported the following:

The Complainant said a security guard told him to move his illegally parked vehicle. The Complainant said a woman approached and aimed pepper spray at him. The Complainant said he had a video of the incident, so NE#1 requested he provide it to her. NE#1 wrote, "He also wanted my report to note how he needs assistance, via the Adults with Disabilities Act (ADA) [navigating] the public disclosure process." NE#1 wrote that she provided him with pertinent contact information.

BWV captured NE#1 and the Complainant's conversation. It was consistent with NE#1's incident 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 that NE#1 was biased against people with disabilities, constituting bias-based policing.

Biased policing means "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. It includes different treatments based on disability status. See *id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

Here, the Complainant was offended when NE#1 referred to the ADA as the “Adults with Disabilities Act” in her report. Although NE#1 wrote, “Adults,” this was probably attributable to human error. NE#1’s conversation with the Complainant indicated no bias, prejudice, or derogatory comments against people with disabilities. Additionally, NE#1’s incident report did not describe the Complainant as disabled. It only mentioned that the Complainant wanted her report to note that he needed assistance “via the Adults with Disabilities Act (ADA)” on navigating the public disclosure process. This likely typo does not reflect bias-based policing against people with disabilities.

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

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

Named Employee #1 – Allegation #2

15.180 – Primary Investigations, 15.180-POL-5. Officers Shall Document all Primary Investigations on a Report

The Complainant alleged that NE#1’s incident report was inaccurate.

Officers must document all primary investigations on a report. SPD Policy 15.180-POL-5. All reports must be complete, thorough, and accurate. *Id.*

Here, NE#1’s incident report noted, “NO WPNS.” The Complainant said this statement was inaccurate because he believed pepper spray was a weapon. However, NE#1 documented CAD call remarks verbatim in her report, meaning this information originated from the 9-1-1 call taker, not NE#1. Additionally, NE#1’s incident report was complete, thorough, and accurate based on their conversation captured on BWV.

Accordingly, OPA recommends this allegation be Not Sustained – Lawful and Proper (Expedited).

Recommended Finding: **Not Sustained - Lawful and Proper (Expedited)**

Named Employee #1 – Allegation #3

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

The Complainant alleged that NE#1 was unprofessional by disparaging him.

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.* Additionally, employees must “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” *Id.* 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 derogatory, contemptuous, or disrespectful toward any person. *Id.*

Here, NE#1's incident report documented the Complainant's claims and contained no unprofessional statements. Additionally, BWV captured their conversation, which lasted over 20 minutes. NE#1 patiently listened to the Complainant's criticisms about SPD, expressed appreciation for sharing his frustrations, asked him to explain the incident, requested that he submit a video of his encounter with the woman, and provided contact information for SPD's Public Disclosure Unit. NE#1 was professional and responsive throughout her conversation with the Complainant. The Complainant's allegation is unsupported by the evidence.

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

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