

Issued Date: MAY 18, 2023

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0425

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 #1:** 15.180 – Primary Investigations, 15.180-POL-1. Officers Shall Conduct a Thorough and Complete Search for Evidence
 - a. **Finding:** Not Sustained - Lawful and Proper (Expedited)

Named Employee #2

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)

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) arrested the Complainant for possessing a stolen car. It was alleged that NE#1's actions were motivated by the Complainant race.

Administrative Note:

During its investigation, OPA noted that NE#1 failed to secure the Complainant's cellphone after his arrest. OPA processed that allegation as a Supervisor Action. Supervisor Action generally involves a minor policy violation or performance issue that is best addressed through training,

communication, or coaching by the employee's supervisor. See OPA Internal Operations and Training Manual section 5.4(B)(ii).

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

On October 24, 2023, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

On September 20, 2023, Community Member #1 (CM#1)—the Complainant's wife—left a voicemail for OPA, saying that SPD discriminated against the Complainant. She said they bought a car not knowing it was stolen. She said officers pulled over the Complainant and booked him but did not charge him. She claimed that two officers discriminated against the Complainant through "inappropriate racial comments."

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), and incident report. OPA also interviewed the Complainant.

On September 16, 2023, at 6:30 AM, CAD coded an automobile recovery, which was an officer-originated on-view call. At 6:31 AM, CAD noted an unverified stolen car.

NE#1 pulled over a car and activated his BWV, capturing:

NE#1 went to the rear of his patrol car, drew his gun, and ordered the Complainant to step out. The Complainant complied and was handcuffed. The Complainant denied knowing the car was stolen. He said he bought it on OfferUp the day before but could not recall the seller's name or OfferUp username. He also had no paperwork for the transaction. NE#1 suggested the Complainant show messages on his phone between the Complainant and the seller to verify the transaction. The Complainant said he could not access the phone because it belonged to his sister. NE#1 placed the phone on the hood of his patrol car. NE#1 said he could not verify the Complainant's story, so NE#1 arrested the Complainant and transported him to the East Precinct.

NE#1's incident report was consistent with the events captured on BWV.

On September 26, 2023, OPA interviewed the Complainant. He reported difficulty retrieving his belongings, including his cellphone, from SPD's evidence unit. He also denied that the arresting officers were biased, saying they were just doing their job.

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

It was alleged that NE#1 discriminated against the Complainant, 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 race. *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, NE#1 arrested the Complainant for possessing a stolen car. NE#1 pulled over the Complainant after dispatch noted an unverified stolen car. Although the Complainant claimed he purchased the car on OfferUp, he was unable to produce documentation verifying the transaction or correspondence with the seller. There is no evidence that the Complainant’s race impacted NE#1’s investigation or decision to make an arrest.

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

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