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From: Director Gino Betts, Jr.
Office of Police Accountability



Case Number: 2024OPA-0089

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
Finding: Not Sustained - Unfounded (Expedited)
- 2. Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
Finding: Not Sustained - Unfounded (Expedited)
- 3. Allegation #3:** 5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited
Finding: Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

The Complainant alleged that Named Employee #1 (NE#1)—SPD's general counsel—used her personal Facebook account to post a comment about female SPD employees, constituting harassment, unprofessionalism, and retaliation against female SPD employees who alleged mistreatment by SPD.

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 March 29, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On February 14, 2024, the Complainant filed an OPA complaint, writing that NE#1 posted on her personal Facebook page, “Negative headlines may be the clickbait, but for the honest brokers interested in an honest discussion, we’re here to have it.” The Complainant wrote that NE#1 also included a link to an official SPD story on women in leadership. The Complainant described NE#1’s post as unprofessional, harassing, and retaliatory against female SPD employees who struggled in the Department and filed lawsuits against it. The Complainant wrote, “The number of claims by women are not clickbait, and the women were not dishonest.”

OPA investigated the complaint, reviewing SPD Policy 5.125-POL-2(1), Rule of Professional Conduct (RPC) 3.6, SPD Policy 5.001-POL-18, NE#1’s Facebook post, and a YouTube video describing the 30x30 initiative. OPA also interviewed the Complainant.

SPD Policy 5.125-POL-2(1) provides that employees shall not post speech negatively impacting the Department’s ability to serve the public. It clarifies that employees may express themselves as private citizens on social media sites if employees do not:

- Make, share, or comment in support of any posting that includes harassment, threats of violence, or similar conduct;
- Make, share, or comment in support of any posting that ridicules, maligns, disparages, expresses bias, or disrespects any race, religion, sex, gender, sexual orientation, nationality, or any other protected class of individuals;
- Make, share, or comment in support of any posting that suggests that Department personnel are engaged in behavior reasonably considered to be unlawful or reckless toward public safety or
- Otherwise, violate any law or SPD policy.

RPC 3.6(a) provides that a lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will be disseminated using public communication and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter. Notwithstanding RPC 3.6(a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer’s client. RPC 3.6(c). A statement pursuant to RPC 3.6(c) shall be limited to such information as necessary to mitigate the recent adverse publicity. *Id.*

SPD Policy 5.001-POL-18 provides that employees must avoid conflicts of interest. It clarifies that employees will not associate with persons or organizations where such association reasonably gives the appearance of a conflict of interest. It also clarifies that employees will not engage in enforcement, investigative, or administrative functions that create or give the appearance of conflicts of interest.

NE#1’s Facebook post stated, “Negative headlines may be the clickbait, but for the honest brokers interested in an honest discussion, we’re here to have it. I’m so proud to be a member of

the SPD, and of the incredible work my teams do. Real change comes from within. Follow the data, lean into the science.” NE#1’s post also included a link to an official SPD story highlighting three women in SPD leadership—one of whom included NE#1.

In a YouTube video, NE#1 described 30x30 as an initiative to increase women’s participation in law enforcement to 30 percent of sworn capacity by 2030. NE#1 said SPD ordered a report to assess women’s perspectives in the Department to provide a real-time temperature check as a platform for designing recommendations that meet the workforce’s needs. NE#1 also said the report would identify challenges that women in SPD confront.

On March 10, 2024, OPA interviewed the Complainant. The Complainant said his OPA complaint was self-explanatory. The Complainant believed NE#1’s involvement in implementing the 30x30 initiative as the executive director of analytics and research created a conflict of interest with her public criticism of the report’s negative headlines concerning SPD’s culture. The Complainant said NE#1’s comment suggested no reforms at SPD.

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’s Facebook post was biased against female SPD employees, alleging mistreatment by SPD.

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 gender. See *id.* Employees are forbidden from making decisions or taking actions influenced by bias, prejudice, or discriminatory intent. See SPD Policy 5.140-POL-2.

NE#1’s Facebook post about “Negative headlines may be the clickbait” was not directed at any SPD employee. It appeared to comment on negative headlines being generated from the 30x30 report. It did not suggest any bias. Additionally, NE#1’s post included a link to an official SPD story praising women in leadership. The totality of NE#1’s post appeared to highlight women’s accomplishments in SPD. OPA found no evidence suggesting NE#1 was biased against female SPD employees.

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

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 that NE#1’s Facebook post was unprofessional.

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.*

SPD policies and the RPC permitted NE#1 to post her comment either as a private citizen or as SPD’s general counsel. First, SPD Policy 5.125-POL-2(1) permitted NE#1 to express herself as a private citizen if her post did not, among other things, harass, threaten violence, express bias, ridicule, or otherwise violate any law or SPD policy. NE#1’s post did not negatively impact SPD’s ability to serve the public. Second, RPC 3.6(c) permitted NE#1 to post her comment in her role as SPD’s general counsel. Arguably, NE#1’s comment was intended “to protect [SPD] from the substantial undue prejudicial effect of recent publicity not initiated by” NE#1 or SPD. NE#1 described being proud of SPD and defended its work. Third, OPA found no facts suggesting NE#1’s role as the executive director of analytics and research and NE#1’s duties to implement reforms based on the 30x30 report neither created a conflict of interest nor created the appearance of one. Overall, OPA finds that NE#1’s Facebook post did not violate SPD’s professionalism standards.

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

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

Named Employee #1 – Allegation #3

5.001 – Standards and Duties, 5.001-POL-14. Retaliation is Prohibited

The Complainant alleged that NE#1’s Facebook post retaliated against female SPD employees who struggled in the Department and filed lawsuits against it.

SPD employees are prohibited from retaliating. SPD Policy 5.001-POL-14. SPD employees are specifically prohibited from retaliating against a person who initiates litigation. *Id.* Retaliatory acts are defined broadly under SPD’s policy and include discouragement, intimidation, coercion, or adverse action against any person. *Id.*

This allegation is unfounded for the same reasons as Named Employee #1—Allegation #1. OPA found no evidence suggesting NE#1’s Facebook post was intended to discourage, intimidate, or coerce anyone.

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

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