



## CLOSED CASE SUMMARY

ISSUED DATE: JULY 16, 2025

FROM: INTERIM DEPUTY DIRECTOR NELSON R. LEESE (ON BEHALF OF INTERIM DIRECTOR BONNIE GLENN)  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2025OPA-0055

### Allegations of Misconduct & Director's Findings

#### Named Employee #1

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 (Expedited)
# 2	5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional	Not Sustained - Lawful and Proper (Expedited)

#### 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 (Expedited)
# 2	5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional	Not Sustained - Lawful and Proper (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:

On January 18, 2025, the named employees (NE#1 and NE#2) led SPD's response to a permitted demonstration at Cal Anderson Park. Community Member #1 (CM#1), a journalist present at the demonstration, allegedly harassed attendees. The Complainant alleged that the named employees acted unprofessionally by declining to apply a time, place, and manner (TPM) restriction on CM#1 and exhibited bias in favor of CM#1 due to his political views.

### 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 employees. As such, OPA did not interview the named employees in this case.

On March 24, 2025, OIG certified OPA's investigation as thorough, timely, and objective.

### SUMMARY OF INVESTIGATION:

OPA investigated the complaint by reviewing an incident report, background information, case law, prior OPA investigations, Cal Anderson Park event permit, incident action plan, body-worn video (BWV), personally recorded video, and email correspondence.



On January 18, 2025, CM#1 was present at a demonstration at Cal Anderson Park while he recorded it on his phone. His video captured multiple event organizers, including the Complainant, attempting to remove him from the park. A sergeant arrived and told CM#1 that he was permitted to exercise his First Amendment rights at the demonstration. The Complainant requested the sergeant to impose a TPM restriction on CM#1, to which the sergeant said he would escalate the request through his chain of command.

BWV captured NE#2's encounter with the Complainant. The Complainant requested a TPM restriction be applied on CM#1 because he was a provocateur who charged at attendees, attempted to rush the stage, and had a documented history of violence. NE#2 disagreed with the Complainant's characterization of CM#1's behavior and declined to impose a TPM restriction, citing a recent Ninth Circuit opinion, which NE#2 claimed outlined specific criteria for the lawful application of a TPM restriction.<sup>1</sup> NE#2 acknowledged familiarity with CM#1, his actions, and his association with the media but stated that he and NE#1, the incident commander, believed the criteria for a TPM restriction were unmet. NE#2 also mentioned that SPD was monitoring the demonstration and would intervene if CM#1 caused a disruption or committed a crime. The Complainant opined that SPD was protecting "right wing people."

#### **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 the named employees exhibited bias in favor of CM#1 due to his political views.

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 treatment based on political ideology. *See id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning discernible personal characteristics. *See* SPD Policy 5.140-POL-2.

There was no evidence of bias. Rather, the named employees' decision to refrain from taking any police action in this case was guided by the Ninth Circuit opinion, which NE#2 repeatedly explained to the Complainant. In fact, NE#2 acknowledged the Complainant's frustrations about CM#1's perceived role as a provocateur and indicated a desire to assist the Complainant, but NE#2 clarified the limits of his legal authority. NE#2 also explained that SPD would monitor the demonstration and intervene should CM#1 engage in criminal behavior. Overall, OPA found no evidence supporting the Complainant's interpretation of bias based on CM#1's political positions.

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

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

<sup>1</sup> NE#2 likely referred to *Meinecke v. City of Seattle*, 99 F.4th 514 (9th Cir. 2024).



---

**Named Employee #1 – Allegation #2**

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

The Complainant alleged the named employees acted unprofessionally by not applying a TPM restriction on CM#1.

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.*

Given the circumstances in this case and considering the *Meinecke* decision, the named employees appropriately refrained from applying a TPM restriction on CM#1, as such an action would likely have violated CM#1’s First Amendment rights to free speech and peaceful assembly. TPM restrictions are content neutral and most often enforce pre-existing rules. *See Meinecke*, 99 F.4th 522-23. Common examples of these restrictions include designated hours for public spaces (time), established buffer and protest zones (place), and regulations regarding noise levels (manner). These restrictions are not “a shorthand for the convenience of the officers in maintaining order for the primary events.” *Id.*

In this case, the Complainant was unable to identify any content-neutral restriction that could be enforced against CM#1. Instead, he cited CM#1’s alleged behavior (charging at attendees in past demonstrations and attempting to rush the stage) and CM#1’s alleged history of violence as reasons for restricting him from the park. A TPM restriction under these circumstances would be unconstitutional as either a heckler’s veto (where the government silences particular speech or a particular person based on the audience’s anticipated reaction), *see Meinecke*, 99 F.4th 522, or a form of prior restraint on CM#1’s right to peaceful assembly in a public space. There was no evidence indicating that CM#1 had committed a crime, like making credible threats of violence or assaulting others, that would have warranted police intervention. Rather, the Complainant seemingly requested a TPM restriction for CM#1’s removal to facilitate a smoother demonstration. At the very least, the First Amendment prohibits this kind of content-based restriction. If demonstration attendees wished to exercise their First Amendment rights in a public space, those with opposing views were equally entitled to assemble and express their views in the same public space. At most, imposing a prior restraint on CM#1’s right to peaceful assembly in a public space would be clearly unconstitutional. Thus, OPA finds that the named employees acted consistently with the First Amendment principles established in *Meinecke* by declining to impose a TPM restriction on CM#1.

Here, the named employees did refuse to take enforcement action against CM#1, but this was lawful and proper. OPA recommends that this allegation be Not Sustained – Lawful and Proper (Expedited).

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

**Named Employee #2 – Allegation #1**

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

For the reasons articulated in Named Employee #1 – Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded (Expedited).

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



**Named Employee #2 – Allegation #2**

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

For the reasons articulated in Named Employee #1 – Allegation #2, OPA recommends that this allegation be Not Sustained – Lawful and Proper (Expedited).

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