



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 26, 2018

CASE NUMBER: 2017OPA-0916

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 13. Retaliation is prohibited	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:

The Complainant alleged that the Named Employee was unprofessional and biased towards him while investigating an incident involving the Complainant and the Complainant's children. The Complainant indicated that the Named Employee pressured him to give up his parental rights and told him that the investigation would not go well for him if he didn't agree.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

Named Employee #1 (NE#1) was assigned a case in which the Complainant alleged that his daughter had been sexually assaulted at a day care center. NE#1 observed the Complainant’s daughter being interviewed by a Child Interview Specialist (CIP). The daughter told the CIP that she had lied about being touched because her father said that he would spank her if she did not lie. CPS then ruled that the case was unfounded. NE#1 felt that it was necessary to keep the daughter away from the Complainant for her safety (the Complainant was scheduled for an unsupervised visit) and based on his ongoing investigation into the child’s allegations to the CIP. NE#1 attempted to convince the Complainant not visit with his daughter for the weekend because he wanted to insure the child’s safety; however, the Complainant refused to cancel his visit. NE#1 then told the Complainant that the child would be taken to CPS. The Complainant stated that NE#1 wanted to place his child in protective custody because the Complainant’s religion, gender, and race were different than his ex-wife. Specifically, the Complainant alleged that he was discriminated against because he is a white Christian man and his wife is an African-American woman.

SPD policy prohibits biased policing, which it defines 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.) This includes different treatment based on the race of the



subject. (See id.) The policy provides guidance as to when an allegation of biased policing occurs, explaining that: “an allegation of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernable personal characteristic...” (Id.)

Based on a review of the objective evidence in this case, I find that NE#1’s intention was to seek to place the child into CPS custody for the child’s protection. I do not believe that the Complainant’s gender, race or religion played any role in NE#1’s decision making and there is no indication that NE#1 engaged in biased policing in this case. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

The Complainant alleged that NE#1 was rude and aggressive while they were speaking on the phone. He stated that NE#1 told him that if he did not voluntarily give up his parental rights, that NE#1 would take his rights legally. The Complainant informed NE#1 that he would not give up his parental rights. The Complainant alleged that NE#1 was being deceptive when he tried to convince the Complainant to voluntarily give up his rights.

NE#1 explained that he was anything but deceptive. He indicated to OPA that he tried to tell the Complainant that what his child had said in her interview needed to be investigated and that, if necessary, he would be required to take the child into protective custody. NE#1 told the Complainant that it would be easier if he agreed to relinquish visitation for that weekend, but NE#1 explained that he was legally justified in taking protective custody of the child regardless of what the Complainant decided.

SPD Policy 5.001(9) states that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” This includes making statements that undermine “the effectiveness of the Department...” (SPD Policy 5.001(9).)

As a starting point, there is no evidence, aside from the Complainant’s assertions, that NE#1 was rude or aggressive during their phone call. Indeed, NE#1 denied engaging in such behavior. Moreover, based on my review of the record, the evidence suggests that NE#1’s behavior and the content of his conversation was based on a concern for the welfare of the Complainant’s child and was legally justified. There is no indication that NE#1’s behavior was at all unprofessional or outside of policy or the Department’s expectations

As such, I recommend that this allegation be Not Sustained – Unfounded.

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



Named Employee #1 - Allegation #3

5.001 - Standards and Duties 13. Retaliation is prohibited

As stated above, NE#1 made the decision to take the child into protective custody because of the forensic interview by the CIP, which was witnessed by both NE#1 and CPS. During this interview, the child alleged that the Complainant threatened to spank her – a physical assault – if she did not lie and allege that she was sexually abused.

NE#1 had a legal basis to take the child into protective custody whether or not it was agreed to by the Complainant. He did, however, give the Complainant the opportunity to voluntarily relinquish custody for the weekend. The Complainant chose not to do so. However, regardless of what the Complainant chose, the result was always going to be the same – the child was going to be taken into protective custody. As such, it cannot be said that NE#1's actions in this regard were purposed to retaliate against the Complainant.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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