



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 7, 2019

CASE NUMBER: 2018OPA-1171

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) |

Named Employee #2

| Allegation(s): | | Director’s Findings |
|----------------|---|---------------------------|
| # 1 | 5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing | 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 Employees engaged in biased policing towards him.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

During its investigation, OPA identified that the Named Employees did not write a General Offense Report even though the Complainant asked for the report multiple times. OPA believed that this matter was better addressed by the Named Employees’ chain of command and sent this case back for handling as a Supervisor Action.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

On December 18, 2018, the Named Employees responded to a call for service at a business. The call involved an encounter between a store security guard and the Complainant, who had been accused of theft by the security guard. The Named Employees arrived on scene and contacted the Complainant. The Complainant told the officers that, once he left the store, the security guard forced him to come back inside by threatening him with a Taser.



Named Employee #1 (NE#1) spoke to the security guard who told them that he observed the Complainant take a bottle off of a shelf and then walk out of the store. The security guard approached the Complainant and asked him if he paid for the bottle. He said that the Complainant became angry and “got loud.” The security guard stated that he moved backwards and took out his Taser. He then asked the Complainant to reenter the store to prove that he paid for the bottle.

After speaking with the security guard, NE#1 returned to where the Complainant was standing and told him what had occurred seemed to be a misunderstanding. The Complainant disagreed and asked multiple times for a report to be generated concerning the incident. The Complainant said that he wanted the report because the store manager told him that the store did not have its own reporting system. NE#1 indicated that there was no report that could be written given that, in NE#1’s opinion, no crime had occurred. After further discussion, Named Employee #2 (NE#2) offered to add some notes to the call to explain what had occurred. This did not appear to satisfy the Complainant who remained frustrated.

After this incident, the Complainant initiated this complaint with OPA. He alleged that the officers failed to write him a report when he asked. He further contended that the officers looked up his personal information and, when they determined that he was homeless, they treated him unfavorably as a result.

Even though the Complainant made this complaint anonymously via OPA’s online complaint form, OPA was successful in contacting him and he agreed to be interviewed. The Complainant told OPA that, in reference to his allegation about biased policing, he was particularly bothered by a comment made by NE#2. Specifically, the Complainant referenced the following statement that he attributed to NE#2: “Nobody’s saying the fault is on you. That may have been the case in the past for [the Complainant], but that’s not the case today. Okay? And you understand what I’m saying.” The Complainant claimed that he was then escorted out of the store by NE#1 and NE#2, and that it made him feel like he did not have any rights. The Complainant stated that it seemed to him that NE#1 and NE#2 looked at him and saw someone who is off the streets, and they judged him based on that bias. The Complainant stated that he knows that NE#1 and NE#2 looked up some information about him on their handheld computer and wondered if there was some sort of notification in SPD’s system about the Complainant’s previous homelessness status. When OPA asked the Complainant whether he had any outstanding warrants and if he thought NE#2 may have viewed that on his computer when he made that comment, the Complainant stated that NE#2’s comment was inappropriate regardless of anything that may or may not have happened in the Complainant’s past. In terms of a resolution to this issue, the Complainant stated that he would like NE#1 and NE#2 receive additional sensitivity training. The Complainant also stated that regardless of whether a person has a million or three dollars in the bank, the officers should treat people the same way, and that it should be done with patience.

OPA reviewed the BWV associated with this incident. During its review, OPA determined that NE#2 appeared to run the Complainant’s name through SPD’s system after the Complainant provided NE#2 with his information. It also appeared that NE#2 discovered that the Complainant had a \$1,500 outstanding misdemeanor theft warrant from February 2018; however, NE#2 never acted on or explicitly referenced that warrant in his discussions with the Complainant. OPA confirmed that, at the time of this incident, the Complainant had an outstanding and active misdemeanor warrant.



SPD Policy 5.140 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.”

While OPA understands how the Complainant perceived the case, there is no evidence that NE#1 or NE#2 acted based on bias. Notably, even prior to learning anything concerning the Complainant’s housing status or open warrant, the officers had already determined that the incident was an unfortunate misunderstanding and that no crime had been committed. As such, this did not appear to influence their decision-making in any respect. Moreover, while NE#2 referenced the Complainant having issues in the “past,” this was not an attempt to insult the Complainant and did not suggest bias. For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #2 - Allegations #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

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