



CLOSED CASE SUMMARY

ISSUED DATE: MAY 23, 2019

CASE NUMBER: 2018OPA-1167

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	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Inconclusive)

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 as part of their effort to obtain an Extreme Risk Protection Order (ERPO) against him in 2018. It is further alleged that Named Employee #1 (NE#1) failed to activate his In-Car Video (ICV) recording system when he issued a parking ticket to the Complainant in 2017.

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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant alleged that the ERPO that was served on him contained “racial incendiary language” that NE#1 and Named Employee #2 (NE#2) falsely claimed that the Complainant used on June 17, 2018. The Complainant alleged that NE#1 and NE#2 included false information in obtaining the ERPO against the Complainant because they are racist. The Complainant was aware of what the Named Employees said about him from reviewing a copy of a search warrant that was served on him in connection with the ERPO. The Complainant has not been able to view any



of the Body Worn Video (BWV) associated with the June 17, 2018 incident, but he disputed that he ever used the language that was attributed to him by the Named Employees.

The Complainant also alleged that NE#1 selectively issued a parking ticket to him in 2017 after he moved his vehicle out of a space that NE#1 claimed was illegal. The Complainant stated that NE#1 did so because NE#1 is racist. The Complainant explained that NE#1 only issued a ticket to him and not to another car that was also parked illegally. The Complainant stated that he saw the driver of that other car and that this individual was not a person of color.

OPA reviewed the ERPO and other related documents pertaining to this matter. In those materials, NE#1 included information about an incident on June 17, 2018, during which NE#1 wrote that the Complainant made multiple threats against officers while using very vulgar language, including repeatedly using the n-word.

OPA obtained and reviewed the BWV recordings of that prior incident. In the BWV, the Complainant was heard yelling the following: “f**k you fa**t,” “Boogie ass [n-word],” “[n-word],” and other similar racially-motivated slang. The Complainant also made repeated statements in which he threatened physical harm towards the officers.

OPA lastly located the parking ticket that was issued to the Complainant by NE#1 on January 22, 2017. The ticket was for parking on the sidewalk. OPA was unable to locate any video associated with the issuance of this ticket.

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.” This includes different treatment based on the race of the subject. (*See id.*)

Based on OPA’s review of the evidence, there is no indication that NE#1 or NE#2 engaged in biased policing in obtaining the ERPO against the Complainant. During the June 17, 2018 incident, the Complainant could be clearly heard on multiple BWV recordings using racially charged language and threatening officers, which conclusively disproves the Complainant’s claims otherwise. In terms of the parking ticket, OPA found that there was insufficient evidence in the record establishing that NE#1 engaged in bias-based policing when he issued it. For these reasons, I find that the Complainant’s allegation of bias is unsupported and I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #1 - Allegation #2

16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity

Based on the absence of In-Car Video (ICV) from NE#1’s issuance of the January 22, 2017 parking ticket, it was alleged that NE#1 failed to record this police activity, which was potentially inconsistent with Department policy.

SPD Policy 16.090-POL-1(5) concerns when Department employees are required to record police activity. SPD Policy 16.090-POL-1(5)(b) sets forth the categories of activity that must be recorded, which include: responses to dispatched calls starting before the employee arrives on the scene; traffic and *Terry* stops; on-view infractions and criminal activity; arrests and seizures; searches and inventories of vehicles, persons, or premises; and questioning



victims, suspects, or witnesses. If NE#1, as alleged, failed to record the police activity that led to the issuance of the January 22, 2017 parking ticket, it would have violated this policy.

During OPA's review of NE#1's ICV for January 22, 2017, there appeared to be no recording during the time period associated with this ticket; however, the Complainant indicated in his statement to OPA that he moved his vehicle from where it was illegally parked and NE#1 issued him the parking ticket then and not while it was parked illegally. As such, OPA finds that it is possible that NE#1 was not in a position to activate his ICV before the Complainant moved his vehicle. Since that aspect is unknown, I find that there is insufficient information to make a conclusive allegation on this allegation. For these reasons, I recommend that this allegation be Not Sustained – Inconclusive against NE#1.

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

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 as against NE#2.

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