



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 15, 2019

CASE NUMBER: 2019OPA-0264

### 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	Sustained
# 2	5.125 - Social Media - POL 2 – Employee Personal Use of Social Media 1. Employees Shall Not Post Speech That Negatively Impacts the Department’s Ability to Serve the Public	Sustained
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Sustained

**Imposed Discipline**

**Retired prior to Termination**

*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 Anonymous Complainant alleged that the Named Employee violated the Department’s professionalism, social media, and bias-free policing policies when he made various posts on his personal social media page.

### ANALYSIS AND CONCLUSIONS:

**Named Employee #1 - Allegations #1**

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

On April 24, 2019, an anonymous Complainant initiated this complaint with OPA. The Complainant asserted that Named Employee #1 (NE#1), who was then employed by SPD but has since retired, made a number of social media posts that included profanity and derogatory language. These posts, which were directed towards federal and state government officials, were made between February 26, 2019 and April 23, 2019.

Examples of the posts in question included the following:

- A post on February 26, 2019 that was directed towards Governor Jay Inslee read: “you weak wristed lefties don’t want border security... you want votes to keep your anti-American party in power.”
- A post on April 9, 2019 that was directed towards U.S. Representative Eric Swalwell read: “when is the last time someone told you that you’re a little bitch?”
- A post on April 18, 2019 that was directed towards U.S. Representative Jerry Nadler read: “break yourself ass hat.”
- A post on April 23, 2019 directed towards Governor Jay Inslee read: “If their (*sic*) illegal they don’t live here... they are trespassing on our sovereign soil.”



- A post on April 23, 2019 directed towards U.S. Representative Ilhan Omar read: “thoughts? In the name of your religion, which isn’t of peace.”

As part of its investigation, OPA sought to interview NE#1. However, he declined to be interviewed and, given his retirement, OPA was unable to compel NE#1 to participate in this investigation.

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.) Protected classes as defined by the policy include race, religion, and political ideology. (*See id.*) Additionally, this policy states that: “employees shall not express—verbally, in writing, or by other gesture—any prejudice or derogatory comments concerning discernible personal characteristics.” (*Id.*)

The First Amendment protects speech, even speech that is insulting and derogatory. However, officers, by function of their employment with SPD, agree to limitations on that right. Among the limitations are those set forth in SPD Policy 5.140.

Two of the posts reviewed by OPA contained statements that, in OPA’s perspective, violated SPD’s biased policing policy. The first statement, which was directed towards U. S. Representative Ilhan Omar, referred to the Easter terrorist attacks in Sri Lanka, asked the Congresswoman what she thought of the attacks, and stated that the Islamic religion was not one of peace, suggesting that the Islamic religion and all of its approximately 1.57 billion adherents were supportive of violence. The second statements referred to “lefties,” a pejorative term used by some for Democrats, as an “anti-American party.” As such, NE#1 identified approximately half of the United States population as being anti-American simply because these individuals believed in values more closely aligned with those espoused by the Democratic party, even though liberals, like conservatives, have a wide range of opinions concerning immigration and border security. In both statements, NE#1 disparaged members of protected classes. The content and delivery of these statements causes OPA to conclude that NE#1’s beliefs surrounding Muslims and Democrats are sufficiently ingrained to impact his provision of law enforcement services. This is the very definition of biased policing.

For these reasons, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

#### **Named Employee #1 - Allegation #2**

#### ***5.125 - Social Media - POL 2 – Employee Personal Use of Social Media - 1. Employees Shall Not Post Speech That Negatively Impacts the Department’s Ability to Serve the Public***

SPD Policy 5.125-POL-2 states that SPD employees shall not post speech that negatively impacts the Department’s ability to serve the public. This policy acknowledges that SPD employees may express themselves as private citizens on social media sites as long as employees do not: make, share, or comment in support of any posting that ridicules, maligns, disparages, expresses bias, or disrespect toward any race, religion, sex, gender, sexual orientation, nationality, or any other protected class of individuals. (SPD Policy 5.125-POL-2(1).)



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As discussed above and as referenced in the Summary of Investigation, NE#1 posted multiple derogatory and profane statements on social media. Moreover, he directed his vitriol towards government officials. This is simply not consistent with the Department's expectations of his conduct and, based on SPD policy, was inappropriate. Moreover, the posting of such comments, particularly offensive statements towards wide swaths of the community, serve to significantly diminish public trust and confidence both in NE#1 and the Department.

Notably, this is now the third time in two years that NE#1's social media accounts have been referred to OPA for violating Social Media Policy. On both previous occasions, he was disciplined with a one-day suspension and received re-training. Obviously, this discipline and retraining was not effective as he continued to engage in the same behavior.

Ultimately, for the reasons stated above, OPA recommends that this allegation be Sustained.,

Recommended Finding: **Sustained**

**Named Employee #1 - Allegation #3**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

For the same reasons as stated in Allegation #1 and Allegation #2, the social media postings made by NE#1 also violated the Department's professionalism policy. As such, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**