



## **CLOSED CASE SUMMARY**

ISSUED DATE: NOVEMBER 23, 2018

CASE NUMBER: 2018OPA-0495

### **Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

<b>Allegation(s):</b>		<b>Director’s Findings</b>
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 towards her and that he engaged in biased policing.

#### **ANALYSIS AND CONCLUSIONS:**

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

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

This complaint arose from an interaction between the Complainant and Named Employee #1 (NE#1) while the Complainant was in line to drive onto a ferry. Most of the interaction was recorded on NE#1’s Body Worn Video (BWV). The BWV established that NE#1 approached the Complainant’s vehicle and asked where she was going. She told him that she was driving onto the ferry. NE#1 informed her that she needed to drive to the back of the ferry line because she had cut in front of other vehicles. The Complainant grew agitated and stated that she was not going to do that. She explained that she had been at the rear of the line but that she thought the vehicles in front of her were parked and she drove around them. She told NE#1 that she later learned that those vehicles were also in line. She again yelled that she did not have to go to the back of the line and NE#1 told her to park and pointed in front of them. The Complainant parked in an area with hashmarks. NE#1 told her that she could not park there and asked her to move backwards to an open spot that did not have hashmarks. It is unclear whether she did so as the BWV recording then ended.

The Complainant later initiated this OPA complaint. She stated that NE#1 was unprofessional during this incident. She also alleged that NE#1 engaged in biased policing towards her because she was an elderly woman who was not Caucasian and who did not look “professional” at the time of the stop.

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



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characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

Based on the objective evidence, most notably the BWV, there is insufficient evidence supporting the Complainant’s allegation of biased policing. NE#1 approached her and told her to go to the back of the line because she admittedly drove past other cars that were in front of her and who were also waiting for the ferry. There is no evidence that he did so because of her age or race. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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

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

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

As discussed above, the Complainant also alleged that NE#1 was unprofessional towards her. Specifically, she asserted that he violated Department policy because he “humiliated” her and would not listen to her.

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*)

Again, the video is dispositive evidence in this case. While NE#1 was firm with the Complainant, the video established that he was not impolite. The Complainant, on the other hand, was agitated and raised her voice at NE#1 several times. While I’m sure that this situation was frustrating for the Complainant, there is no evidence that NE#1 engaged in any acts purposed to humiliate her or that he failed to listen to her. Ultimately, when applying a preponderance of the evidence standard, there is insufficient evidence to establish that NE#1’s conduct and demeanor towards the Complainant was unprofessional or in any way violated policy. As such, I recommend that this allegation be Not Sustained – Unfounded.

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