



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 7, 2019

CASE NUMBER: 2018OPA-1064

### 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 (Training Referral)
# 2	5.125 - 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**

<b>Termination</b>
--------------------

*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:

It was alleged that the Named Employee’s Instagram postings violated multiple Department policies.

### SUMMARY OF INVESTIGATION:

OPA received an email from an anonymous Complainant in which it was alleged that Named Employee #1 (NE#1) made numerous offensive Instagram posts. The Complainant contended that these posts were unprofessional in that they included “extremely profane language,” as well as because the posts “attack[ed] certain groups of people...[and] people’s political views.” The Complainant asserted that the posts were “not becoming of a Seattle PD officer” and were “in violation of the PD manual on social media conduct.”

The Complainant provided several of the Instagram posts to OPA. The Instagram user name of the poster was “officerdg.” The first post reviewed by OPA was of a picture of a mail package bomb with the following text underneath: “I don’t condone sending package bombs but god it would be nice for Killary and Anti cop Obama to finally STFU! Maybe Obama will stop lying and claiming the good economy is from him. #maga #trump2020 #trump.” The second post was of an individual, who OPA identified as NE#1, giving the middle finger. Underneath that image was the following text:

If you support illegal immigrants coming into our country so much then make a difference and bring them into your home and YOU support them you fucksticks! #trump #redwave #republican #makeamericagreatagain #bluelivesmatter #thinblueline #thickblueline #police #cops #freedom.



OPA interviewed the anonymous Complainant via telephone. The Complainant, who was female, declined to provide a recorded statement or to disclose her identity. She stated that she was an acquaintance of NE#1 and had been following him on Instagram for approximately five years. She stated that she was concerned when she viewed posts that he uploaded, including the two referenced above. She reviewed the SPD policy concerning social media usage and believed that the posts violated that policy. She further raised the concern that, due to the multiple hashtags that NE#1 used, his inappropriate posts could become available to a significantly larger audience than those who followed him on Instagram.

OPA also interviewed NE#1. NE#1 acknowledged that his Instagram username was “officerdrg.” He further admitted that he made the posts in question. NE#1 told OPA that he did not believe that either of his posts established bias on his part. He stated that he was criticizing “illegal immigration” as a practice, not undocumented individuals specifically. NE#1 recognized that his postings were statements that negatively impacted the Department’s ability to serve the public, as well as that the postings were unprofessional. He told OPA that, in hindsight, he would not have made the postings.

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

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

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

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.*)

In evaluating this allegation, I agree with NE#1 that he did not malign a specific racial or ethnic group or even immigrants, themselves. Instead, he railed against “illegal immigration” and against other Americans who may hold different opinions on immigration into the United States and on how to address undocumented individuals within the country. Certainly, an officer can have and express strong feelings concerning the immigration debate that is raging in this county without acting contrary to policy or engaging in bias. Moreover, it is not and cannot be a policy violation for an officer to hold political views that may be out of line with those possessed by the majority of the community members and political figures in the City where that officer serves. However, based on the tenor of and vitriol contained in NE#1’s postings, OPA questions whether NE#1 is so averse to “illegal immigration” that he would be unable to provide law enforcement services equitably and completely to an undocumented individual. If so, this would constitute different treatment of a person based on personal characteristics and would be contrary to SPD’s bias policing policy.

Ultimately, OPA does not believe that it can prove that NE#1 engaged in biased policing when applying the requisite burden of proof. However, given OPA’s concerns in this regard, I recommend that NE#1 receive the below Training Referral.

- **Training Referral:** NE#1 should attend a racial equity/bias training. Ideally, the training would have an emphasis on immigration and the experiences of undocumented individuals within the United States and the challenges they face. This training and any associated counseling should be documented and this documentation should be maintained in an appropriate database.



Recommended Finding: **Not Sustained (Training Referral)**

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

***5.125 - 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).)

As NE#1 acknowledged, his postings negatively impacted the Department's ability to serve the public. This is due to the fact that he appeared to endorse violence against political figures in one posting and, in the other, engaged in a profanity laced critique both of "illegal immigration" and of those individuals who may support a different political position on this issue than he holds. SPD Policy 5.125-POL-2(1) explicitly precludes such statements by officers on social media.

For these reasons, I recommend 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***

SPD Policy 5.001-POL-10 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-10.) 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.*)

For the same reasons as stated above, OPA further finds that NE#1's Instagram postings violated the Department's professionalism policy. Notably, NE#1 identified himself on Instagram as "officerdg" (which included his initials) and included multiple law enforcement hashtags with his postings. As such, OPA concludes that he identified himself as a police officer when he used profanity directed as an insult and derogatory, contemptuous, and disrespected language. Moreover, as NE#1 recognized at his OPA interview, the content of his postings served to undermine public trust in himself, his fellow officers, and the Department as a whole.

As such, I recommend that this allegation be Sustained.

Recommended Finding: **Sustained**