



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 6, 2019

CASE NUMBER: 2019OPA-0198

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)

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 she was pulled over by the Named Employee because of her race.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was 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 stated that she was making food deliveries as part of her job when she noticed Named Employee #1 (NE#1) following her. The Complainant said that NE#1 followed her for roughly 20 minutes before he and other officers pulled her over. The Complainant stated that they did so with their guns drawn and that they announced that they were interested in the front passenger of her car. As this took place, the Complainant’s five and two-year-old children were in the backseat in extreme emotional distress. The Complainant alleged that NE#1 pulled her over for being Black in a White neighborhood. She recalled being told by NE#1, after he arrested her passenger, that the passenger had a felony warrant. The Complainant acknowledged that NE#1 remained calm when he spoke to her and that he offered her a cigarette and lit it for her. The Complainant told OPA that she was more upset about the tactics of the stop and that she was not saying that NE#1 was a bad officer. In response to OPA’s question regarding what she would like to see as a solution to her complaint, the Complainant stated that she wanted improved tactical skills and better treatment of non-arrestees.

NE#1 reported that, while on patrol, he ran the license plate for the Complainant’s car. Notably, OPA reviewed NE#1’s license plate search history over the course of his shift and found that he ran 23 other vehicle’s license plates when he was not responding to 911 calls. Through his search, NE#1 linked the passenger to the Complainant’s vehicle. He then confirmed that the passenger was the warrant suspect by matching him to a photo that NE#1 pulled

up on his Mobile Data Terminal. At the time, NE#1 was aware that the warrant was a felony DOC warrant (burglary) and he also knew that the passenger had gang affiliations. NE#1 called for other officers to back him on the stop. Once he had sufficient backup, he conducted a high-risk vehicle stop. This involved the officers setting up by the open doors of their patrol vehicles with their handguns drawn and at the low-ready. They called out directions to the driver to turn off her car and drop her keys out of the window. The driver did so. The officers also repeatedly ordered the passenger to get out of the car. After arguing with the officers for a period of time and after initially not exiting the car, the passenger did so and he was arrested without incident. After his arrest, the officers located a BB gun in the passenger's pants.

OPA reviewed the In-Car Video and Body Worn Video (BWV) for this incident. The videos supported the information reported by NE#1. The video further showed NE#1's attempt to confirm the identity of the front-seat passenger when he used a ruse by pulling alongside of the vehicle and speaking briefly with the passenger about the registration of the vehicle. When he did so, NE#1 was able to confirm that the tattoos that the passenger had on his hands were the same as those possessed by the warrant suspect. It also showed that NE#1 and the other officers had their guns in the low-ready position during the stop and that they were not pointed at anyone. Additionally, the video footage recorded the aftermath of the passenger's arrest. At that time, NE#1 explained to the Complainant why they stopped the vehicle and told the Complainant that she was free to go. NE#1 was calm and polite and did his best to tell the Complainant why the officers used the high-risk felony stop tactics. NE#1 gave the Complainant a cigarette and lit it for her. He also let the Complainant speak with the passenger before transporting him from the scene. Lastly, NE#1 treated the passenger respectfully after his arrest. NE#1 also gave the passenger a cigarette and called the Complainant for him to give her the pin number for their shared card and relayed to the Complainant that the passenger loved her.

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 engaged in biased policing. The Complainant's vehicle was stopped because NE#1 determined that her passenger had an active felony warrant. This, not her or the passenger's race, was the reason for the law enforcement action taken towards them. While I can imagine that this incident was frightening for the Complainant and her children and while this was an unfortunate result of this incident, the tactics the officers used were appropriate and were specifically purposed for this exact type of situation. Given the passenger's outstanding felony warrant and the potential for violence, conducting a high-risk felony stop was purposed to reduce possibility that force would be needed to effectuate the arrest and to ensure the safety of all parties. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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