



CLOSED CASE SUMMARY

ISSUED DATE: JULY 30, 2019

CASE NUMBER: 2019OPA-0119

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	11.050-Detainee Property 1. Officers Secure Detainee Property	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 engaged in biased policing towards him and may have taken and not returned money belonging to the Complainant.

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

On the date in question, Named Employee #1 (NE#1) was on routine patrol. NE#1 reported that he paced the Complainant driving his vehicle between the speed of 40-42 mph on a 30-mph roadway with icy patches. This prompted NE#1 to conduct a traffic stop of the Complainant’s vehicle for speeding. NE#1 approached the Complainant and asked him for his driver’s license, insurance, and registration. After obtaining this information, NE#1 discovered that the Complainant had a suspended Washington State driver’s license and two outstanding warrants for his arrest. After arresting the Complainant and searching him, NE#1 inventoried two wallets, two cell phones, and a \$20 bill. While at the precinct, NE#1 reported that he found another \$21 in cash, which brought the total cash identified by NE#1 to \$41. In addition, another officer reported locating three \$100 bills in the second wallet, which brought the total inventoried amount to \$341.

The Complainant subsequently alleged to a Sergeant that he was racially profiled by NE#1. During that interview, the Complainant stated that he and NE#1 were driving side by side and that they were maintaining a consistent speed.



The Complainant said that he did not know how fast he was going, but that they traveled in this manner for approximately one mile, after which NE#1 turned on his emergency lights and pulled the Complainant over. The Complainant stated that he was surprised that he was being pulled over and he decided that he needed to call someone “just in case.” He explained that this was why he waited a few blocks before pulling over. The Complainant stated that when he reached for his wallet in response to NE#1’s request for his identification, NE#1 became aggressive. The Complainant contended that this confirmed his belief that he was being racially profiled. During this conversation with the Sergeant, the Complainant further raised his belief that he was missing \$100. The Sergeant noted in his report that the Complainant did not specifically state that he thought that NE#1 or any other officers stole his money, but only that he believed that he had \$100 more in cash than was present when his property was returned to him. The Sergeant referred both issues raised by the Complainant to OPA and this investigation ensued.

OPA made multiple attempts to contact and interview the Complainant but those attempts were unsuccessful. Thus, the Complainant was not ultimately interviewed by OPA.

As part of its investigation, OPA reviewed the Department video associated with this incident. The video was largely consistent with the reports generated by NE#1 and the Sergeant.

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 its review of the video, OPA finds insufficient evidence to support the Complainant’s allegation that he was subjected to biased policing. To the contrary, OPA concludes that there was a sufficient basis for the traffic stop. OPA further notes that, once NE#1 determined that the Complainant had open warrants, he possessed probable cause to take him into custody. Ultimately, when applying a preponderance of the evidence standard, the Complainant’s arrest was based on his conduct and his open warrants, not his race or membership in any protected class. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

11.050-Detainee Property 1. Officers Secure Detainee Property

SPD Policy 11.050 (1) states that officers will store detainee property in a secured area when practical.

Department video captured the chain of custody of the Complainant’s property. The video showed that NE#1 and another officer collected his property – including his two wallets, searched those items, and counted the money recovered therein. OPA found no evidence that NE#1 or any other officer failed to properly secure, misplaced, or took and did not return the Complainant’s allegedly missing money.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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