



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 2, 2020

CASE NUMBER: 2019OPA-0506

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 the Named Employee detained him pursuant to the Involuntary Treatment Act because of his 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

On July 7, 2019, Named Employee #1 (NE#1) was on patrol and was speaking to community members in a local park. While doing so, NE#1 encountered an individual—the Complainant in this case—who appeared to her to be extremely high or intoxicated. NE#1 documented that the Complainant “appeared to have very wild mood swings between happy and cordial...to confrontational.” However, NE#1 determined that the Complainant was able to care for himself.

Later that day, another officer in the same area encountered the Complainant after being flagged down to investigate a shoplifting complaint. The Complainant was identified as the suspect and was seen walking away from a grocery store with a case of beer and a spiral notebook. The officer detained the Complainant, who again appeared to be very intoxicated. The officer's Body Worn Video (BWV) recorded his interaction with the Complainant. The Complainant, who stated that he was Somalian, provided his name. The officer confirmed the spelling of the Complainant's name, which made the Complainant upset because he believed he was being profiled on the basis of his race and/or national origin. The officer reminded the Complainant that he had just provided his name to the officer. In response, the Complainant referenced the President and the U.S. Constitution, as well as



made other similar statements. Based on the circumstances, the officer decided to charge-by-officer rather than to make a custodial arrest. The beer was returned to the grocery store.

Later that evening, at approximately 9:45 p.m., NE#1 responded to a report of a collision between a vehicle and a pedestrian in which the pedestrian appeared injured. On exiting her vehicle, NE#1 recognized the Complainant as the injured person and requested additional officers to come to the scene. NE#1 also requested the Seattle Fire Department (SFD) to provide medical treatment to the Complainant. NE#1 approached the Complainant and saw that he was bleeding from a head injury. NE#1 offered the Complainant, who was walking at the time, medical treatment. The Complainant continued to walk away. NE#1 attempted to explain to the Complainant that he was not in trouble, that she was concerned about him, and that he needed assistance. NE#1 waited for SFD to respond.

The officer who had earlier stopped the Complainant for shoplifting came to the scene to assist in the investigation. He spoke with a witness who had called 911 to report injured pedestrian. The 911 caller told the officer that he saw the Complainant walking around trying the door handles of parked cars. The 911 caller further reported that he saw an unknown person interacting with the Complainant. He observed a confrontation begin and, as a result, he called 911. The 911 caller said that he saw a vehicle pass and that, afterward, he observed the Complainant's injuries. The officer subsequently informed NE#1 that he believed it was possible that the Complainant had been assaulted, rather than hit by a vehicle.

SFD arrived and inspected the Complainant. SFD informed the officers that the Complainant's injuries appeared consistent with an assault rather than a hit-and-run. SFD further relayed that the Complainant had refused additional treatment and that they were going to medically clear him. NE#1 spoke to the Complainant and asked him what he planned to do for the evening and whether he required a courtesy transport anywhere. The Complainant declined a courtesy transport. NE#1 reminded him to stay on the sidewalk. She observed that the Complainant appeared to be more confused than in her previous contacts with him. In her report, NE#1 documented that the Complainant's gross motor function was impaired and that he was unable to walk a straight line. NE#1 returned to her vehicle while the Complainant continued to walk away.

As NE#1 began to pull out into traffic, she observed the Complainant step out into the road. NE#1 stopped her vehicle to avoid hitting the Complainant. NE#1 radioed that she would be detaining the Complainant under the Involuntary Treatment Act and requested an ambulance to respond. She exited her vehicle and explained to the Complainant, who had returned to the curb, that he would be taken into custody. NE#1 placed the Complainant in handcuffs with the assistance of the other officer. She told him that the reason for the detention was that he "was in the middle of the street and was going to get hit by a car." The other officer observed to NE#1 that the Complainant: "stumbled in front of your [patrol vehicle] while you were still moving." NE#1 and the other officer assisted the Complainant into a seated position on the grass. He attempted to lay down on the concrete on his injured side, but NE#1 prevented him from doing so as this would have exacerbated his injury. The Complainant stated: "this is discrimination." He was speaking indistinctly and, at times, incoherently. NE#1 told the Complainant that she took him into custody because she observed three cars, including her own, nearly hit him while he was in the street.

While NE#1 and the other officer stood by, the Complainant made repeated references to the U.S. Constitution and to racism. The gravamen of these statements was that NE#1 and the other officer had detained him without probable cause. The Complainant requested a supervisor, and NE#1 radioed for a sergeant to respond to the incident. While NE#1 was on the radio, the Complainant accused dispatch of being disrespectful of him. NE#1 explained that this was not the case. The ambulance then arrived, and the Complainant made an additional bias



complaint against ambulance personnel for asking how the Complainant's name was spelled. The Complainant voluntarily seated himself on the ambulance gurney and received treatment from the ambulance personnel.

The sergeant responded to the scene and spoke with the Complainant. He told the sergeant that NE#1 and the other officer stopped him for being Somalian and that the officers were "prejudiced and racist." The sergeant asked the Complainant what the officers had done to give him this impression, but the Complainant was unable to articulate any conduct that caused him to conclude the officers were biased. At the Complainant's request, the sergeant made an OPA referral and this investigation ensued.

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.*)

Washington State law permits police officers to detain and transport an individual for mental health evaluation where the officers reasonably believe the individual suffers from a mental disorder that presents an imminent risk of serious harm to the afflicted individual or others. Based on the totality of the evidence, NE#1 had sufficient evidence to conclude that the Complainant met the standard for involuntary detention. Most notably, NE#1 observed the Complainant's deteriorating mental and physical condition throughout the day and saw him reach the point at which he was unable to regulate his own behavior or care for himself. Specifically, NE#1 observed the Complainant decline treatment for a serious head injury, speak incoherently, walk unsteadily, and walk into oncoming traffic, all of which led her to conclude that he was likely to be struck by a car if she did not detain him for treatment.

Given the above, OPA finds that the Complainant was detained for his conduct and condition and the risk he posed to himself and others, not his race. There is insufficient evidence to indicate that NE#1 or any other officer detained the Complainant because of his membership in any protected class. For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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