



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 10, 2020

CASE NUMBER: 2019OPA-0511

### **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 cited for a parking violation by the Named Employee based on her race.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with review and approval of the Office of Inspector General for Public Safety, 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 Employees 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 22, 2019, Named Employee #1 (NE#1) was driving in her parking enforcement vehicle behind the Complainant's truck. Based on testimony provided by witnesses who are related to the Complainant, the Complainant pulled over and parked in front of a fire hydrant. Photographs provided by the Complainant showed that the Complainant's truck was parked in front of the hydrant, with her rear wheel fully blocking the hydrant and the bed of her truck extending behind it. Photographs taken by NE#1 when she issued the ticket also show the position of the truck. Under City law, it is an infraction to park within 15 feet of a fire hydrant. (See SMC 11.72.160).

According to the Complainant, another vehicle was parked within 15 feet of the hydrant at the time that the Complainant did so. Photographs by the Complainant showed that the other car was parked near the hydrant, although OPA was unable to judge the distance between the car and the hydrant. The photographs also showed that the car did not block access to the hydrant but confirmed that the Complainant's truck did. For the purposes of its investigation, OPA takes the Complainant's statement that the other car was in violation of the ordinance as true.

The Complainant alleged that NE#1 singled her out for enforcement because her truck was issued a ticket while the other car was not. She stated that this was improper as both vehicles were in violation of the ordinance. She alleged that NE#1 may have stereotyped her because she was driving a nice truck, while the other car was not as nice. She also alleged that she may have been singled out because of her race. This OPA 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.*)

Based on the evidence, OPA is unable to conclude that NE#1 issued the citation due to the Complainant’s race or based on any other identifiable characteristic. OPA rests its conclusion on two main determinations. First, based on the Complainant’s statements and evidence, her vehicle was in violation of SMC 11.72.160, and NE#1 therefore had probable cause to issue the citation. Second, NE#1 is vested with discretion in enforcement of the law (*see* SPD Policy 5.001-POL-6, Employees May Use Discretion). That policy states that “[d]iscretion is proportional to the severity of the crime or public safety issue being addressed.” *Id.* Here, the Complainant’s vehicle blocked access to the hydrant while the other vehicle did not. As such, the Complainant’s parking posed a greater risk to public safety than that of the other vehicle. OPA is therefore unable to say that NE#1’s exercise of discretion was inappropriate given the circumstances. Ultimately and when applying the requisite burden of proof, OPA concludes that NE#1’s citation of the Complainant’s vehicle was based on the direct observation of the Complainant’s violation of the ordinance, rather than on her race or the perceived value of her car.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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