



## ***CLOSED CASE SUMMARY***

ISSUED DATE: FEBRUARY 3, 2020

CASE NUMBER: 2019OPA-0582

### **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	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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 her based on her race. The Complainant further alleged that the Named Employee acted in an unprofessional manner when she confronted him about her belief that she was racially profiled.

### **SUMMARY OF INVESTIGATION:**

On August 8<sup>th</sup>, 2019, at approximately 11:04 a.m., Named Employee #1 (NE#1) was issuing 72-hour notices to vehicles as part of the City of Seattle's RV Remediation Program. NE#1's actions were fully recorded by Body Worn Video (BWV) and In-Car Video ICV.

NE#1 observed RVs parked in the area around New Harvest grocery store in Ballard. This is a mixed used area that often has RVs parked in the vicinity. At that time, NE#1 saw a woman – who was later identified as the Complainant – and another individual who were smoking by the rear of the store and near a RV. NE#1 asked the individuals whether they were associated with the RV before he issued the 72-hour notice. The individuals denied that they were. The Complainant, who was later interviewed by OPA, characterized this initial interaction as “cordial.”

After she finished her cigarette break, the Complainant confronted NE#1 with two of her colleagues and her supervisor. This interaction was captured on video. The Complainant alleged that NE#1 racially profiled her and her colleague when he asked them if they owned the RV. At several points during the contact, the Complainant voiced her concerns regarding why NE#1 asked them if they owned an RV, since, in the Complainant's opinion, they were “very well dressed,” “clean,” and “heavily branded” with credentials from their place of employment. NE#1 responded by saying that it was because the Complainant was standing by the edge of the RV.

NE#1 attempted to apologize to the Complainant for what she perceived. He also grew frustrated and explained to the Complainant that he felt that way because he was being accused of something that he did not do. After further conversation, the Complainant and her colleagues ended the interaction with NE#1 by saying: “it's okay, we're going to report it.” Then they walked away and returned to the store.

Shortly thereafter, NE#1's supervisor responded to the scene due to the Complainant's allegation of racial profiling. The officers who were at the scene told the supervisor what the Complainant had said. The supervisor then went into the store and met with the Complainant and her colleagues. This discussion was also captured by BWV. The Complainant relayed her perspective of what occurred with the supervisor. She stated that, when she and her colleagues later approached NE#1 and asked him why he assumed that she owned the RV, NE#1 "immediately exploded into anger." She described NE#1's behavior as "defensive" and "childish." She reiterated her belief to the supervisor that NE#1 had racially profiled her. She also asserted that his response to her was unprofessional.

At the request of the Complainant, the supervisor referred her allegations to OPA. This investigation ensued. As discussed above, OPA interviewed the Complainant. She again contended that NE#1 had been unprofessional towards her and that he had racially profiled her. She told OPA that, as she indicated to NE#1 and the supervisor, NE#1 should have been able discern that she and her colleague were not connected to the RV given that they were well dressed and because she was wearing items and clothing that referenced the store.

### **ANALYSIS AND CONCLUSIONS:**

#### **Named Employee #1 – Allegation #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, OPA recognizes that the Complainant may legitimately believe that she was racially profiled; however, this is simply not supported by the evidence in this case. Notably, there is an insufficient basis to conclude that NE#1 asked the Complainant whether she was connected to the RV based on her race rather than based on her proximity to the vehicle. While the Complainant asserted that NE#1 should have known that the RV was not hers given that she was well dressed and because she had items and clothing referencing the grocery store, this statement includes several significant assumptions. First, the Complainant assumes that anyone who lives in a RV does not dress "well" or in a "clean" manner. It is unclear what the Complainant was relying upon when she made this generalization, which could be perceived as insulting and stereotypical by the wide variety of people who reside in RVs for a myriad of reasons. Second, the Complainant assumes that NE#1 actually recognized the store emblems, which is not established by the facts of this case. Third, the Complainant assumes that, because she knows that she was not actually connected with the RV, NE#1's motive must have been inappropriate. She did not for a moment consider that NE#1 may have been acting in good faith and was trying not to make his own assumptions regarding the ownership of the RV.

For the above reasons, OPA finds that there is no evidentiary support for the Complainant's allegations of bias and racial profiling and, as such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

#### **Named Employee #1 – Allegation #2**

##### ***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.*) Lastly, the policy instructs Department employees to "avoid unnecessary escalation of events even if those events do not end in reportable uses of force." (*Id.*)

Based on OPA's review of the video, OPA finds insufficient evidence to conclude that NE#1 acted unprofessionally towards the Complainant. OPA notes that, on several different occasions during their interaction, NE#1 apologized to the Complainant and attempted to explain his perspective. OPA further notes that he did not yell at the Complainant, insult her, or use disrespectful language towards her. While he did raise the volume of his voice during their conversation, OPA recognizes that he was clearly frustrated by this situation and the Complainant's belief that he racially profiled her when he did not feel that he did anything wrong. In a perfect world, NE#1 would not have done so; however, he is human and, under the circumstances, OPA finds his reaction to have been understandable.

It is unfortunate that the Complainant believed that she was racially profiled and that NE#1 was unprofessional towards her. It is equally unfortunate that NE#1 felt that he was being accused of serious misconduct when he clearly did not believe that he did anything wrong. This was a negative interaction for all of the involved parties; however, this does not yield the conclusion that NE#1 violated the Department's professionalism policy. Indeed, OPA ultimately finds that he did not. For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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