



## ***CLOSED CASE SUMMARY***

ISSUED DATE: JANUARY 27, 2020

CASE NUMBER: 2019OPA-0662

### **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 subjected him to biased policing.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the 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 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***

Named Employee #1 (NE#1) and another officer – referred to here as Witness Officer #1 (WO#1) – responded to a traffic collision in a parking lot. When they arrived, NE#1 spoke with the Complainant, who was one of the involved motorists. WO#1 spoke with the other involved driver. The officers' conversations with the involved parties and the entirety of their response to this incident were fully recorded on Body Worn Video (BWV).

The BWV reflected that the Complainant initially reported to NE#1 that the other motorist struck the back of the Complainant's vehicle while it was parked and not moving. NE#1 asked whether the Complainant wanted to exchange information with the other motorist. The Complainant said no and explained that this was because he was leasing his vehicle. He asked NE#1 to write a report. NE#1 said that he would do so, and that the other driver would likely be cited. NE#1 then walked to his patrol vehicle.

At that point, NE#1 spoke to WO#1 about what he had learned and his preliminary belief that the other motorist was at fault. In response, WO#1 indicated that the other motorist provided a substantially different account of what occurred. Specifically, the other motorist stated that he had backed out of a parking spot and was about to drive forward when the Complainant backed out of another spot and struck the rear of the other motorist's car. NE#1 told WO#1 that the Complainant alleged that his car had not been moving at the time of the collision. WO#1 opined that,



based on his evaluation of the other motorist's vehicle, it appeared that the other motorist's account was substantially more likely. After further discussion, the officers agreed that the Complainant was not being completely truthful.

NE#1 returned to where the Complainant was standing and told him that he wanted to confirm that the Complainant's car was not moving at the time of the collision as the Complainant had previously represented. The Complainant initially responded that he saw that the other motorist was "backing up" and was about to "clear out" so he did not move his vehicle. After an additional clarifying question by NE#1, the Complainant admitted that he had moved his car after the collision, which was inconsistent with what he previously told NE#1. NE#1 asked the Complainant: "So you lied to me when initially you stated that you were parked here?" The Complainant began to reply by saying: "Yes, but look..." NE#1 interrupted: "No not but look anything." The Complainant continued to debate what occurred with NE#1. Ultimately, NE#1 advised him that he may or may not receive a citation in the mail and began to walk away. The Complainant then alleged that NE#1 was biased towards him. NE#1 denied that he engaged in biased policing and, after a brief back and forth, eventually told the Complainant that a supervisor was coming to the scene.

When the supervisor arrived, the Complainant reiterated his allegation of bias. He requested that the supervisor forward his allegation to OPA and the supervisor did so. 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.*)

The BWV for this incident conclusively established that NE#1 did not engage in biased policing. To the contrary, the video made clear that the Complainant initially provided an inaccurate account of what occurred to NE#1. Indeed, when NE#1 asked him if he had lied, the Complainant acknowledged that he did. Given this, as well as the credible and consistent statement provided by the other motorist and the evidence that matched that account, NE#1 was warranted in handling this situation as he did. Moreover, based on the totality of the circumstances, NE#1 had a more than sufficient basis to determine that the Complainant was at fault and, indeed, was legally justified in citing him had NE#1 chose to do so. Ultimately, OPA finds that NE#1 did not engage in any inappropriate conduct during this incident and that the Complainant's behavior, not his race, was what caused the determination that he was at fault in the collision.

As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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