



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 19, 2020

CASE NUMBER: 2019OPA-0714

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 he was racially profiled by the Named Employee.

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) was on patrol when he observed the Complainant cross an intersection against the light. The violation of law was recorded on the In-Car Video (ICV) from NE#1's patrol vehicle. NE#1 contacted the Complainant and detained him in order to investigate the violation. Their resulting interaction was captured by both ICV and NE#1's Body Worn Video.

NE#1 informed the Complainant of the basis for the stop and asked him for identification. The Complainant responded by reaching his right hand towards his back pocket. NE#1 quickly circled around the Complainant. The Complainant looked at NE#1 and asked: "What are you doing?" NE#1 responded: "I need to see your hands." The Complainant, who grew visibly agitated, stated: "You asked me for my ID so I'm reaching for my ID." NE#1 thanked him. The Complainant again said to NE#1: "You asked to see my ID, so why did you just pull that move?" Frustrated, the Complainant took his wallet from his pocket and handed it to NE#1. The Complainant twice referenced that NE#1 acted as if the Complainant had a weapon and treated him accordingly.

The Complainant approached NE#1 and NE#1 asked him to have a seat. The Complainant responded: "Have a seat where?" He stated that his identification was in his wallet, which NE#1 had placed on the hood of his patrol vehicle.



During this time, the Complainant continued to grow upset with NE#1. NE#1 called for a backing officer. NE#1 told the Complainant that he was not going to search the Complainant's wallet. He further asked the Complainant to get his identification out of the wallet. The Complainant walked over to the patrol vehicle and walked back with his identification. The Complainant said to NE#1: "Come on man. Stop it man." He told NE#1 that he had worked for the Seattle Mariners for 16 years. He told NE#1 to run his name and said that he did not have any open warrants. NE#1 went to his patrol vehicle and did so. At that time, two backing officers had responded to the scene.

While NE#1 was inside of his patrol vehicle, the Complainant spoke with the other officers and complained about NE#1's treatment of him. NE#1 exited the patrol vehicle and walked back over to the Complainant. He handed the Complainant's license back to him. The Complainant again angrily stated that NE#1 asked him for his identification and then treated him like he had a weapon. He grabbed the identification back from NE#1. NE#1 also handed the Complainant a business card with his name on it and the incident number. The Complainant grabbed that as well. The Complainant continued to argue with NE#1, who told the Complainant that he was not going to be cited (it was a prospective \$68 ticket) and that he was free to go. NE#1 walked back towards his car and the Complainant continued to yell after him. NE#1 said to the other officers: "Let's just drive away." After a further back and forth with the Complainant, NE#1 drove away from the scene. NE#1 subsequently notified a supervisor that the Complainant had made a complaint against him.

The Complainant later called OPA and initiated a complaint against NE#1. This OPA investigation ensued. As part of this investigation, OPA interviewed the Complainant. The Complainant repeated his allegations against NE#1. Specifically, he criticized NE#1 for treating him as if he was armed. The Complainant also asserted his belief that NE#1 racially profiled him.

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.*)

As a starting point, NE#1 had a legal basis to detain the Complainant as he indisputably walked across the street against the light. In addition, as part of his investigation into the Complainant's conduct, NE#1 was allowed to request the Complainant's identification. The Complainant was extremely offended when NE#1 circled around him after the Complainant reached for his wallet in his back pocket. As the Complainant stated on the video and later explained to OPA, he was incensed that NE#1 believed that he was armed and treated him in that manner. The Complainant believed this to be disrespectful, unwarranted, and racially motivated. NE#1, on the other hand, articulated that he reacted on the manner he did because the Complainant quickly moved his hand towards his back pocket. NE#1 accordingly took precautions and positioned himself in case the Complainant was reaching for something that could harm NE#1. In doing so, NE#1 acted consistent with the general training provided to him by the Department.

When this case was classified, OPA felt that it was a good candidate for mediation. OPA believed that it would be beneficial for the Complainant to explain to NE#1 why he was so troubled by NE#1's actions towards him and for NE#1 to let the Complainant know that he acted consistent with his training and experience and not because of any animus against the Complainant. However, while the Complainant was initially interested in mediation, he ultimately declined to participate. OPA believes this to be unfortunate as a successful mediation could have gone a long way to improve a negative interaction for both parties.



At the end of the day and while understanding the Complainant's frustration, NE#1 did not engage in any misconduct during this incident. Moreover, NE#1's circling around the Complainant was based on his belief that the Complainant could be reaching for a weapon and his interest in maintaining his own safety, not because of bias towards the Complainant. Indeed, OPA believes that NE#1 would have done the same regardless of the race of the individual he was dealing with. Given this, OPA concludes that there is no evidentiary support for a finding that NE#1 engaged in biased policing or racially profiled the Complainant. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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