



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 8, 2020

CASE NUMBER: 2019OPA-0851

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 Biased-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 – Bias-free Policing 2. Officers Will Not Engage in Biased-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 deemed to be at-fault in a collision due to bias.

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 Employees. As such, the Named Employees were 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 Biased-Based Policing

The Complainant was involved in a motor vehicle collision. She was ultimately determined to be at fault. When she was notified of this determination, the Complainant asserted that she was cited due to bias. She contended that the officers spoke to the other motorists – who were White – prior to speaking with her and that this was intentional. The Complainant relayed her allegations of bias to a supervisor who made an OPA referral. This investigation ensued.

As part of its investigation, OPA interviewed the Complainant. She recalled that it was raining at the time of the collision. She stated that she checked her mirrors, signaled, and the roadway appeared to be clear. She said that she safely pulled out and that, when she entered the lane, she was struck by another vehicle. She told OPA that, immediately after the accident, the father of the other motorist accepted fault. She said that an ambulance and SPD responded to the scene. She recalled that the officers bypassed her when they arrived, and she believed that this suggested bias. She believed that the officers observed that the other motorists were White and drove an expensive car and, because of this, they made the decision that the other motorists were more credible. She stated that, after

speaking with the other motorists, the officers came and spoke with her. She described the officers as dismissive towards her and said that they kept confronting her with the account provided by the other motorists. She was ultimately cited. She believed that the citation was unfair, and she felt that she was found at fault because she was a woman of color in an affluent White neighborhood.

OPA further watched the Body Worn Video (BWV) for this incident, which showed the Named Employees' response to the scene. The video indicated that, when the officers first arrived, the Complainant and the other motorists were standing by the Complainant's car. The officers observed both vehicles. While Named Employee #1 (NE#1) was standing by the other motorists' vehicle, they approached him. He asked them what occurred, and they said that the son was driving when the Complainant pulled out of a parking space. They indicated that the son could not stop in time and hit the Complainant's vehicle. NE#1 obtained the other motorists' licenses, registration, and proof of insurance and told them that he was going to enter this information into his MDT system. The son did not have his learner's permit on him at time, but the officers agreed not to cite him for this. NE#1 then returned to his patrol vehicle. At the same time that NE#1 was getting the accounts of the other motorists, Named Employee #2 (NE#2) spoke with the Complainant about what occurred. She said that she had her blinker on and was about to move into the driving lane. She indicated that it was clear at the time. She stated that she was then struck in the driver's side by the other motorists' vehicle.

NE#1 and NE#2 conferred about the accounts from the involved parties. They agreed that both sides agreed that the Complainant was moving into a lane of traffic at the time she was struck and that, as such, the other motorists had the right of way and she was at fault.

NE#1 again went to speak with the Complainant. He informed her that she was going to be cited for the collision. She told NE#1 that she was not pulling into traffic and that she just turned her wheels so as to begin leaving her parking spot when she was struck. NE#1 observed that her wheels had pulled out in the direction of the roadway and asked her: "So you didn't put the vehicle into drive and start moving at all?" She said that she put the car in drive in order to turn and move into traffic. She also told NE#1 that the other motorists had accepted fault. NE#1 returned to speak with the other motorists. He asked about the positioning of the Complainant's vehicle at the time of the collision. The other motorists said that the Complainant was pulling out into traffic. NE#1 returned to the Complainant with this information and she stated that the other motorists were lying. She acknowledged that she did move her vehicle up somewhat in order to merge into traffic, but that she had not actually pulled out when she was struck. NE#1 reiterated to the Complainant that she would be cited and that she could challenge the citation in court. The Complainant then alleged that the Named Employees had engaged in biased 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.*)

Based on OPA's review of the totality of the evidence, OPA concludes that the officers had a reasonable basis to determine that the Complainant was at fault. SMC 11.55.180 provides that: "No person shall start a vehicle which is stopped, standing, or parked and then commence movement unless and until such movement can be made with reasonable safety." It was undisputed based on the video that, at the time of the accident, the Complainant had pulled her vehicle away from the curb, even if only to begin to merge into traffic. At that time, the vehicles in the lane of traffic, including the other motorists, had the right of way. As such, when she was struck by the other motorists, she did not commence her movement when it could be made with reasonable safety. Given this, the citation was lawfully issued, and appeared to be based on her conduct, not bias.

Moreover, the video established that the officers did not ignore her or only speak to the other motorists before getting her side. Indeed, the video showed that NE#2 spoke to her at the same time that NE#1 spoke to the other motorists. This video also indicated that the officers treated her respectfully and were not dismissive of her. This is further evidence that the Named Employees did not engage in biased policing.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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

Named Employee #2 - Allegation #1

5.140 – Bias-free Policing 2. Officers Will Not Engage in Biased-Based Policing

For the same reasons as stated above (see Named Employee #1, Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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