



## ***CLOSED CASE SUMMARY***

ISSUED DATE: NOVEMBER 18, 2020

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0261

### **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 engaged in bias-based policing.

### **ANALYSIS AND CONCLUSIONS:**

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

#### ***5.140 – Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing***

On April 29, 2020, the Complainant was walking along the Alaskan Way waterfront area when she noticed a man who appeared to need medical assistance. She described the man as being Black and someone who appeared to be homeless. Moments before, the Complainant had walked past a marked SPD patrol vehicle. Named Employee #1 (NE#1) had been sitting inside. The Complainant walked back towards NE#1 and attempted to wave him down; however, NE#1 drove away. The Complainant characterized NE#1's actions as ignoring her "verbal and non-verbal" requests for aid. The Complainant then called the Seattle Fire Department (SFD), who dispatched personnel to the scene. The Complainant believed that NE#1 deliberately drove away because the person in need was Black and homeless. She contended that this constituted biased policing on NE#1's part. This investigation ensued.

OPA's investigation included a review of Body Worn Video (BWV), In-Car Video (ICV), relevant police reports, and an interview of the Complainant.

According to the information reviewed by OPA, NE#1 was parked in the Alaskan Way waterfront area at 1:00 p.m. and departed 11 minutes later. Dispatch traffic shows that NE#1 was dispatched to a call on 3<sup>rd</sup> Ave at 1:06 p.m. Additional information reflects that he arrived at 1:15 p.m. His arrival and departure at this scene were captured on Body Worn Video (BWV). The BWV showed that, when NE#1 arrived at 3<sup>rd</sup> Avenue, he apologized to the secondary officer for his late arrival and explained that he "had a phone call." SFD records showed that Complainant's call was received at 1:14 p.m., and that SFD arrived on scene at 1:18 p.m.



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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-POL.) This includes different treatment based on the race of the subject. (*See id.*)

OPA found no evidence to indicate that NE#1 deliberately drove away from the Complainant and ignored the needs of an individual because that person was Black and possibly homeless. Instead, the records and videos showed that NE#1 drove away from the scene because he was dispatched to another call. Furthermore, at the time he was meant to be responding to that call, NE#1 was on a phone call, causing a delay in his arrival to the scene. Given this, OPA believes it to be very possible that NE#1 did not hear the Complainant because he was on a phone call at the time and his attention was split between that phone call and the newly dispatched call for service. This may have also been the reason that he did not see her attempts to wave him down. Ultimately, there is no basis to conclude that NE#1 saw and heard the Complainant and refused to assist her, let alone that he knew that she needed his help with a Black and potentially homeless individual, and purposefully declined to respond because of the individual’s membership in those protected classes.

Accordingly, and based on the totality of the record, OPA recommends that this allegation be Not Sustained – Unfounded.

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