



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 27, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0479

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:

An anonymous Complainant alleged that the Named Employee engaged in biased policing towards her husband based on her husband's status as an immigrant from Ethiopia.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

An anonymous Complainant contacted OPA and made an allegation that her husband was subjected to biased policing by a Seattle Police officer – Named Employee #1 (NE#1). She said that her husband was working at a gas station at a Safeway store that was robbed at knife point. She recounted that, even though he was the one who requested police, NE#1 questioned the husband like a suspect. The Complainant said that the husband was immediately told to produce his driver's license to confirm his identity. The Complainant stated that NE#1's tone towards the husband was accusatory and noted that NE#1's demeanor changed when he interacted with the husband's White female co-worker. The Complainant noted that NE#1 did not demand the co-worker's identification.

OPA initiated this investigation. As part of its review of this case, OPA watched the Body Worn Video (BWV) recorded by NE#1. The BWV captured the entirety of his investigation into the robbery, as well as his interaction with the husband and the White female co-worker.

The BWV indicated that, when NE#1 responded to the incident, he spoke with a Safeway employee and asked about the suspect. The Safeway employee said that staff at the gas station would have more information. NE#1 then entered the gas station. The husband and the White female co-worker were present in the gas station. NE#1 first spoke with the co-worker. He asked for her name, date of birth, and phone number. He did not request her identification at that time. NE#1 then spoke with the husband and asked: "Can you tell me what happened?" The



husband provided details to NE#1. NE#1 also asked for the husband's name, date of birth, and phone number, but like with the co-worker, he did not request the husband's identification at that time. NE#1 thanked both individuals and then left the gas station.

NE#1 went to speak with other officers and a supervisor. He learned that the suspect was going to be arrested for a felony. Given this, he was instructed to obtain felony statements from the gas station employees. NE#1 returned to the gas station and asked the husband if he would come outside to provide a further recorded statement. The husband noted that he did not speak "perfect English," but NE#1 responded that his English was "very good." The husband provided the same information as before, this time on the recording. NE#1 asked the husband if he would drive with him to perform a "show up" of the suspect. The husband agreed and NE#1 drove him to do the identification. After this was done and the husband positively identified the suspect, NE#1 transported him back to the gas station. NE#1 went inside and spoke with both employees and the manager. He obtained surveillance video from the manager. He lastly asked the husband for his identification and wrote that information down. NE#1 gave the husband a business card with the incident number on it, thanked him, and left the gas station.

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 the Complainant's allegation, the BWV is determinative. The BWV provided no basis to conclude that NE#1 engaged in biased policing.

With regard to the Complainant's assertion that NE#1 treated her husband like a suspect, this did not comport with the video. When NE#1 initially arrived at the gas station, he interviewed both employees in the same manner. He questioned both about what occurred and the identity of the suspect and asked no accusatory questions to either.

With regard to the Complainant's assertion that her husband was immediately asked to provide his identification, this was also inconsistent with the video. NE#1 did not ask for identification from the husband until the husband had already positively identified the suspect. Moreover, it appeared that NE#1 did so in order to ensure that he properly spelled the husband's name in the report.

With regard to NE#1 purportedly conducting an "identity check" on the husband, OPA determined that NE#1 did not do so at any time. Again, NE#1 sought the name, date of birth, and phone number from both the husband and the co-worker and NE#1 only asked for the husband's identification for his report and because the husband provided a recorded statement and positively identified the suspect.

Lastly, with regard to the Complainant's assertion that NE#1 treated the co-worker differently, this is simply not supported by the video. NE#1 interacted with both individuals in a respectful and virtually identical matter.

In reaching these findings, OPA does not discount that the Complainant's husband may have had a negative experience during the interaction or, at the very least, that he may have explained it to the Complainant in a manner that caused her concern. Unfortunately, as the Complainant was anonymous, OPA was unable to interview either her or the husband to develop an understanding of what they experienced. Ultimately, however, OPA's findings are governed by a weighing of the objective evidence – here, the BWV. Based on that review, OPA concludes that NE#1



did not engage in biased policing towards the husband and recommends that this allegation be Not Sustained – Unfounded.

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