



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 30, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0659

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 biased policing during a traffic stop.

ADMINISTRATIVE NOTE:

OPA classified portions of this case – specifically, the Complainant's professionalism allegation and the Named Employee's purported failure to inform the Complainant and another motorist that they were being video recorded – as Supervisor Actions and sent them back to the chain of command for handling. After further review, it was in error to allege that the Named Employee failed to notify the Complainant and the other motorist of audio and video recording as he clearly did so. OPA apologizes for this oversight.

SUMMARY OF INVESTIGATION:

The Complainant initiated this complaint based on a traffic stop that occurred on October 2, 2020. The Complainant alleged that the officer who stopped her – Named Employee #1 (NE#1) – was unprofessional during the stop and was biased towards her based on her race and her gender. She said that NE#1 did not let her speak "literally at all." She said that he aggressively searched her car with his eyes. NE#1 told her that the street had been closed since April. She told NE#1 to "calm down." The Complainant said that she saw another officer stop three other vehicles and let them go. She did not believe that those vehicles received tickets. She asked NE#1: "Where's my warning?" He handed her a ticket and she responded: "Dude, are you serious?" Overall, she felt that NE#1 handled this incident improperly. As a result of her complaint, OPA commenced this investigation.

OPA's investigation included reviewing the Body Worn Video (BWV), which fully captured this incident. The BWV showed that NE#1 waved the Complainant's vehicle over. When she stopped, he approached the front driver's door. He introduced himself and told the Complainant that she was being audio and video recording. He said to her: "The reason I stopped you is there's two sets of signs back there that say do not enter." He explained that this portion of the road had been closed to general traffic since April and was restricted to public transit and emergency vehicles.



He asked for the Complainant's license. The Subject said that she had not done this before and stated that her vehicle's GPS system told her to turn. NE#1 replied that all GPS systems provided disclaimers that drivers were required to comply with all posted signs. The Complainant stated, regarding the GPS system: "It told me to turn so I turned." NE#1 said that he would be right back and walked to his motorcycle.

While doing so, NE#1 observed another vehicle driving in the restricted area. He waved the vehicle to pull over and that vehicle did so. NE#1 informed the other driver of the same information he relayed to the Complainant. The driver asked how much the citation would be and he said that he would explain it. He then approached his motorcycle and completed the citations.

NE#1 returned to the Complainant and handed her back her license and gave her the citation. He said to her: "The court offers one warning every seven years. I'll show you how to do that." He continued: "you can ask for a deferral." The Complainant again raised her GPS system. NE#1 replied that he did not know whether she needed to update it but that the restrictions had been in place since April. The Complainant said: "I don't drive this way, so..." NE#1 responded: "How about the sign that said do not enter? There's two large signs back there." The Complainant pointed to other vehicles that were not being cited. NE#1 explained that those were authorized trucks or buses. The Complainant also raised that another driver appeared to receive a warning from a different officer. NE#1 said that he did not know what that different officer did. The Complainant told NE#1: "So I deserve a warning." NE#1 indicated that she could bring this up with the court and that he was not going to issue her a warning. The Complainant replied: "You could have gave me a warning. Because that is your job. You could give me a chance. But clearly you didn't want that." NE#1 began to respond but was cut off by the Complainant who said: "You have a good day sir." NE#1 also wished the Complainant a good day and walked back to the other motorist. NE#1 also issued the other motorist a citation.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based 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 a review of the BWV, OPA found no indication that NE#1 engaged in biased policing. Notably, OPA concludes that the Complainant did, in fact, drive in a restricted area and that the citation was valid. Moreover, OPA concluded that NE#1 cited the only other driver that he stopped at the same time, which undercuts the determination that the Complainant was specifically targeted based on her race.

OPA further saw no support on the BWV that NE#1 was aggressive towards the Complainant or treated her inappropriately during the traffic stop. To the contrary, the video showed that he was polite, that he explained the reason for the stop, that he listened to her explanation even if it did not ultimately impact his decision to issue the citation, and that he explained how she could get a deferral on the citation.

While OPA recognizes that the Complainant is frustrated about being cited, this does not establish that it was biased. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.



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