



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 11, 2019

CASE NUMBER: 2019OPA-0362

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)
# 2	5.001 - Standards and Duties - 10. Employees Shall Strive to be Professional	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 racially profiled her and was rude to her during a traffic stop.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, 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

On May 15, 2019 at 1447 hours, Named Employee #1 (NE#1) conducted a traffic stop of the Complainant’s car at the 200 block of Pine Street. When he first approached the Complainant, NE#1 explained that their interaction was being audio and video recorded and he outlined the reasons for the stop. Throughout the interaction, the Complainant held her hands up and described each of her movements as they were performed. NE#1 repeatedly stated that he was not worried about the Complainant and that she could relax. For example, he stated to her: “Ma’am you can relax, you are just fine, I am not worried about you.” However, the Complainant continued to keep her hands up and dictate her actions for the majority of their initial interaction. NE#1 obtained the Complainant’s driver’s license and registration. The Complainant’s insurance card was expired, but NE#1 said that it was fine. NE#1 took her information and returned to his patrol vehicle, where he issued the Complainant a citation for an illegal left turn. NE#1 returned to the Complainant’s car and handed her the citation. He again explained that this intersection was monitored for left turns because of a number of civilian complaints. In response, the Complainant asked NE#1 whether he racially profiled people. When he said that he did not, the Complainant asserted that he had racially profiled her and that he stopped her because she was Black. The Complainant also alleged that NE#1 was rude towards her and raised his voice.



As a result of these allegations, NE#1 summoned a Sergeant to the scene. After arriving, the Sergeant spoke with the Complainant. The Complainant explained that her hands up gestures and her verbalizing of her actions were her “safety mechanism” because she had a fear of male police officers. The Complainant again stated that the NE#1 was rude to her and racially profiled her. The Sergeant ultimately completed a report concerning this incident and forwarded this matter to OPA.

As part of its investigation, OPA telephoned the Complainant to investigate the allegations made. On learning that the investigator was a sworn Sergeant the Complainant refused to engage with OPA. As such, the Complainant was not interviewed during this case.

OPA further reviewed the Body Worn Video (BWV) associated with this incident. The BWV fully captured the interactions between the Complainant, NE#1, and the Sergeant. OPA also reviewed the rear In-Car Video (ICV) for NE#1’s patrol vehicle, which confirmed that the Complainant made a left turn onto Pine Street. Lastly, OPA confirmed that the road markings at that intersections indicated that the left turn was illegal.

SPD Policy 5.140 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.” This includes different treatment based on the race of the subject. (*See id.*)

OPA’s investigation determined that the stop of the Complainant’s car was not based on bias. NE#1’s rear ICV showed the Complainant’s vehicle make an illegal left turn. The rear ICV also showed that, at the time of the turn, the Complainant’s race would have been indistinguishable. Moreover, there was no evidence in the record contradicting NE#1’s assertion that he pulled the Complainant over in a location several blocks away because it was the most practicable place to do so.

For these reasons, there is insufficient evidence supporting the Complainant’s bias allegation. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties - 10. Employees Shall Strive to be Professional

As discussed above, the Complainant also alleged that NE#1 was unprofessional when he was rude to her during the traffic stop.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.)

Based on OPA’s review of the video, NE#1 appeared to grow frustrated by the Complainant continuing to hold her hands up and to announce her actions, even after he told her multiple times that he was not viewing her as a threat. This, in turn, aggravated the Complainant, who asserted that she was going to continue to announce her actions to NE#1.



OPA believes it likely that NE#1 grew frustrated because he knew that he did not perceive the Complainant as a threat, and he knew that he was not going to harm her in that moment. As a general matter, officers want to be valued and trusted, and it can be frustrating to be viewed instead as threatening and dangerous. However, the Complainant did not know this and could not have discerned what was going on in NE#1's mind. Indeed, while NE#1 said that he was not worried about anything, the Complainant said that she was, indicating through her words and behavior that she was feeling fear. Moreover, NE#1 did not know, and could not have known, what the Complainant may have experienced in her life to have caused her to feel that fear. Under these circumstances, NE#1 growing frustrated with the Complainant was unfortunate and a missed opportunity. It would have been more productive to recognize that the Complainant was experiencing fear and to allow her to do what make her more comfortable without becoming frustrated.

The above being said, NE#1's elevated tone of voice and frustration with the Complainant does not constitute a policy violation. Even if another approach would have been optimal, NE#1 is human and is not held to a perfection standard. However, perhaps NE#1 will take a different tact in a future traffic stop with similar circumstances.

Ultimately, given that OPA finds that NE#1 did not act contrary to the Department's professionalism policy, OPA recommends that this allegation be Not Sustained – Unfounded.

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