



## CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 6, 2019

CASE NUMBER: 2019OPA-0367

### 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 harassed him on the basis of his race by saying “what’s up” to him while on patrol.

### 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 10, 2019, Named Employee #1 (NE#1) was on routine bicycle patrol at the Northgate Transit Center. In that capacity, his responsibility was to ride through the parking lot to observe and deter car prowlers or other criminal behavior. While doing so, he stopped at the bus boarding area. While coming to a stop, NE#1 observed an individual, the Complainant in this case, filming NE#1 on the Complainant’s phone camera. As part of its investigation, OPA reviewed the Complainant’s video footage (which was accessed via a YouTube link that he provided), as well as NE#1’s Body Worn Video (BWV). Together, the videos captured the entirety of NE#1’s interaction with the Complainant.

When NE#1 saw the Complainant, he greeted the Complainant by saying “what’s up.” In response, the Complainant asked NE#1 if he had official business there and why he stopped riding his bike. NE#1 replied: “Am I not allowed to be here? Is this not public property?” The Complainant asserted that NE#1 was not allowed to talk to him, and that doing so constituted “official harassment.” The Complainant also told NE#1 to leave the area, which NE#1 declined to do. They engaged in a back and forth during which the Complainant stated his belief that, absent “official business,” officers engaging members of the community constituted “harassment” with a racial motivation. NE#1



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told the Complainant that he was free to leave but NE#1 summoned a sergeant to the scene at the Complainant's request. NE#1 attempted to explain that his purpose in being at the transit center was to provide a visible deterrent to crime and to stop any crimes he saw. The Complainant asked if this meant that NE#1 harasses all black men.

NE#1 briefly addressed individuals at the bus stop to ask them if his presence was a disturbance to any of them. One woman said that it was not and complemented NE#1. NE#1 thanked her for the complement. The Complainant said that NE#1 "parked" in front of him, not the woman. The Complainant and the woman briefly engaged each other about free speech, during which the Complainant said "there's no reason for her to be talking, so fuck both you guys." The Complainant further stated to the woman: "[f]uck you bitch, how about that?" NE#1 told the Complainant that he did not need to talk to the woman like that. At this point a bus arrived and the Complainant started to get on. NE#1 reminded the Complainant that his sergeant was coming if the Complainant wanted to speak with a supervisor, but the Complainant declined and left the area.

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 BWV, there is no evidence supporting the conclusion that NE#1 treated the Complainant disparately because of his race. NE#1 engaged in a social contact with the Complainant, which he was entitled to do as a matter of law. There was no seizure or, for that matter, any imposition on the Complainant's liberties. During that interaction, the Complainant was profane towards both NE#1 and another bystander; however, NE#1 did not treat the Complainant similarly. Ultimately, OPA concludes that NE#1 did not engage in biased policing during this incident or violate any other Department policies.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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