



## CLOSED CASE SUMMARY

ISSUED DATE: JULY 11, 2019

CASE NUMBER: 2019OPA-0074

### 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 was unprofessional towards him and that the Named Employee subjected him to biased policing.

#### ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector for Public Safety, 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 January 18, 2019, officers responded to the scene of a three-vehicle collision, which involved a vehicle driven by the Complainant. The responding officers called Named Employee #1 (NE#1), who is a drug recognition expert, to come to the scene to evaluate the Complainant. The officers believed that the Complainant was exhibiting signs of possible impairment. After NE#1 arrived, the Complainant told NE#1 that he takes anti-depressants and that he took one the night before the accident. The Complainant agreed to NE#1’s request that he perform a number of Field Sobriety Tests. Following those tests, NE#1 determined based on his observations of the Complainant’s performance, the Complainant’s admission to taking impairing medication, the Complainant’s admission that he smoked marijuana, and the Complainant’s driving of a vehicle under the circumstances, NE#1 determined that there was probable cause to arrest the Complainant for DUI.



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A Sergeant responded to the scene and screen the arrest. During the screening, the Complainant alleged that NE#1 arrested him because he is gay, homeless, and an addict. The Complainant further alleged that NE#1 acted in an unprofessional manner when he gloated about the arrest to other officers while in the Complainant's presence. Based on the allegations made by the Complainant, the Sergeant referred this matter to OPA and this investigation ensued.

During its investigation, OPA made multiple attempts to contact the Complainant for an interview but was unsuccessful. Thus, the Complainant was not interviewed. OPA further obtained and reviewed the Body Worn Video (BWV) associated with this incident, as well as the reporting that was generated.

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.” If, as the Complainant alleged, that NE#1 treated him differently based on his sexual orientation, homelessness, or any other discernible personal characteristic, it would have been a violation of this policy.

Based on OPA’s review of the evidence, there is no indication that NE#1 engaged in biased policing. The Complainant was arrested because there was probable cause to believe that he was impaired while driving, not because of his sexual orientation or membership in any protected class. The BWV further establishes that NE#1 did not engage in biased policing and that the Complainant’s arrest was legally supported. For these reasons, 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 alleged that NE#1 gloated to other officers about arresting him.

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.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (Id.)

During its review of the BWV, OPA was able to identify a point where NE#1 was engaged in a conversation with another officer and was seen smiling. The Complainant was seated in the back of the patrol vehicle at the time and expressed his dissatisfaction, apparently concerning the fact that NE#1 was smiling. OPA closely reviewed this section of the BWV and found no evidence to support a finding that NE#1 was gloating about the Complainant’s arrest. Given this, I recommend that this allegation be Not Sustained – Unfounded.

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