



## CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 18, 2019

CASE NUMBER: 2019OPA-0464

### **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 (Inconclusive)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)

***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 an unknown employee made an obscene gesture, used racial slurs, and threatened him.

### **ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor'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 - Allegation #1**

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

OPA received this complaint on July 3, 2019. In the complaint, the Complainant detailed a negative interaction he had with a man purporting to be a Seattle Police Department (SPD) employee. This OPA investigation ensued.

On June 26, the Complainant – a letter carrier for the U.S. Postal Service – was working in uniform on his normal route in Tukwila, Washington. He reported that, while driving normally, he changed lanes. When the Complainant checked his rear-view mirror, he observed the driver behind him, who was a White male, raising his middle finger towards the Complainant. The Complainant initially described that the male – who is referred to here as Named Employee #1 (NE#1) – was driving a purple Ford Escape. He also alleged that NE#1 passed him in traffic, raised his middle finger again, and shouted a racial slur at him.

The Complainant said that he followed NE#1's vehicle for a few blocks until NE#1 pulled over at a AAA store. The Complainant pulled over as well and NE#1 exited his vehicle and approached the Complainant. The Complainant said that NE#1 became very escalated and called him another racial slur. The Complainant asked NE#1 why he believed it



was acceptable to make obscene gestures and use racial slurs. NE#1 allegedly then displayed a badge on a lanyard around his neck and pulled back his shirt to display his firearm. He asked the Complainant, “are we going there,” and said that the Complainant cut him off in traffic without signaling. NE#1 allegedly said he was an undercover SPD officer whose name was “John.” The Complainant relayed that he and NE#1 continued to speak and that, by the end of the interaction, NE#1 was less angry. He reportedly told the Complainant that he had been a police officer for 30 years, and that the Complainant did not understand how stressful being a police officer was. NE#1 reportedly said that he had 8 months until retirement. The Complainant also stated that, during this interaction, he did not himself use profanity or leave his vehicle, and the Complainant was frightened that, had he done so, NE#1 would have shot him. The Complainant described NE#1 as a White male, approximately 6’1” and 300 pounds. The Complainant did not record the license plate on the vehicle or obtain NE#1’s full name or serial number. After OPA received the complaint on July 3, 2019, this OPA investigation ensued.

OPA interviewed the Complainant. In his interview, the Complainant provided additional descriptors for NE#1, stating that he was bald with a halo of gray hair, gray whiskers, gray or blue eyes, and no visible markings or tattoos. The Complainant said that NE#1’s car may have been purple or blue and was a Ford or Nissan. He also provided an approximate time of the incident.

As part of its investigation, OPA attempted to identify NE#1. OPA contacted SPD’s Fleet Unit to check for “any purple or similar in color Ford Escapes,” including those used by undercover officers. OPA was advised that no such vehicles are in the fleet. OPA contacted Narcotics to inquire about undercover vehicles matching the color or make and model of the vehicle described in the complaint and was informed that a purple Pontiac G5 was assigned to the Anti-Crime Team (ACT). The employee assigned to that vehicle at the time of the incident was hired in 2010 and is 5’9” and 180 pounds. OPA’s investigation also determined that the longest serving ACT officer was hired in 2004. He is 5’11” and 260; however, that employee was on vacation at the time of the incident. OPA also checked the Police Employee Data System for individuals matching the complaint. The check revealed one officer with approximately 30 years of experience named John. Information in PEDS identified this officer as being 5’9” and having a full head of hair. OPA checked for purple or blue Fords or Nissans assigned to SPD, and identified a blue Ford Explorer assigned to an SPD sergeant. This sergeant is 5’9” and 190 pounds.

OPA contacted the AAA location where the incident occurred to determine if there was surveillance footage of the incident. A camera captured the parking lot where the incident occurred, but the AAA employee who reviewed footage at the relevant times did not see the incident captured on film.

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.*)



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The conduct that the Complainant described is of an extremely serious nature and is a cause for grave concern. If it occurred as stated and involved an SPD employee, it would constitute a violation of both the Department's professionalism and biased policing policies. However, based on the lack of surveillance video, a name, serial number, or vehicle license plate, OPA has not been able to conclusively identify an SPD employee matching the description provided by the Complainant. At the same time, OPA cannot definitively say that the incident did not occur, or that no SPD employees were involved. As such, OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #1 - Allegation #2**

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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