



CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 30, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0132

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	Bias-Free Policing – 2. Employees 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 targeted and arrested him based on bias.

SUMMARY OF INVESTIGATION:

Named Employee #1 (NE#1) and his partner observed a vehicle driving in front of them apparently without a license plate. The vehicle pulled into a food truck parking lot and the officers followed. NE#1 did not turn his emergency equipment on at that time or otherwise effectuate a traffic stop. NE#1 approached the vehicle and noticed a plate in the rear window. The plate had not previously been visible due to the rear window's dark tint. NE#1 initiated a social contact with the driver – who was later identified as the Complainant. NE#1 mentioned to the Complainant, who was standing by the food truck, that it was hard to see the plate and that he needed to attach it to the exterior of the vehicle. The Complainant said that he planned to do so but did not have screws. During this time, NE#1's partner ran the vehicle's license plate through the MDT system. The license plate did not come back as conclusively matching the vehicle.

The Complainant drove away from the food truck without getting food. The officers followed as they were still investigating the license plate that did not appear to match the vehicle. Shortly thereafter, the Complainant got into a traffic collision with another motorist. The Complainant ran from the scene of the collision on foot and was searched for by the officers. He was ultimately apprehended while hiding in a garage. At that time, he told the officers that he had "smoked a little bit." The officers later established that the Complainant had smoked methamphetamines. The Complainant was arrested for DUI and hit and run. It was also determined that the Complainant's vehicle was stolen, and the plates did not match it and belonged to another vehicle. Lastly, the Complainant had a misdemeanor arrest warrant.

After his arrest, the Complainant alleged that he was targeted and ultimately taken into custody by NE#1 because of his race. Given the Complainant's allegation, an OPA complaint was made on his behalf and this investigation ensued.

OPA's investigation included reviewing the documentation generated for this incident, as well as reviewing the In-Car Video and Body Worn Video. OPA attempted to interview the Complainant but was unable to do so because of a lack



of a response from him. OPA interviewed NE#1. NE#1 asserted that he had a lawful basis to stop the Complainant's vehicle and then to arrest him. NE#1 denied that his actions were due to the Complainant's race or were based on bias.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

Bias-Free Policing – 2. Employees 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 totality of the record, OPA finds no evidence supporting the Complainant's allegation of biased policing. To the contrary, the evidence – including the video and the Complainant's own statements upon his arrest, established that NE#1 had a lawful basis to take the Complainant into custody. Indeed, the Complainant committed multiple serious crimes during this incident.

Ultimately, OPA concludes that the Complainant was arrested based on his actions, not on his race. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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