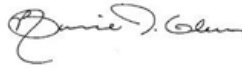

Issued Date: JANUARY 10, 2025

From: Interim Director Bonnie Glenn
Office of Police Accountability



Case Number: 2024OPA-0305

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1:** 5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing
Finding: Not Sustained - Unfounded (Expedited)
- 2. Allegation #2:** 5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional
Finding: Not Sustained - Unfounded (Expedited)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

Named Employee #1 (NE#1) conducted a traffic stop on the Complainant for running a red light and subsequently conducted a driving under the influence (DUI) investigation. The Complainant alleged that NE#1 was aggressive and biased against him due to his limited English proficiency.

Administrative Note:

This case was approved for Expedited Investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing the named employee. As such, OPA did not interview the named employee in this case.

On November 20, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

Summary of Investigation:

On July 14, 2024, the Complainant left OPA a voicemail, alleging that NE#1 harassed him due to his limited English proficiency. On July 16, 2024, OPA interviewed the Complainant, who recounted that NE#1 stopped him for running a red light and, upon noticing marijuana in the vehicle, questioned him about it. The Complainant alleged that NE#1 was aggressive due to his limited English proficiency. He also said he was subsequently arrested and later released.

OPA investigated the complaint by reviewing body-worn video (BWV) and the incident report.

BWV recorded NE#1 pulling over the Complainant. NE#1 told the Complainant he ran a red light. The Complainant apologized, saying he had finished work and was tired. NE#1 asked whether he smoked marijuana, to which he denied but admitted to having some in the back seat. The Complainant presented his driver's license and registration but said he had no insurance documentation. NE#1 asked him to exit the vehicle, and he complied. The Complainant consented to participate in a counting test to assess sobriety. During the instructions for the test, the Complainant interjected, requesting NE#1 to speak more slowly due to his limited English proficiency. NE#1 replied, "Sorry. Okay. My bad." NE#1 clarified the instructions to the test, which the Complainant completed. Following the test, NE#1 said, "You're good." NE#1 said he did not believe the Complainant was high but advised him to secure his marijuana. NE#1 then returned to his police vehicle and ran the Complainant's license.

BWV recorded NE#1 returning to the Complainant. NE#1 told him his license was suspended, to which the Complainant denied knowing about it. NE#1 also told him he was the respondent in several protection orders, prohibiting him from possessing a gun. The Complainant denied possessing one. NE#1 said he could not allow the Complainant to drive and needed to arrange for a tow, as the vehicle could not be left parked in its location. The Complainant requested his phone, and NE#1 retrieved it from inside the vehicle and handed it to him. The Complainant asked whether his friend could retrieve the vehicle, to which NE#1 consented. The Complainant consented to participate in more standardized field sobriety tests (SFSTs), which he completed. Following the tests, NE#1 told him he was borderline impaired but would not be arrested for DUI. However, NE#1 said he would be arrested for driving with a suspended license and then handcuffed him. The Complainant denied knowing his license status, expressed concern about losing his job, and was placed in NE#1's police vehicle. NE#1 told him he was arrested and would be screened and released at the precinct, clarifying that he would not be jailed. The Complainant became emotional, fearing that he would be jailed. NE#1 apologized.

BWV recorded NE#1 transporting the Complainant to the West Precinct. NE#1 informed him that he would receive a citation by mail for running a red light and advised him to resolve the license suspension with the Department of Licensing (DOL). The Complainant believed his license was suspended due to a previous DUI arrest. A sergeant screened the arrest at the West Precinct and approved the Complainant's release.

NE#1 documented the contact in an incident report, which was consistent with OPA's BWV observations.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

The Complainant alleged that NE#1 was biased against him due to his limited English proficiency.

Biased policing means “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well as other discernible personal characteristics of an individual.” SPD Policy 5.140-POL. Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

English proficiency is not a discernible personal characteristic articulated under SPD policy. Even if it were considered as such, OPA found no evidence showing that NE#1 exhibited any bias toward the Complainant. NE#1’s investigation was guided by the Complainant’s traffic violation, the presence of marijuana in his vehicle, and his license suspension. While the Complainant may not have demonstrated complete proficiency in English, this did not hinder his ability to communicate with NE#1. BWV showed NE#1 providing clarifications when the Complainant experienced difficulties in understanding. Furthermore, NE#1 did not show any signs of frustration toward the Complainant due to a perceived language barrier. Overall, OPA found no evidence supporting the Complainant’s interpretation of bias based on proficiency in English.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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

Named Employee #1 – Allegation #2

5.001 – Standards and Duties, 5.001-POL-10. Employees Will Strive to be Professional

The Complainant alleged that NE#1 was aggressive.

SPD employees must “strive to be professional.” SPD Policy 5.001-POL-10. Further, “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers,” whether on or off duty. *Id.* Employees will avoid unnecessary escalation of events, even if those events do not end in reportable uses of force. *Id.* 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 anyone. *Id.*

BWV showed NE#1 being courteous and professional throughout his interaction with the Complainant. NE#1 addressed him as “Mr. [last name].” NE#1 accommodated the Complainant’s requests by retrieving his phone from the vehicle and permitting his friend to retrieve his vehicle instead of towing it. NE#1 sought consent to administer SFSTs and search the Complainant’s vehicle. NE#1 clarified any confusion arising from his explanations. NE#1 repeatedly reassured the Complainant that he would not be jailed and advised him on avoiding legal trouble. This included guidance on resolving his license suspension with DOL, securing his marijuana, and avoiding firearms due to the existing protection orders. Overall, OPA found no evidence suggesting that NE#1 was aggressive.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited).

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