



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0463

Issued Date: 11/09/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (2) Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy (Policy that was issued April 1, 2015)
OPA Finding	Sustained
Allegation #2	<u>Seattle Police Department Manual</u> 6.220 (3) Voluntary Contacts, Terry Stops & Detentions: During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Scope (Policy that was issued August 1, 2015)
OPA Finding	Allegation Removed
Allegation #3	<u>Seattle Police Department Manual</u> 6.220 (4) Voluntary Contacts, Terry Stops & Detentions: During a Terry Stop, Officers Will Limit the Seizure to a Reasonable Amount of Time (Policy that was issued August 1, 2015)
OPA Finding	Allegation Removed
Final Discipline	Oral Reprimand

INCIDENT SYNOPSIS

The Named Employee pulled over the complainant and issued her tickets.

COMPLAINT

The complainant alleged that Named Employee #1 pulled her over and issued her tickets without probable cause in violation of Washington State law. Subsequent investigation by OPA determined that the complainant was pulled over by Named Employee #1 for displaying expired tabs. Upon making the stop, the Named Employee examined a trip permit and determined that it was valid. It appeared that despite determining that the vehicle was operating with valid trip permit the Named Employee continued with the stop and issued three infractions to the complainant in potential violation of Washington Law and SPD Policy.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Video (ICV)
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The complainant alleged that Named Employee #1 pulled her over in the absence of probable cause and issued her tickets. The tickets were issued for improper display of license plates, failure to have a driver's license on her person, and driving without insurance. The collective sum of the penalties for these tickets was \$822. The complainant, who was presently unsheltered and was so at the time of the incident, claimed that paying the tickets would be a substantial financial burden on her.

Named Employee #1 stated that he pulled over the complainant's vehicle because the license plate tabs were expired and he could not read her trip permit. When he performed the stop, he approached the rear of the vehicle, shined a flashlight on the back window and illuminated the trip permit. Named Employee #1 then approached the driver's side of the car and interacted with the complainant. In this initial conversation, Named Employee #1 stated that the trip permit was valid but asked if he could see the complainant's license and proof of insurance. The complainant had neither. Named Employee #1 ran her information on the computer system in his patrol vehicle and determined that the complainant did, in fact, have a valid out of state license. Named Employee #1 then informed the complainant that he would be sending her tickets in the mail. The complainant objected and stated that there was no probable cause for the stop or the tickets.

Washington State law is clear that a vehicle stop must be based on "specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant that intrusion." Where such specific and articulable facts are present at the inception of a stop but dissipate during the initial investigation, the stop and any later intrusions are no longer

permissible. Moreover, where the violation underlying the stop is no longer supported by the facts, an officer must suspect an additional violation to require the driver to provide identification. Otherwise, a request for identification is an unjustified seizure.

At his OPA interview, Named Employee #1 stated that he had not received much training from SPD on trip permits, but that he knew they needed to be visible. In response to OPA's questions, Named Employee #1 admitted that the trip permit on the complainant's vehicle was valid. Named Employee #1 further stated that normally when a stop is conducted to determine whether a trip permit is valid and it is determined to be so, the stop is terminated and the motorist is free to leave. Here, when asked why he requested the complainant's identification in this case, Named Employee #1 justified his continuation of the stop on the basis that the trip ticket was "improperly displayed." Named Employee #1 contended that this was the case both because the windows were "tinted" and "dirty" and because the trip permit was not "conspicuously posted" in violation of SMC 11.22.080. However, Named Employee #1's partner on that day stated that they did not have a tint meter during the incident and thus could not verify whether the windows were impermissibly tinted. Indeed, they did not cite the complainant for such a violation. Moreover, Named Employee #1's citation to SMC 11.22.080 was misplaced. This section of the Code is concerned with requirements for the display of license plates not trip permits. The display of trip permits is governed by SMC 11.22.090 (and RCW 46.16A.320) and the ticket must only be "displayed on the vehicle to which it is issued as prescribed by the Washington Department of Licensing." Washington DOL has no further specific requirements as to how a trip permit must be displayed.

The OPA Director noted that the union representative at the partner officer's interview appeared to suggest that the vehicle stop would have needed to be documented and, thus, identification was permissibly requested by Named Employee #1. The Director disagreed with this assertion. First, were this the case, officers could conduct pretextual stops and thus properly request identification in every case in order to document those unlawful stops. This was not what the law envisioned. Second, SPD Policy 16.230-POL-1 provides a specific exemption for completing Traffic Contact Reports (TCR) when a Terry stop is performed on a vehicle. Regardless, Named Employee #1 did not assert that he requested the complainant's identification to complete a TCR, so this argument was ultimately meritless.

While the tabs on the vehicle were expired, the complainant had a valid trip permit that was affixed to the inside of the rear window of her vehicle. There was no provision of the Code that stated that the rear window to which the trip permit is affixed not be tinted or dirty. Moreover, there was no provision that required that the permit even be "conspicuously posted." As such, the complainant's trip permit was in compliance with Code. Even if Named Employee #1 had trouble reading the trip permit, that was not a basis upon which to cite the complainant. Notably, there was no Code provision that allowed for such a citation and the provision actually utilized by Named Employee #1 was improper. Moreover, once the trip permit was determined to be valid, Named Employee #1 further had no basis to ask the complainant for her identification. In doing so, Named Employee #1 violated the complainant's rights and, by

extension, Department policy. Accordingly, none of the tickets received by the complainant should ever have been issued.

Not only were Named Employee #1's actions inconsistent with policy and law, but they caused the complainant to incur a substantial financial burden that she claimed she was unable to pay. This was an unjust result.

The OPA Director believed it unnecessary to recommend findings as to Allegations #2 and #3, as he deemed the conduct at issue subsumed within Allegation #1.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that the Named Employee violated Department policy. Therefore a **Sustained** finding was issued for *Standards and Duties: Employees Must Adhere to Laws, City Policy and Department Policy*.

Discipline Imposed: Oral Reprimand

Allegation #2

This allegation has been removed.

Allegation #3

This allegation has been removed.

NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.