



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0553

Issued Date: 12/11/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias Based Policing (Policy that was issued August 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Inconclusive)
Final Discipline	N/A

INCIDENT SYNOPSIS

The complainant was contacted by a bicycle officer.

COMPLAINT

The complainant alleged that she was racially profiled. As a result of their interaction with bicycle officers, she felt that she and her husband were the only contacted because of their race. OPA was able to identify that the Named Employees were the only bicycle officers in the vicinity and time of the incident.

INVESTIGATION

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Search for and review of all relevant records and other evidence
3. Interviews of SPD employees

ANALYSIS AND CONCLUSION

The complainant contacted the precinct and alleged to a Department sergeant that she had been racially profiled during an interaction with police officers. The complainant stated that, on the evening in question, she was in her vehicle with her husband and two of her children. The complainant indicated that she and her husband ran a custom car business and on that date they were driving one of their vehicles around to promote their business. She stated that, at one point, a bicycle officer rode by her vehicle and looked inside “without probable cause.” The complainant further reported that, at some point thereafter, the same bicycle officer rode up to them when they were stopped in a bus zone. The complainant’s vehicle was stopped in that location because it had run out of “air” and needed to fill up before they could drive away (the sergeant who referred this matter to OPA opined that the running out of air referred to a suspension system). The complainant stated that the officer who approached them was rude and unprofessional. She described this officer as an older white male. The complainant asserted her belief that the stop was based on bias. In explaining this belief, she stated that there were other vehicles in front of her that were also parked in the bus zone and were not asked to move. Specifically, she claimed that there was a SUV with “some Asian people unloading from it” and that the officers did not say anything to them. As such, the complainant asserted that she and her family had been specifically racially profiled because they were “brown.” The Department sergeant referred this complaint to OPA and this investigation was commenced.

OPA spoke to the complainant and she recounted her allegations. She again stated her belief that she was treated differently because of her race and claimed that no other vehicles were asked to leave the bus zone. OPA requested that the complainant provide a recorded

statement, but she did not contact OPA at a later agreed time. OPA called the complainant twice more and sent a letter requesting further contact. These efforts were unsuccessful. The complainant did not identify the bicycle officer that approached her by name, nor did she provide a detailed description of this officer. However, OPA was able to identify that the Named Employees were the only bicycle officers in that location at the time and date in question.

Named Employee #2 reported that he told three vehicles to move from a bus zone. At that time, the officers were dealing with a collision that had occurred across the street and were trying to manage traffic.

Named Employee #2 stated that he had a conversation with the occupants of the first vehicle that he contacted. Named Employee #2 was told by the male driver that he was waiting for someone. Named Employee #2 recalled that the passenger of the vehicle said something to him that he could not discern. The driver again stated that he was waiting for someone, but Named Employee #2 told him that he was required to move his vehicle from that location. Named Employee #2 then informed the occupants of the vehicle that if they did not move, they would be cited. Named Employee #2 recounted that, at this point, a female leaned over towards the driver's side and began yelling that Named Employee #2 "better remove everybody from all the bus zones." Named Employee #2 told her that he was going to do that, but because she was the first car in the bus zone, he needed to get her to move first before any of the other vehicles could move.

He remembered that second vehicle he contacted had two African-American women inside. Named Employee #2 asked them to move, they thanked him, and they moved their vehicle. Named Employee #2 could not describe the occupants of the third vehicle that he contacted. Named Employee #2 was asked at his OPA interview if he contacted someone with the complainant's last name, but he could not recall.

Named Employee #2 stated that he was the only officer that interacted with the vehicles; Named Employee #1 was across the street dealing with a traffic accident.

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.)

Named Employee #2 reported that he contacted three vehicles and asked them to move from a bus zone. The vehicles were not permitted to stand in the bus zone and, as such, Named Employee #2 had the legal authority to ask them to move. While the complainant alleged that she was only contacted because she was "brown," there was no evidence in the record, aside from her statement, that supported this allegation. Moreover, based on Named Employee #2's account, he contacted another vehicle that had two African-American occupants and also asked that vehicle to move. While the complainant claimed that a vehicle containing Asian occupants was right in front of them and was not asked to move, the OPA Director could not verify that.

Lastly, the OPA Director noted that he could not even conclusively determine that Named Employee #2 did, in fact, interact with the complainant. While it appeared that he may have, there was no video or audio of the incident (the officers were assigned to bicycles without In-Car Video and Body Worn Cameras were not yet being utilized) and the complainant could not provide a detailed description of the officer that she interacted with.

Ultimately, to find that Named Employee #2 engaged in biased policing, the OPA Director must determine that, by a preponderance of the evidence, he targeted the complainant because of her race and treated her differently than other motorists. Simply stated, based on the record, the OPA Director could not reach that conclusion.

SPD Policy 5.001-POL-9 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-9.)

The complainant alleged that Named Employee #2 was rude and unprofessional. Named Employee #2 claimed that he became authoritative with the first vehicle he contacted because the occupants would not move from the bus zone, but that he was not rude. It was possible that the complainant found Named Employee #2’s authoritative manner rude and unprofessional. Without having video or audio of the incident, the OPA Director could not reach a conclusion as to what may have been said by Named Employee #2 and the manner in which he said it.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that Named Employee #1 had no actual involvement in contacting the vehicles. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

Allegation #2

A preponderance of the evidence showed that Named Employee #1 had no actual involvement in contacting the vehicles. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

Named Employee #2

Allegation #1

There was no preponderance of evidence showing that Named Employee #2 targeted the complainant because of her race. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

Allegation #2

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times.*

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.