



## OFFICE OF POLICE ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2017OPA-0294

Issued Date: 10/02/2017

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	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

The Named Employee pulled over the complainant.

#### **COMPLAINT**

The complainant alleged the Named Employee pulled him over for a courtesy stop for having an obscured license plate, and that this was unwarranted because the Named Employee was two lanes over from the complainant and did not have any reason to look for his license plate. He also stated in his interview that he's seen this officer stop other African Americans.

## **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. Interview of SPD employee

## **ANALYSIS AND CONCLUSION**

The complainant alleged that Named Employee #1 stopped and arrested him based on his race. Named Employee #1 contended that he stopped the complainant due to the fact that his license plate was obscured in violation of Seattle Municipal Code § 11.22.080.

On the date in question, the complainant was driving his vehicle when he was stopped by Named Employee #1. Named Employee #1 was assigned to a motorcycle without ICV and his duties were to monitor that street for violations. Named Employee #1 stated that his supervisor had identified speeding as a concern in that vicinity; however, Named Employee #1 was not equipped with any speed monitoring devices so he focused on other violations. These violations included obscured license plates. Named Employee #1 observed the complainant's vehicle drive by and noticed that it had a cover on the license plate. The cover was shiny, concave and tinted, which prevented Named Employee #1 from being able to read the license plate number. Named Employee #1 then decided to pull the complainant over as he believed that the license plate cover was in violation of the Seattle Municipal Code.

Named Employee #1 indicated that at the time he observed the violation, he was stationed on the side of the street. The complainant's vehicle was in the second lane over from the side of the road. Named Employee #1 merged on to the street and then moved over lane by lane until he was behind the complainant's vehicle. Named Employee #1 stated that this was a normal driving maneuver and that it was not high risk.

At that point, Named Employee #1 made the stop. Named Employee #1 stated that he approached the complainant's vehicle and informed the complainant why he had been stopped. Named Employee #1 explained the violation and the ticket amount, but told the complainant that he was only going to issue a written warning. Named Employee #1 recounted that the complainant was not argumentative at that time, but asked who he could complain to about the incident. Named Employee #1 then provided the complainant with the written warning (referred to as a Traffic Contact Form) and wrote down the Seattle Municipal Code provision upon which the violation was based. Named Employee #1 stated that the complainant did not complain at that point that Named Employee #1's actions were based on bias.

The complainant, to the contrary, asserted to OPA that the stop was not valid as his license plate was visible. He indicated that he believed this to be the case because one month prior he had received a ticket that was based on a photograph of his license. In a follow-up conversation

with OPA, the complainant stated that he had translucent covers on both his front and rear license plates, which he placed on his vehicle to prevent his tabs from being stolen. However, the complainant denied that those covers could prevent his license plate number from being read. The complainant further stated to OPA that, even if the covers could do so, the prospective stop should have been terminated once Named Employee #1 was behind his vehicle and could clearly see the license plate number. The complainant opined that had Named Employee #1 truly had a lawful basis to make the stop, it would have been based on the fact that the complainant had a non-operational brake light on his car that day. The complainant stated his belief that the stop was solely based on his race, given that Named Employee #1 had been following another African-American driver directly prior to stopping the complainant. The complainant further indicated his belief that Named Employee #1 had spent that day specifically targeting African-American drivers. The complainant lastly asserted that his stop was an anomaly because, in his experience, similar traffic stops were not normally conducted in that area during that time of day.

When these allegations were raised with Named Employee #1 at his OPA interview, Named Employee #1 denied that the complainant's race played a factor in the stop. Named Employee #1 further stated that the only reason the stop occurred was because of the observed violation. While Named Employee #1 admitted that he was looking for violations on that day, he denied that he was simply trailing African-American drivers. Named Employee #1 stated that he did not recall the race of other drivers he stopped that day.

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." This includes different treatment based on the race of the subject.

Here, there was a dispute of fact as to what occurred. The complainant alleged that he was stopped improperly and because of his race. Named Employee #1 claimed that the stop was not racially motivated and was legally justified. Based on the fact that Named Employee #1 was assigned to a motorcycle, he was not equipped with ICV. As such, the only evidence of what occurred on that date were the statements of the individuals involved.

The OPA Director had no doubt that the complainant believed that he was improperly stopped, recognized his frustration in that regard. However, there was not sufficient evidence to establish by a preponderance of the evidence that the stop was based on bias or on the complainant's race. For example, while the complainant asserted that Named Employee #1 was trailing other African-American drivers prior to his stop, Named Employee #1 denied that and there was no evidence that established this fact. Similarly, while the complainant alleged that similar traffic stops were usually not conducted in that location and at that time, the OPA Director had no evidence suggesting that this was actually the case.

OPA was able to corroborate that, several weeks prior to this incident, the complainant received a ticket based on a photograph of his license. While this was certainly relevant to the question

of whether or not the stop was valid, it did not, by itself, conclusively prove or disprove that the complainant's license plate cover made the license number difficult for Named Employee #1 to read on that particular day and time, thus warranting the traffic stop. Indeed, it was undisputed that the complainant had a cover on his license plate and even though he said that it did not obscure the plate number there was no evidence establishing this assertion as true or false.

For these reasons, there was not sufficient evidence to either Sustain this allegation or to definitively determine that it did not occur.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

*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.*