



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 14, 2018

CASE NUMBER: 2017OPA-0852

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Inconclusive)
# 3	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Inconclusive)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Inconclusive)
# 2	5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times	Not Sustained (Inconclusive)
# 3	16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity	Not Sustained (Inconclusive)

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 Employees contacted her son, the subject, and treated him like he had done something wrong. The Complainant later alleged that the subject had been targeted because of his race. During intake OPA was not able to find an In-Car Video (ICV) of the incident and, given the nature of the alleged contact, it was possible that the failure to record was a violation of SPD's policy.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant, who is the mother of the fifteen-year-old subject of this case, called OPA to initiate a complaint. She asserted that the subject was walking in the vicinity of Fourth Avenue South and South Walker Street when he was stopped by two police officers who were riding in a police vehicle. The Complainant alleged that the officer who was driving said something to her son along the lines of “are you doing anything,” to which the subject responded that he was not doing anything and was simply walking to his car. The Complainant asserted that the officer in the



passenger seat then stated: “you must have done something.” The subject, who is African-American, again stated that he did not do anything. The officers said “whatever” and then drove away from the scene.

During its intake investigation, OPA identified that Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were driving in that vicinity in a police vehicle around the time of the reported interaction. The officers had logged themselves to a premise check. However, OPA did not find any documentation relating to the incident, such as a Terry template, or any In-Car Video (ICV) or private party video.

OPA interviewed both the Complainant and the subject. During his interview, the subject stated that he was walking down the street when two officers drove up next to him in a blue Chevy SUV with Seattle Police markings. The subject relayed the same conversation recounted by his mother in her initial complaint with OPA. The subject described the officer driving the vehicle as an older white man with a balding head, a “shadow beard,” and larger build. He described the passenger officer as a younger white man (approximately in his 30s) with black hair and a “jar head” type of haircut. He further described the passenger officer as having a medium build. The subject reported that the officers appeared to be serious in their statements and that he felt targeted because of his status as an African-American, “scared,” and that he did not know “what would happen.”

The Complainant indicated that the subject reported the incident to her shortly after it occurred and asserted that he felt “threatened” and “profiled.” The Complainant stated that the night of the incident she called the 911 non-emergency line to report what had happened. She spoke to Officer Hoang and she reported that Officer Hoang listened attentively to her and that she felt “heard” by him. Officer Hoang provided the Complainant with OPA’s contact information and informed her that OPA might be able to track down which officers were involved in this incident using GPS to locate their vehicle. During that conversation, Officer Hoang asked the Complaint to provide the specific location at which the stop occurred. The Complainant first identified that it happened in the vicinity of the John Sanford building (located at 2445 Third Avenue South) but later narrowed down that it occurred on the opposite side of the street of the blue Goodyear building (located at 2198 Fourth Avenue South).

The Complainant sent OPA a 42 second recording taken of the subject recounting what had occurred. His description of the incident was identical to the complaint his mother made and his later statement to OPA.

At the time of the incident, both of the Named Employees were employed by the South Precinct Anti-Crime Team. Based on GPS records, they were driving a blue police SUV in the vicinity and at the approximate time that the subject alleged that he was improperly stopped and threatened. However, the officers asserted, and the South Precinct Station Master confirmed, that the blue SUV operated by the Named Employees on that day was an unmarked vehicle.

Both Named Employees were interviewed by OPA. NE#1 believed that he was the passenger in the vehicle on that date. NE#1 stated that he did not recall engaging in the interaction that the subject described. He said that had he engaged in a Terry stop of the subject, he would have activated his ICV and completed a Terry template. He did neither here. NE#2 also had no recollection as to the nature of the premise call that he and NE#1 were logged to on the date in question. He noted that it appeared that they ran some license plates, but he could not recall what else they may have done. NE#2 did not remember whether he was the passenger or the driver on the date in question. He did not recall interacting with the subject and engaging in the conversation that the subject alleged. He noted



that the subject's account "would be a totally bizarre and pointless way to approach someone" and would not benefit him in any law enforcement way.

OPA obtained a copy of the officers' ICV systems check that they performed prior to their check. During this check the officers stepped in front of the vehicle and spoke into their wireless microphones to ensure that their system was properly working. As such, the video captured how both officers physically appeared on that date. I note that their appearances are similar to that of the officers that were described by the subject.

I am very concerned by the subject's and the Complainant's allegations. First, I see no motivation for the subject to make this incident up. NE#2 opined he could have made this encounter up based on the fact that he was late for curfew and needed to come up with an excuse. However, this was pure conjecture without any evidentiary support. Based on my review of their statements, I deem both the subject and the Complainant to be quite credible. Moreover, I note that not only were NE#1 and NE#2 verified as being in the location of the alleged incident, but that they were driving a blue SUV and that the descriptions provided by the subject largely matched their appearances.

If true, the allegations in the case would, in my opinion, constitute biased policing. There was no reason to stop the subject and there was no crime suspected. Indeed, if the stop and interaction occurred as the subject described, it simply would have been a stop effectuated based on the color of the subject's skin and the presumption that, because he was a young African-American male, he must have been engaging in criminal activity. Such conduct, if it occurred, has no place in our Department or in any law enforcement agency and is both infuriating and unacceptable.

That being said, both NE#1 and NE#2 did not recall stopping the subject and engaging in the conversation he described. They further contended that the vehicle they were driving was unmarked and, thus, they could not have been the officers that the subject alleged that he interacted with. Lastly, they argued that the time of the alleged interaction did not match up with when they were in the vicinity. However, this time was later adjusted by the Complainant and the subject after further consideration and did match the time frame during which the officers were logged to the premise.

Ultimately, based on the disputes of fact and based on the lack of video evidence memorializing this incident, I cannot determine whether it occurred. This is the case even when applying a preponderance of the evidence standard. As such, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

If the evidence supported that the officers engaged in the interaction with the subject that he and his mother described, such conduct would certainly have been unprofessional and in violation of policy. However, as explained above, I cannot prove that this interaction occurred by a preponderance of the evidence. As such, I recommend that this allegation, like Allegation #1 above, be Not Sustained – Inconclusive.

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



Named Employee #1 - Allegation #3

16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity

SPD Policy 16.090-POL-5 sets forth the general expectations that officers will record police activity on their ICV. SPD Policy 16.090-POL-5(b) delineates several categories of activity that must be recorded, which include, but are not limited to: Terry stops; arrests and seizures; and the questioning of victims, suspects, or witnesses.

To the extent the subject and the Complainant's account is true and the subject was stopped and questioned by the officers, they should have activated their ICV when doing so. Here the officers did not recall engaging in such behavior and, as discussed above, I cannot conclusively determine whether it occurred. As such, and as with Allegations #1 and #2, I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegation #1

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegation #2

5.001 - Standards and Duties 9. Employees Shall Strive to be Professional at all Times

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Inconclusive.

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

Named Employee #2 - Allegation #3

16.090 - In-Car and Body-Worn Video 5. Employees Recording Police Activity

For the same reasons as stated above (see Named Employee #1, Allegation #3), I recommend that this allegation be Not Sustained – Inconclusive.

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