



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0459

Issued Date: 10/31/2017

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 (Unfounded)

Final Discipline	N/A
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INCIDENT SYNOPSIS

The Named Employees performed a traffic stop on the complainant's vehicle.

COMPLAINT

The complainant alleged that she was not treated professionally and with respect during a traffic stop. The complainant further asserted that the Named Employees should not have engaged in bias and intimidation.

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. Review of In-Car Video (ICV)
4. Interviews of SPD employees

ANALYSIS AND CONCLUSION

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.)

The complainant did not explicitly allege that the stop and her treatment during the stop was the result of bias. But in her suggestions for Department-wide training she suggested that this incident may have been the result of implicit bias.

It was undisputed that the complainant's vehicle tabs were expired. It was also undisputed that the complainant did not have her driver's license on her person and did not have insurance at the time of the stop. As such, there was legal justification for: the stop; the request for identification and proof of insurance; and the later issuance of citations. Moreover, from a review of the ICV and the officers' OPA interviews, during the stop the officers appeared to have behaved professionally and appropriately. Notably, both officers denied that their conduct was motivated by the complainant's race. Indeed, Named Employee #1 specifically asserted that he did not know the complainant's race or gender prior to effectuating the stop. For these reasons, the OPA Director saw no indication that this stop was motivated by bias or that bias played any part in the officers' treatment of the complainant or in the decision to issue her citations.

In making this determination, the OPA Director, in no way, sought to diminish what the complainant described experiencing. Certainly, implicit bias is a very real issue that exists in law enforcement. SPD recognizes this reality and has consistently mandated Department-wide training in this area.

However, based on the objective evidence in this specific case, there was no basis to believe that Named Employee #1 engaged in biased policing.

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.)

Based on the OPA Director’s review of ICV and on the objective evidence in this case, he found that Named Employee #1 acted professionally in his interaction with the complainant. When asked whether he engaged in any behavior that could have been construed as unprofessional or intimidating, Named Employee #1 stated that he did not and was surprised by the allegation. Named Employee #1 further indicated that he recognized that he was a large person and that his size could be intimidating to some people. In explaining how he ensured that he was not viewed as such, he said: “I try to shrink myself a little bit when I’m...talking to people.”

The complainant alleged that Named Employee #1 used an “intimidating tone,” but that was simply not reflected on the ICV in this case. Again, this could certainly be a matter of perception and perspective. The complainant felt unsafe and not respected as a result of this stop, but the officers asserted that they acted in this case with courtesy and conducted themselves as they would have in any other interaction with a motorist. Ultimately, the OPA Director could not conclusively determine that the officers’ conduct was the cause of the complainant’s beliefs, as opposed to the inherent stressfulness of stops or the negative perception of law enforcement and the historical and current relationships of police with communities of color.

Here, as with the above allegation, the OPA Director was required to base his decision on the objective facts of this case. In doing so, he found that Named Employee #1’s conduct did not violate SPD’s professionalism policy.

With regard to Named Employee #2, the complainant asserted that he looked at her through her vehicle’s passenger side window and, in doing so, had a mischievous look on his face. The complainant further asserted that Named Employee #2, like Named Employee #1, made her feel unsafe and not respected.

When these allegations were discussed with Named Employee #2 at his OPA interview, he stated that at the time the complainant looked at him through the passenger side window she appeared startled. He reported that he smiled at her in order to be polite. Named Employee #2 stated that he did not smirk at the complainant and that he gave her the polite smile that he gives to people all the time. Named Employee #2 indicated to OPA that while it was possible that the complainant could have believed that his smile was a smirk or was rude, this was not

his intent. Even were this the case, it would not, standing alone, rise to the level of establishing biased policing.

As with Named Employee #1, the OPA Director found that there was no objective evidence establishing that Named Employee #2 engaged in biased policing.

Named Employee #2 was alleged to have been unprofessional based on his smiling at the complainant. The complainant viewed the smile as a mischievous smirk and Named Employee #2 reported that he was just trying to be polite.

For the same reasons as discussed above, the OPA Director found that the objective evidence in this case indicated that Named Employee #2 acted professionally and consistent with policy.

FINDINGS

Named Employees #1 and #2

Allegation #1

A preponderance of the evidence showed that there was no basis to believe that the Named Employees engaged in biased policing. 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 the Named Employees acted professionally in their interaction with the complainant. Therefore a finding of **Not Sustained** (Unfounded) 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.