



CLOSED CASE SUMMARY

ISSUED DATE: MAY 14, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0715

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 (Unfounded)

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 Employee conducted a traffic stop that was based on bias.

SUMMARY OF INVESTIGATION:

The Complainant initiated this complaint in which she asserted that Named Employee #1 (NE#1) improperly issued her a citation. She opined that NE#1 did so because of her race. In furtherance of this belief, she asserted that virtually all of the drivers she observed stopped were people of color and that White drivers were allowed to pass by without being pulled over. She also said that the stop was effectuated in a manner that put her safety at risk. She indicated that she was an essential worker – an education professional who needs to travel to tutor subjects – and, as such, that she was exempt from the restrictions. After reviewing the Complainant's written submission, OPA commenced this investigation.

As part of its investigation, OPA conducted an interview of the Complainant. She reiterated the allegations she made in her written submission. She expressed her frustration with the times posted on the sign and information that was provided in the media concerning a later restriction start time. She said that, had she known about the earlier restriction start time, she would have taken an alternate route. She told OPA that NE#1 stopped only minority drivers and let White drivers turn around without citing them. She lastly said that NE#1 did not assist her to safely turn around and leave the area. She noted that this placed her in danger.

OPA further reviewed the Body Worn Video (BWV), which captured the entirety of the traffic stop. The video showed that NE#1 flagged down the Complainant's vehicle, as well as the vehicle travelling behind the Complainant. Both vehicles were driving on the lower level bridge from West Seattle. NE#1 approached the Complainant and the Complainant stated that she thought the bridge restrictions did not go into effect until 7:00 a.m. NE#1 told her that the restrictions were in place from 5:00 a.m. to 9:00 p.m.



NE#1 stepped away to stop another vehicle. He further directed a number of other vehicles to turn around and remarked that, as he was alone, he could not stop everyone. He returned to the Complainant's vehicle, announced himself, and told her that he was audio and video recording. NE#1 told the Complainant that he did not know where she got the 7:00 a.m. restriction start time and again noted the times set forth on the signs.

NE#1 continued to stop vehicles and to direct some other to turn around. NE#1 had an interaction with at least one other individual where the 7:00 a.m. start time was discussed. All in all, the Complainant was stopped for approximately 20 minutes.

After the conclusion of the stop, NE#1 told the Complainant that she was free to go. The Complainant asked NE#1 to stop traffic for her so that she could safely pull out. The BWV indicated that NE#1 told the Complainant that she could go straight or turn around, but to be careful if turning around. NE#1 eventually walked into the street and stood in front of traffic. He said to the Complainant: "Okay, go ahead...you're free to go back then...no cars." The Complainant then drove away.

OPA analyzed the citations issued by NE#1 for violations of the bridge restrictions. OPA verified that he cited 18 drivers. Of those individuals: five were identified as White; four were identified as Asian; two were identified as Hispanic; two were identified as Black; and five were identified as "unknown." OPA notes that officers are asked to make a determination as to what an individual's race may be. Officers do not ask the individuals to disclose this information as part of a traffic stop. If the specific race cannot readily be determined by the officer, the "unknown" designation is used. The Complainant was one of the cited drivers whose race was listed as "unknown."

OPA verified that the Complainant's status as an education professional did not exempt her from compliance with the bridge restrictions. As set forth on the SDOT website:

The Low Bridge is currently open to essential workers who get to work by taking transit, walking and biking. It's also open to people using emergency vehicles and transporting freight as part of their jobs. For essential workers who are driving private vehicles, they are directed to the 1st Ave S Bridge.

Lastly, while OPA determined that the sign on the bridge set forth a 5:00 a.m. start for the restriction, there was conflicting information in the media. For example, OPA found an article on KOMO from June 24, 2020 indicating the 5:00 a.m. to 9:00 p.m. restrictions. However, OPA located another article published by Patch on June 25, 2020 in which the restrictions were identified as being from 7:00 a.m. to 9:00 p.m.

Given the totality of OPA's review of the evidence, OPA did not find any support for the Complainant's assertion that NE#1 failed to stop traffic to ensure that she could leave the scene. The video indicated that he did so.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

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.*)

Based on a review of the BWV and from an analysis of the citations issued by NE#1, there is insufficient evidence to establish bias on NE#1’s part. Contrary to the Complainant’s assertions, NE#1 did, in fact, cite five White drivers. Even if all of the individuals with an “unknown” race were people of color, it still would not constitute sufficient evidence to establish that NE#1 was targeting minority drivers.

OPA agrees with the Complainant that there were contradictions between the posted times for the restrictions and the media reports of when the restriction began. However, it appears that NE#1 reasonably based his enforcement on the posted signs, which had not been altered. Even if NE#1 made a mistake in doing so, this does not establish bias.

Ultimately, the Complainant’s best remedy is to challenge the citation in Seattle Municipal Court. Given the evidence she presented and what OPA uncovered in the media, she may be successful in this regard.

However, with regard to the Complainant’s allegation of biased policing, OPA recommends that this allegation be Not Sustained – Unfounded.

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