



Seattle
Office of Police
Accountability

CLOSED CASE SUMMARY

ISSUED DATE: AUGUST 26, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0119

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Inconclusive)
# 2	5.001 – Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained (Lawful and Proper)
# 3	Bias-Free Policing – 2. Employees 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:

An anonymous Complainant alleged that the Named Employee was unprofessional towards him and his friend and cited his friend due to bias. The Complainant also alleged that the Named Employee failed to identify himself when requested.

SUMMARY OF INVESTIGATION:

OPA received an anonymous complaint concerning the actions of a Parking Enforcement Officer (PEO), Named Employee #1 (NE#1). The Complainant alleged that, on March 1, 2021, NE#1 contacted himself and his friend and issued the friend a citation. The Complainant asserted that NE#1 cited the friend, who was Asian American, while letting a similarly situated White driver leave without citing that motorist. The Complainant asserted that this indicated bias on NE#1's part. The Complainant also alleged that NE#1 was unprofessional to himself and his friend, as well as that NE#1 failed to identify himself when requested by the Complainant. As a result of this complaint, OPA initiated this investigation.

As PEOs are not equipped with Body Worn Video or In-Car Video, NE#1's actions and his interactions with the Complainant and the friend were not recorded.

OPA obtained the citation at issue. OPA verified that the friend's van was illegally parked based on a photograph attached to the citation. OPA also determined that the citation included NE#1's name and serial number.



As the citation listed the friend's name, OPA was able to contact and interview him through an interpreter. The friend stated that, while NE#1 cited his van, he did not also cite a White motorist who was similarly illegally parked. The friend said that NE#1 spoke to the White motorist before the motorist left the scene but that he could not understand what they discussed because of his lack of English language proficiency. OPA construed this to be confirmation of the Complainant's allegation of bias. The friend declined to provide contact information for the Complainant.

The Complainant ultimately contacted OPA and provided a statement. The Complainant said that he observed NE#1 citing his friend's unoccupied van. He and his friend were working at the time, and he did not know how long the van had been parked for. He walked up to NE#1 and asked him to stop writing the ticket. NE#1 ignored him. The Complainant asked NE#1 for his name three times and NE#1 did not provide it. The Complainant acknowledged that NE#1 told him that his name would be on the ticket.

The Complainant said that another vehicle pulled behind them and NE#1 told the other motorist that, if he did not leave, he would receive a citation. The motorist then left. The Complainant asserted that NE#1's decision to cite his friend's vehicle but to let the White driver leave without receiving a ticket constituted bias. He felt that both vehicles should have been ticketed or given warnings but not treated differently. The Complainant also felt that NE#1 was unprofessional towards him.

Lastly, OPA interviewed NE#1. He said that, when he initially approached the van, it was unoccupied and illegally parked. As he was citing the van, the owner came over and said that it was his and he would move it. However, NE#1 told him that the citation would still be issued. NE#1 explained that, when a vehicle is occupied, he will usually allow the driver to leave without issuing a citation, but, where it is unoccupied, he will cite the vehicle. NE#1 stated that, at this time, the driver's boss came out and began to discuss the citation with him. Ultimately, the boss grew upset and told NE#1: "do what you have to do and I'll do what I have to do." The boss then started taking pictures of him and asked for his "officer card." NE#1 said that he did not have an officer card as he was a PEO but he informed the boss that his name and serial number would be on the citation and offered to show him once the citation was issued.

NE#1 told OPA that, during that time, another motorist pulled behind where his scooter was stopped and began to get out of his vehicle. NE#1 told the motorist that, if he left the vehicle there, a citation would be issued. The motorist then drove away.

NE#1 said that he completed the citation and showed the boss where his name and serial number were. He also offered to give the boss a business card. The boss declined and told NE#1 that he was going to get a lawyer and file a lawsuit. The boss then walked away, and NE#1 left the scene.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 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-10.) The policy further states the following: "Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person." (Id.)



Both the Complainant and his friend asserted that NE#1 was rude to them and, thus, unprofessional. The Complainant reported that NE#1 ignored him and refused to listen to his explanation. NE#1, for his part, denied ignoring the Complainant and said that he did not treat the Complainant and the friend unprofessionally.

As discussed above, there is no video of this incident and OPA has no way to determine which of the involved parties' accounts is more accurate. As such, OPA cannot reach a determinative conclusion as to whether or not NE#1 was professional and recommends that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

5.001 – Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested

SPD Policy 5.001-POL-7 requires SPD employees engaged in Department-related activities to identify themselves when requested by a community member. This includes PEOs.

While NE#1 and the Complainant dispute whether NE#1 ignored the Complainant's requests for his name, both agree that NE#1 provided the Complainant with a citation that had NE#1's name and serial number on it. As such, NE#1 did, in fact, identify himself.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #1 - Allegation #3

Bias-Free Policing – 2. Employees 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.*)

NE#1 and the Complainant both described that a motorist pulled up behind them and that NE#1 told the motorist to leave, or his car would be cited. It is further undisputed that, at the time NE#1 began to cite the friend's van, it was unoccupied. NE#1 explained that this was consistent with his practice and that he treated occupied and unoccupied vehicles differently. The Complainant asserted that NE#1's actions were based on bias.

In evaluating this allegation, OPA finds insufficient evidence to overcome NE#1's assertion that he did not cite the other motorist based on a race neutral reason. There was no evidence of any other statements or actions taken by NE#1 that establish bias. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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



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