



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 11, 2023

FROM: DIRECTOR GINO BETTS 
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0236

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional	Not Sustained - Unfounded (Expedited)
# 2	5.140 - Bias-Free Policing 5.140-POL 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained - Unfounded (Expedited)

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:

It was alleged that, on July 8, 2022, the Named Employee (NE#1) and Witness Employee #1 (WE#1) subjected the Complainant to a traffic stop based on his ethnicity and expired tabs. The Complainant further alleged NE#1 was unprofessional and engaged in bias-based policing by citing the Complainant rather than a fast driving "White" driver.

ADMINISTRATIVE NOTE:

This case was designated an Expedited Investigation. That means OPA, with the Office of Inspector General's review and agreement, believed it could reach and issue recommended findings based solely on its intake investigation without interviewing the involved employees. Accordingly, OPA did not interview the involved employee.

SUMMARY OF INVESTIGATION:

OPA reviewed the Blue Team referred complaint, NE#1's BWV, and the Notice of Infraction (NOI) NE#1 issued to the Complainant. OPA also interviewed the Complainant.

A. Blue Team Referral:

On August 2, 2022, NE#1's supervisor referred the complaint to OPA. During the traffic stop, the Complainant stated NE#1 cited him because he was "racist." He declined to wait for a supervisor to arrive on scene. Later that evening, NE#1's supervisor contacted the Complainant to screen the bias allegation. He asked the Complainant why he felt NE#1 was racist. The Complainant replied, "the way [NE#1] reacted to me." NE#1's supervisor asked the Complainant to elaborate, but he was unable to provide further details. However, the Complainant mentioned another truck speed but was not cited by NE#1. The Complainant felt that was unfair.



B. Interview of Complainant:

On August 2, 2022, OPA interviewed the Complainant. The Complainant stated he drove into a parking lot and exited his vehicle to enter a store. He stated two officers stopped him. The Complainant described one officer as “nice” and the other as “an asshole.” He explained he knew his registration was expired but felt NE#1 was untruthful when he claimed the stop was for speeding. The Complainant questioned why he was not stopped when officers saw him speeding, rather than later. The Complainant also took issue with NE#1 failing to pursue a vehicle that sped in his presence. The Complainant believed NE#1 did not pursue that vehicle because the driver was White. He also stated he believed White people recently vandalized his business and SPD did nothing about it. The Complainant felt he was treated differently because of his race.

C. Body-Worn Video:

OPA reviewed NE#1’s BWV, which showed in summary:

NE#1 was on a motorcycle, positioned on the east side of 1st Ave S. facing north. He used a LIDAR device to measure vehicle speeds on the roadway. The Complainant drove southbound on 1st Ave S. towards NE#1. As the Complainant crested the bridge, he barely visible on NE#1’s BWV. NE#1 rode northbound. The Complainant’s vehicle was next seen on NE#1’s BWV parked in a store’s lot.

Soon after, WE#1 joined NE#1. The officers contacted the Complainant, who had exited his vehicle. NE#1 told the Complainant he was stopped for speeding. NE#1 requested the Complainant’s license, registration, and proof of insurance. The Complainant admitted his registration was expired and stated he needed to call his wife for proof of insurance. NE#1 directed the Complainant to sit in his vehicle to call his wife. For several minutes, NE#1 and WE#1 stepped towards their motorcycles to process a Notice of Infraction.

About six minutes after NE#1 started processing the ticket, a red truck at the opposite end of the parking lot reversed out of a parking spot and accelerated. It appeared to be a diesel pickup truck with a loud exhaust system. NE#1 did not appear to notice the truck. BWV captured the Complainant state, “...of course not, because he’s a White guy.”¹ NE#1 returned to the Complainant and requested his insurance information. The Complainant told NE#1 he unfairly decided to cite him but did nothing about the speeding truck because that driver was White: *“But you see this White guy in front of you drive a hundred-mile hour. You did not do nothing to him, but because you see I’m a foreigner person. You catch me right away when I’m in parking lot. Right. That’s make you feel better. Right?”*

WE#1 offered to call a supervisor. The Complainant declined to speak with a supervisor and insisted NE#1 was racist. The Complainant returned to his vehicle. The officers told the Complainant he was free to leave but may receive a mailed citation for failure to provide proof of insurance. The Complainant drove off. NE#1 called a supervisor to report the bias allegation.

¹ The beginning of the Complainant’s statement was unclear on BWV.



D. Notice of Infraction:

NE#1 cited the Complainant for violating SMC 11.52.040 (speeding) and SMC 11.22.070.A3 (expired registration). In the citation's narrative, NE#1 wrote:

I was using a Kustom Pro Laser III LIDAR speed measuring device, serial number PL 20379, to monitor the speed of passing traffic. I have been instructed and certified in the operation of the LIDAR and was using the device as instructed... I observed the defendant's vehicle, the vehicle described on the front side of this NOI, traveling southbound in the 4600 block of 1st Ave S., within the city limits of Seattle. The posted speed limit at this location is 30 MPH. I visually estimated the vehicle's speed at 53 MPH. I placed the LIDAR unit's red reticule sight on the defendant's vehicle and activated the LIDAR unit. I was able to obtain a clear tone and a reading of 55 MPH on the LIDAR unit, at a distance of 1103.4 feet, which was consistent with my visual speed estimate.

NE#1 also stated he calibrated the LIDAR device prior to the encounter and thereafter. The LIDAR device was calibrated correctly.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 5.001-POL 10. Employees Will Strive to be Professional

It was alleged NE#1 acted unprofessionally towards the Complainant during a traffic stop.

SPD Policy 5.001-POL-10 requires that SPD employees "strive to be professional." The policy further states, "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.* Last, the policy instructs employees to "avoid unnecessary escalation of events." *Id.*

Here, in its review of NE#1's BWV, OPA did not see NE#1 say or do anything approaching contemptuous, derogatory, or dismissive behavior. Rather, NE#1 was direct with the Complainant about the reason for the traffic stop. When the Complainant called NE#1 a "racist", NE#1 did not argue about the validity of the stop. Further, where NE#1 could have prolonged the traffic stop to address the Complainant's insurance, he allowed the Complainant to leave to avoid further escalation.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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

Named Employee #1 - Allegation #2

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

It was alleged NE#1 targeted the Complainant based on his race and ethnicity. It was further alleged NE#1 ignored a White driver who sped in his presence.



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-POL. That includes different treatment based on a subject’s race. *See id.*

Here, NE#1’s LIDAR detected the Complainant traveling at 55MPH in a 30MPH zone. NE#1’s measured the Complainant’s speed from 1103 feet away. Also, during the stop, the Complainant admitted his registration was expired. Like Allegation #1, OPA did not observe NE#1 do or say anything that indicated the Complainant was treated differently based on race, ethnicity, or any other protected class. Rather, the evidence showed NE#1 initiated the stop based on the LIDAR reading. Further, where NE#1 detected the Complainant’s speed from 1103 feet away, it is highly unlikely NE#1 ascertained the Complainant’s race or ethnicity from that distance.

The Complainant further alleged NE#1 was biased for failing to cite another vehicle for speeding because that driver was White. BWV captured the vehicle in question leave the parking lot where NE#1 stopped the Complainant. However, at that time, NE#1 and WE#1 were pre-occupied processing the Complainant citation and apparently did not notice the other driver. NE#1 was not using his LIDAR device or looking at the vehicle to visually estimate its speed.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded (Expedited)

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