

Issued Date: FEBRUARY 13, 2024

From: Director Gino Betts, Office of Police Accountability



Case Number: 2023OPA-0353

Allegations of Misconduct & Director's Findings

Named Employee #1

1. **Allegation #1:** 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing
 - a. **Finding:** Not Sustained - Inconclusive
2. **Allegation #2:** 5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional.
 - a. **Finding:** 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 Named Employee #1 (NE#1)—a parking enforcement officer—engaged in bias-based policing and was unprofessional by intentionally misgendering Community Member #1 (CM#1) while issuing CM#1 a ticket.

Administrative Note:

On January 4, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

Summary of the Investigation:

The Complainant filed a web-based complaint with OPA. The Complainant identified themselves as a case manager for CM#1. The Complainant wrote they observed NE#1 issuing CM#1 a ticket. The Complainant wrote they went outside to help translate and check on their client, who does not speak English as a first language. The Complainant wrote that NE#1 was issuing CM#1 a warning ticket. The Complainant wrote that NE#1 repeatedly referred to CM#1 as "she," despite CM#1 being a cis gendered male. The Complainant wrote that they corrected NE#1 four times, causing NE#1 to roll his eyes and pointedly refer to CM#1 as "HIM."

OPA opened an investigation. During its investigation, OPA reviewed the OPA complaint, warning ticket court package, and NE#1's daily activity log. OPA also interviewed NE#1. OPA contacted the Complainant multiple times to arrange an interview. Despite indicating in a voicemail that they would agree to be interviewed, the Complainant did not return OPA's follow-up calls or text messages to arrange a time. Accordingly, OPA did not interview the Complainant.

The warning ticket court package showed NE#1 gave CM#1 a warning ticket for Seattle Municipal Code 11.72.351A – Restricted Parking Zone. The warning ticket had the following public notes: "2 HOUR PARKING 7AM - 6PM EXCEPT BY ZONE 4 PERMIT ONLY. NO VALID ZONE 4 PERMIT VISIBLE. PICTURE TAKEN." The ticket had the following private notes:

"15FT SOUTH OF SIGN/ESTIMATED. 3 SIGNS ON BLOCK. CHALKED LR TIRE AT 1115 HRS. CHALK INTACT UPON RETURN." NE#1 attached three photographs to the court package.



A photograph from the court package, depicting CM#1's vehicle parked on the street. OPA obscured images of license plates.

NE#1's daily activity log indicated he cited fifteen vehicles for violating SMC 11.72.351 on the incident date between the hours of 2:21pm and 4:28pm. CM#1's warning was the twelfth warning chronologically.

OPA interviewed NE#1. NE#1 stated he has been a parking enforcement officer since July 2023. NE#1 recalled the incident. NE#1 stated he initially believed CM#1 was a female, but later learned they were male. NE#1 stated he believed CM#1 was female based on the sound of CM#1's voice.

NE#1 described his process of citing CM#1's vehicle. NE#1 said he decided to issue a warning instead of a ticket when CM#1 came out to speak with him. NE#1 described CM#1 as only able to communicate in English using short words. NE#1 stated two people—who identified themselves as neighbors—came out to help him speak with CM#1. NE#1 said that, during this conversation, he referred to CM#1 as "she." NE#1 stated one of the neighbors corrected him by informing him that CM#1 was male. NE#1 stated his impression was that no one was upset about the interaction and did not think there was any argument or confrontation about the subject. NE#1 stated that he apologized for the misunderstanding and continued with his work. NE#1 denied engaging in bias-based policing or unprofessionalism. NE#1 admitted referring to CM#1 with the wrong pronoun but stated it was unintentional.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

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

The Complainant alleged NE#1 engaged in bias-based policing by intentionally misgendering CM#1 even after being corrected and, then, pointedly referring to CM#1 by their correct pronouns.

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. This includes different treatment based on the gender or gender identity of the subject. See *id.* Officers are forbidden from both, (i) making decisions or taking actions influenced by bias, and (ii) expressing any prejudice or derogatory comments concerning personal characteristics. See SPD Policy 5.140-POL-2.

This allegation is inconclusive. The Complainant submitted a detail complaint in which they alleged NE#1 misgendered CM#1 four times, including after being corrected. The Complainant wrote that, once corrected, NE#1 rolled his eyes and said "Well, I'm only giving 'HIM' a warning, but you need to tell 'HIM' to get a parking pass or not park here." If true, these allegations would constitute bias-based policing. However, NE#1's recollection of the incident differed. NE#1 acknowledged initially misgendering CM#1, but stated he apologized and corrected himself after he learned CM#1's correct pronouns. If true, NE#1's recollection of the incident would constitute an honest mistake. OPA has no objective evidence or witnesses probative of the issue that corroborates either account.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #1 - Allegation #2

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

The Complainant alleged NE#1 engaged in unprofessional conduct by intentionally misgendering CM#1 even after being corrected and, then, pointedly referring to CM#1 by their correct pronouns.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10. Furthermore, the policy 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.*

The analysis of this allegation is similar to Allegation #1 above. The Complainant’s allegations, if true, would violate the Department’s professionalism policy. NE#1 denied the allegation and, if true, NE#1’s explanation of events would not violate Department policy. OPA has no objective evidence that corroborates either account.

Accordingly, for the same reasons articulated above at Named Employee #1, Allegation #1, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**