



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 10, 2018

CASE NUMBER: 2018OPA-0256

### 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 he was subjected to biased policing by the Named Employee during a traffic stop.

### ANALYSIS AND CONCLUSIONS:

#### **Named Employee #1 - Allegation #1**

Named Employee #1 (NE#1) effectuated a traffic stop of the Complainant’s motorcycle. The Complainant, who is African-American, alleged that the stop was premised on bias.

NE#1 reported that she observed the Complainant driving in excess of the speed limit and performing unsafe lane changes while closely following the vehicles in front of him. She documented that she pulled up next to him at a traffic light and asked him to slow down, as well as that she asked him to slow down again using her PA system. She stated that, when he did not do so, she effectuated the traffic stop.

When the stop was made, NE#1 got out of her car and approached the motorcycle. The Complainant was wearing a helmet, gloves, and clothes that covered virtually the entirety of his body. The Complainant took off his helmet and NE#1 addressed the reason for the stop. While the audio of NE#1’s In-Car Video (ICV) is unclear at times, he contested that he was driving in excess of the speed limit. From OPA’s review of the video, NE#1 appeared to remain calm while the Complainant seemed frustrated and more emotional.

NE#1 asked the Complainant for his license and he gave it to her. He then told her that she had stopped him for no reason. NE#1 returned to her patrol vehicle with the license. The Complainant began going through the rear storage container on his motorcycle and appeared to take out a piece of paper, which was apparently his registration/proof of insurance. NE#1 went over her PA system twice and told the Complainant that she did not need that.

Another officer arrived at the scene and began speaking with the Complainant. The Complainant complained to the other officer about the stop. He additionally told the officer that he was a legislative aide for a King County Councilmember. The other officer told the Complainant that he could contest the ticket in court. I note that a third



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officer did self-dispatch to the traffic stop; however, he left the scene shortly after arrival and never walked up to the Complainant or interacted with him

NE#1 walked back to where the Complainant was standing and issued him three citations. The citations were for the following offenses: speeding; driving negligently and making unsafe lane changes; and using headphones while driving. At the scene, the Complainant stated that he was not using headphones, but that he was instead using a Bluetooth system in his helmet.

The Complainant initially filed a complaint with OPA in August of 2017. That complaint concerned NE#1's professionalism and her purported failure to show him her badge upon his request. That matter was referred by OPA back to NE#1's chain of command as a Supervisor Action. Subsequently, the Complainant initiated this second investigation with OPA alleging bias from the same stop.

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 contended that NE#1 was biased based on the following: her demeanor, tone, and body language towards him; the fact that three patrol cars responded to the stop; the fact that she "falsely accused" him of wearing headphones; and the fact that another unidentified officer told him that NE#1 was racist.

NE#1 denied engaging in bias. She stated that, due to his helmet, gloves, and clothing, she did not know that the Complainant was African-American until he took off his helmet. She stated that she issued the citations based on the Complainant's conduct, not his race.

Based on my review of the record, I find that there is insufficient evidence to establish bias. As a starting point, from my review of the video, I believe that it would have been difficult, if not impossible, to determine the Complainant's race prior to him removing his helmet. As such, I find NE#1's defense in this regard to have merit. I also see no objective evidence that her body language, demeanor, or tone towards the Complainant suggested bias. While I do not discount that this is what the Complainant experienced, significantly more evidence is required to prove this allegation. In addition, on the video it appears that the Complainant is wearing headphones. While, according to the Complainant, this was a Bluetooth system, a reasonable officer could have believed that they were headphones. This is particularly the case given that NE#1 tried to contact the Complainant multiple times before the stop, including using her PA system, without success. Moreover, simply because multiple officers responded to the scene does not suggest bias.

Lastly, the Complainant refused to identify the officer who purportedly told him that NE#1 was racist. This is a serious claim and one that OPA declines to credit without any substantiating evidence.

For the above reasons, there is insufficient evidence to determine that NE#1 engaged in biased policing. This is buttressed by the fact that the Complainant was deemed by the Seattle Municipal Court to have committed at least one of the citations alleged against him (negligent driving). As such, I recommend that this allegation be Not Sustained – Unfounded.



**Seattle**  
Office of Police  
Accountability

## ***CLOSE CASE SUMMARY***

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