



## OFFICE OF POLICE ACCOUNTABILITY

### Closed Case Summary

Complaint Number 2017OPA-0242

Issued Date: 09/05/2017

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias Based Policing (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Final Discipline	N/A

#### **INCIDENT SYNOPSIS**

While setting up his vending location, the Named Employee began to issue the complainant a parking citation for violation of a three-minute loading zone. The complainant was upset and continued to unload his vending station, and while unloading he contacted the Named Employee with a cooler. The complainant was subsequently arrested by SPD.

#### **COMPLAINT**

During the complainant's arrest, he alleged that the Named Employee treated him differently and only issued the citations because of his (the complainant's) race.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint
2. Search for and review of all relevant records and other evidence
3. Review of In-Car Video (ICV)
4. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

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.” This includes different treatment based on the race of the subject.

On the date in question, Named Employee #1 observed the complainant parked in violation of a three-minute loading zone. The complainant was setting up a food vending location and was unloading supplies from his truck. Named Employee #1 notified the complainant that he was in violation and requested that he move his vehicle. Named Employee #1’s initial intent was to simply have a conversation with the complainant concerning the issue.

At or around this time, Named Employee #1 was approached by an African-American woman that he knew and that he had previously observed in the vicinity of the vending location. She asked Named Employee #1 what was happening and Named Employee #1 indicated that the vehicle needed to be moved. The complainant then approached them and asserted that Named Employee #1 was talking to the woman and associating the woman with him because they were both African-American, indicating that the contact between Named Employee #1 and the complainant was based on the complainant’s race.

Named Employee #1 engaged with the complainant and stated that he was not being racist. Named Employee #1 then decided that such a conversation was counter-productive and made the decision to contact his supervisor and document the incident. The complainant did not move the vehicle after that initial interaction. Named Employee #1 then began to issue the complainant a citation, which appeared to anger the complainant. Named Employee #1 took photographs of the front of the vehicle and then walked to the rear of the vehicle to take further photographs. The complainant, who was continuing to unload his supplies from his vehicle, then walked by Named Employee #1 while carrying a cooler and purposefully bumped Named Employee #1 with the cooler.

Named Employee #1 then moved away from the complainant and reported that he had been assaulted. A supervisor, as well as an Officer and a Sergeant, responded to the scene. The officers investigated the incident, including speaking with Named Employee #1 and a civilian witness who corroborated the assault on Named Employee #1. The officers approached the

complainant to speak with him, but the complainant walked into the street to avoid the officers. The officers were ultimately able to place the complainant under arrest for assault. At some point after the arrest, the complainant indicated to the Sergeant that he believed Named Employee #1's actions were motivated by bias.

The video of the incident as captured by cameras at the location showed the interaction between the complainant and Named Employee #1, and then later the officers' arrival on the scene and their conversation with Named Employee #1 and the civilian witness. Neither video had audio. The video further did not capture the interaction between the officers and the complainant, as this occurred out of view of the camera. The civilian witness also took video of the incident that she provided to officers. That video captured the incident beginning after the assault. During that video, which had audio, the complainant could be heard repeatedly saying that Named Employee #1 was racist.

At his OPA interview, Named Employee #1 denied that his actions were based on the race of the complainant or on any bias. Named Employee #1 stated that he had previously cited the complainant for other parking infractions and that during at least one of those interactions, the complainant used profanities towards Named Employee #1. Notably, the complainant had received 13 parking citations associated with his truck, only one of which was issued by Named Employee #1. The civilian witness, who viewed the assault of Named Employee #1, stated that she did not observe any behavior on the part of Named Employee #1 that indicated that his actions were based on bias. In his OPA interview, the Sergeant stated that his personal opinion was that Named Employee #1's actions were not motivated by the race of the complainant, but instead by the contentious history that the two shared.

OPA attempted to contact the complainant on a number of occasions, but was ultimately unsuccessful. This included speaking with the complainant's attorney, who indicated that the complainant would participate in an OPA interview. However, the complainant did not do so.

Based on the available evidence and interviews, there was no indication that the nature of the interaction between Named Employee #1 and the complainant or the issuance of the citation were based on bias. The OPA Director found it more likely, as the Sergeant opined, that it was instead based on an ongoing negative personal relationship between Named Employee #1 and the complainant. Even if it was true that Named Employee #1 targeted the complainant based on their personal history, while certainly concerning, that did not establish a violation of SPD's biased policing policy.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

*NOTE: The Seattle Police Department Manual policies cited for the allegation(s) made for this OPA Investigation are policies that were in effect during the time of the incident. The issued date of the policy is listed.*