



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-0955

Issued Date: 03/08/2017

| 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> (Unfounded)  |
| Allegation #2     | <u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued April 1, 2015)                   |
| OPA Finding       | <b>Not Sustained</b> (Lawful and Proper)  |
| Final Discipline  | N/A   |

#### **INCIDENT SYNOPSIS**

The Named Employee pulled the complainant over and issued a ticket.

#### **COMPLAINT**

The complainant alleged the Named Employee may have violated policy by pulling him over based on his race and may have abused his discretion by issuing a ticket for failure to wear a seatbelt when in fact the complainant was wearing one.

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

The Named Employee told OPA he was directed to be in the area where he stopped the complainant that day because the area was designated a “community traffic complaint area” based on public complaints about traffic violations in the area. There was no evidence to suggest the Named Employee decided to patrol that particular area based on any other reason, specifically racial bias. Other than the allegation by the complainant, the OPA investigation found no evidence of bias-policing by the Named Employee. The preponderance of the evidence showed that the complainant was not wearing his seatbelt in the manner it was designed to be worn. Instead, the complainant had the portion of the seatbelt that is designed to be placed diagonally across the upper body of the driver from the left shoulder to the right hip tucked under the complainant’s left arm. The Named Employee told OPA he was able to see how the complainant was wearing the seatbelt by looking through the rear window of the complainant’s vehicle while driving behind him. The Named Employee believed, based on his training and experience, the use of a seatbelt in this manner was in violation of SMC 11.58.198 (c). Taking all the evidence into consideration, the OPA Director found the preponderance did not support the allegation.

Even though the Traffic Court reportedly dismissed the ticket, the law (SMC 11.58.198 (c)) required that the seatbelt be worn in a “properly adjusted and securely fastened manner.” The preponderance of the evidence supported the conclusion that the complainant was wearing the seatbelt in an “improper” manner and, thus, the Named Employee had the authority to stop and cite the driver. No doubt, a written warning would have been a viable option, but the Named Employee had the discretion to decide which option to employ and did not misuse that discretion in any way found in this investigation.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

A preponderance of the evidence did not support the allegation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

Allegation #2

A preponderance of the evidence showed that the Named Employee had the discretion to decide which option to employ and did not misuse that discretion in any way found in this investigation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Standards and Duties: Employees May Use Discretion*.

*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.*