



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 29, 2019

CASE NUMBER: 2018OPA-1046

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 the Named Employee issued him a traffic ticket because of his race.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant filed this complaint with OPA in which he alleged that he was given a ticket for using an electronic device when he was actually drinking a cup of coffee. He contended that the reason he was targeted by Named Employee #1 (NE#1) to receive a ticket was because of his race.

The Complainant told OPA that he believed his ticket was racially motivated because he had seen other motorists texting while driving and those motorists did not receive tickets. He further believed that the ticket was based on race because of NE#1’s demeanor and attitude, as well as because of the Complainant’s belief that NE#1 acted “superior” and did not respect him at all. When asked why he did not tell NE#1 that he was drinking a cup of coffee at the time of the stop and not using his electronic device, the Complainant stated that he did not feel that he could communicate with NE#1 and that he believed that NE#1 did not want to hear his side. The Complainant acknowledged that NE#1 tried to explain the ticket deferral process to him but stated that it did not resonate with him because he felt that he simply did not deserve the ticket. After the Complainant’s OPA interview, the assigned investigator addressed the Complainant’s request that his ticket be “re-evaluated.” The investigator explained that OPA could not do so and that the Complainant needed to raise his concerns regarding his ticket with the Seattle Municipal Court. When OPA last checked, the Complainant had not taken any action on the ticket.

OPA also interviewed NE#1. NE#1 stated that he did not know what the Complainant’s race was until after he had already effectuated the stop and approached the driver’s side of the Complainant’s vehicle. NE#1 explained that, as a traffic officer, it was his job to enforce traffic laws. NE#1 stated that he specifically focused on use of electronic devices by drivers and distracted driving. NE#1 said that he observed the Complainant driving while holding his electronic device in his hand approximately chest-high. NE#1 effectuated the traffic stop. NE#1 stated that he issued



the ticket and tried to explain to the Complainant that if this was his first ticket he could use the deferral option and it would be wiped off his record if he did not get another ticket in the following year. However, the Complainant was not interested in listening, rolled up his window, and drove away. NE#1 acknowledged that the Complainant asked for a warning and that he told the Complainant that he did not give warnings for electronic device tickets. NE#1 confirmed to OPA that he rarely provides warnings and only did so if there were significant extenuating circumstances. Ultimately, NE#1 denied engaging in biased policing.

The stop and the issuance of the ticket were captured on Department video. The video showed NE#1 approach the car, inform the Complainant of the basis for the stop, and ask for the Complainant's license. The video further showed the Complainant requesting a warning and NE#1 stating that he did not give warnings for electronic device violations. Lastly, the video showed NE#1 trying to explain the deferral process and the Complainant rolling up his window and driving away. The video did not display any indication that NE#1 ticketed the Complainant based on his race or reveal any evidence of biased policing on NE#1's part.

Lastly, OPA examined the stops that NE#1 effectuated on the date in question. He stopped 12 motorists, including the Complainant. Of those motorists, nine were women and three were men. Moreover, eleven were White and one – the Complainant – was African-American. NE#1 issued electronic device tickets to eight other motorists – all of whom were White. Out of the 12 stops, NE#1 gave only one warning.

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.*)

Based on OPA's review of the record, including the Department video that fully captured this incident, there is no evidence supporting the assertion that NE#1 subjected the Complainant to biased policing. To the contrary, NE#1 appears to have conducted himself appropriately and consistent with policy during this incident. As such, I recommend that this allegation be Not Sustained – Unfounded.

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