



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 28, 2019

CASE NUMBER: 2019OPA-0442

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 cited for riding his bicycle without a helmet or reflector light because of his race.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employee. As such, the Named Employee was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

While working uniformed patrol at 3:33 a.m., Named Employee #1 (NE#1) saw an individual – the Complainant in this case – riding his bicycle down the sidewalk. NE#1 noted, and his In-Car Video (ICV) reflected, that the Complainant had a helmet, which was hanging off the handlebar of his bicycle. Moreover, the Complainant was also riding his bicycle without an affixed a bike lamp or reflector as required by Seattle Municipal Code (SMC) during the hours of darkness (see SMC 11.44.160). NE#1 stopped his patrol vehicle and asked the Complainant to step off of his bicycle. He also informed the Complainant that he was audio and video recording with his Body Worn Video (BWV). NE#1’s BWV captured the entirety of the stop.

The Complainant, who was Black, asked NE#1 if he would be issuing him a ticket. NE#1 said that he might. NE#1 explained that the Complainant was not using a helmet or lights as required. The Complainant grew escalated and told NE#1 to “kiss [his] ass.” The Complainant stated that bike-share riders are never stopped for biking without a helmet. He provided identification but, when NE#1 reiterated his request that the Complainant step off his bicycle, the Complainant refused and instead demanded that NE#1 call a supervisor to the scene. NE#1 said he would do so as soon as the Complainant stepped off his bicycle. The Complainant refused, saying “either call your sergeant or shoot me.” NE#1 attempted to assure the Complainant that he conducts all of his bicycle stops the same way.



NE#1 requested additional units to respond to the scene. The Complainant said he was not doing anything wrong and demanded that NE#1 either “give me a ticket or take me to jail.” He stated that NE#1 was racist and that the stop was motivated by racial harassment. NE#1 said that he would call a supervisor, but that he was asking for the Complainant to step off of his bicycle for officer safety. He told the Complainant that, because this was a traffic stop, he did not want to take the Complainant to jail.

Backing officers arrived and surrounded the Complainant to keep him from riding off. Two of the backing officers held the Complainant by his arms and shoulders. The Complainant could be heard telling backing officers that he had a bad left shoulder, but he did not complain of any pain. One of the backing officers appeared to run the Complainant’s name for warrants and ascertained that there was an officer safety caution associated with the Complainant. NE#1 told the other officer that, when he made the stop, he did not want to go back to his car without having the Complainant step off his bicycle and that this caused the Complainant to become escalated.

A supervisor responded to the scene, and NE#1 screened the incident with the supervisor. NE#1 said he has made “hundreds” of bicycle stops and, “as part of [his] officer safety,” he always asked the individual to step off the bicycle if he needed to return to his patrol vehicle. After briefing the supervisor, NE#1 went to finish writing the ticket. The supervisor spoke to the Complainant and provided him with OPA’s contact information. He also said that he would be conducting an investigation into the bias complaint (a Bias Review). The Complainant then made an explicit bias complaint and also stated that he thought that the number of backing officers was excessive. NE#1 returned to issue the citation. NE#1 explained to the Complainant that he was being cited for biking without lamps or reflectors. NE#1 did not ultimately issue a helmet citation. The Complainant reiterated that NE#1 was racist and made other obscene and homophobic comments.

The supervisor referred this incident to OPA, and this investigation ensued. When contacted by OPA, the Complainant reiterated his biased policing allegation against NE#1. He said that he was not wearing a helmet at the time of the incident because he had a headache and shoulder issues. He further stated that he was carrying a bike lamp in his pocket. He told OPA that he did not take out the bike lamp during the stop because he did not want to get shot by police.

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, there is insufficient evidence to establish that NE#1’s stop of the Complainant was the result of biased policing. Rather, BWV and ICV indicated that the Complainant was clearly riding his bicycle without lights, reflectors, or a helmet in violation of multiple traffic ordinances. With regard to the Complainant’s allegation that bike-share operators were treated differently and that this suggests bias, there is insufficient evidence available for OPA to make that determination. Notably, the Complainant was cited for riding his bicycle at nighttime without having a bicycle light or reflectors. Bike-share bicycles are all equipped with those safety precautions. For these reasons, OPA finds that there is no indication of bias on the part of NE#1. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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