



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2015-1903

Issued Date: 07/07/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	Not Sustained (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 5.140 (2) Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing (Policy that was issued 09/01/15)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Employees Shall Strive to be Professional at all Times (Policy that was issued 04/01/15)
OPA Finding	Sustained
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 09/01/15)
OPA Finding	Not Sustained (Inconclusive)
Final Discipline	Oral Reprimand

INCIDENT SYNOPSIS

The Named Employees were in a two-officer police car and responded to a call with the In-Car Video (ICV) system activated.

COMPLAINT

The complainant, the Force Review Unit, alleged that the Named Employees made negative comments about other drivers based on their race or ethnicity. OPA added the additional allegation of inappropriate language and comments recorded on the In-Car Video (ICV).

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The Named Employees were in a two-officer police car. While responding to a call with the In-Car Video (ICV) system activated, Named Employee #1 can be heard on the ICV using a profanity in connection with another word or phrase. OPA was unable to determine what the profanity was being used to modify. SPD policy does not prohibit all use of profanity, only that which is "directed as an insult." There was not a preponderance of evidence to either prove or disprove that Named Employee #1's use of profanity in this case had violated the policy by using it as an insult. The OPA investigation found no evidence to support the allegation of Bias-Based Policing against Named Employee #1.

Named Employee #2 can be heard on the ICV saying something about "Asian". OPA concluded the complete phrase used was "another Asian." Named Employee #2 denied saying that and, instead, reported he said "Oh, he's Asian." The preponderance of evidence supports the conclusion that Named Employee #2 was using this phrase with the word "Asian" in reference to a driver he saw. Such use of racial designators in this context is indicative of racial stereotyping, at best, or racial bias, at worst. In either case, it could reasonably be interpreted as an insult and, therefore, in violation of SPD Policy § 5.001(9) which prohibits "language that is derogatory, contemptuous or disrespectful toward any person." While the phrase "another [oh, he's] Asian" uttered by Named Employee #2 is not proof of racial stereotyping or bias on the part of Named Employee #2, it does raise such a concern. Due to a lack of additional evidence to either prove or disprove this allegation, the OPA Director recommended a finding of Not Sustained (Inconclusive).

FINDINGS

Named Employee #1

Allegation #1

There was not a preponderance of the evidence to either prove or disprove that Named Employee #1's use of profanity in this case had violated the policy by using it as an insult. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Employees Shall Strive to be Professional at all Times*.

Allegation #2

The evidence found no evidence to support this allegation against Named Employee #1. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

Named Employee #2

Allegation #1

The evidence showed that the Named Employee used language that could reasonably be interpreted as an insult and therefor violated SPD Policy which prohibits "language that is derogatory, contemptuous or disrespectful toward any person." Therefore a **Sustained** was issued for *Employees Shall Strive to be Professional at all Times*.

Allegation #2

There was no additional evidence to either prove or disprove this allegation against Named Employee #2. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

Discipline imposed: Oral Reprimand

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.