



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-1242

Issued Date: 03/14/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 15.120 (3) Cases of Malicious Harassment and Bias Incidents Shall Be Documented on a General Offense Report (Policy that was issued 09/19/2012)
OPA Finding	<b>Not Sustained</b> (Training Referral)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued 04/01/2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #3	<u>Seattle Police Department Manual</u> 5.140 (2) Officers Will Not Engage in Biased-Based Policing (Policy that was issued 01/01/2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 5.140 (5) Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing (Policy that was issued 01/01/2015)
OPA Finding	<b>Sustained</b>
Final Discipline	Written Reprimand

#### **INCIDENT SYNOPSIS**

Officers, including the named employee, responded to a 911 call of an assault at a bar.

## **COMPLAINT**

The complainant explained that he was assaulted at a bar and called 911 to report the assault. The complainant alleged that the named employee failed to arrest the suspect because of his race. He felt that if he had been white the incident would have been treated differently.

## **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

The evidence supported the conclusion that the named employee did not know that the complainant had told another officer the suspect had said “racist stuff” during the reported assault. If the named employee had known this, he would have been obligated to document this as a “Bias Incident” on a General Offense (GO) Report. While the named employee did not violate this policy, he should have asked the backing officer what he learned from the complainant since the named employee told the complainant to tell the backing officer what happened. The named employee exercised his discretion in concluding that an assault had not occurred and a GO Report was not necessary. Based on the information available to the named employee at the time, this conclusion was not unreasonable. The complainant told the responding officers that they would have treated the situation differently if he had been white. The evidence does not support a conclusion that the named employee’s decision not to make an arrest or file an assault report was based on the complainant’s race, national origin or perceived class. Rather it clearly was based on the absence of any visible injuries, the statements of the two individuals inside the bar, and the complainant’s somewhat vague statements to the named employee. The complainant’s statement that he would have been treated differently if he had been white was recorded by the named employee’s In-Car Video (ICV) microphone. The named employee stated in his OPA interview that he did not hear the complainant’s statement of perceived bias. However, it was his duty to listen to what the “victim” was saying to him and to act accordingly. The preponderance of evidence supports that the named employee had an obligation to call his supervisor while at the scene as required by policy, an obligation he did not meet.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence supported that the named employee should have asked for information from the backing officer regarding what the complainant reported to him. The named employee should receive additional training that when acting as a primary officer, he should find out what victims and witnesses may have told other officers. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Cases of Malicious Harassment and Bias Incidents Shall Be Documented on a General Offense Report*.

#### Allegation #2

The evidence showed the named employee appropriately used his discretion in concluding that an assault did not occur and that a General Offense Report was not necessary. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

#### Allegation #3

The evidence does not support a conclusion that the named employee's decision not to make an arrest or file an assault report was based on the complainant's race. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Officers Will Not Engage in Biased-Based Policing*.

#### Allegation #4

The evidence showed that the named employee had an obligation to call his supervisor when the complainant made a statement of perceived bias. Therefore a **Sustained** finding was issued for *Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing*.

Discipline imposed: Written 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.*