



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2015-1853

Issued Date: 07/06/2016

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 08/01/2015)
OPA Finding	<b>Not Sustained</b> (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (1) Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence (Policy that was issued 04/01/2015)
OPA Finding	<b>Sustained</b>
Final Discipline	Written Reprimand

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 04/01/2015)
OPA Finding	<b>Sustained</b>
Final Discipline	Oral Reprimand

## **INCIDENT SYNOPSIS**

The Named Employees were dispatched to a report of a disturbance at a community center. The complainant said that he was assaulted by the security person. The security person reportedly pushed the complainant so hard that he fell to the ground. Named Employee #2 interviewed the security person who said that the complainant had caused a disturbance during their previous event by making derogatory comments. The security person said that as he escorted the complainant out of the building, the complainant attempted to go back inside. The security person said he put up his hands and the complainant walked into them. The security person said the complainant overreacted and threw himself onto the ground. The complainant was transported to a hospital by ambulance.

## **COMPLAINT**

The complainant alleged that Named Employee #1 did not do a thorough investigation and was biased against him because of his religion and national origin. OPA added a Professionalism allegation against Named Employee #2 for referring to the complainant with derogatory comments while discussing the incident with Named Employee #1 outside the hearing of the complainant.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Interview of the complainant
2. Review of other video
3. Search for and review of all relevant records and other evidence
4. Interview of witnesses
5. Interview of SPD employees

## **ANALYSIS AND CONCLUSION**

The complainant alleged that Named Employee #1 was motivated by bias against the complainant's race and religion when she (Named Employee #1) failed to make an arrest of the person who he (the complainant) claimed had assaulted him and, according to the complainant, performed an inadequate investigation of this reported assault. Specifically, the complainant alleged that Named Employee #1 did not follow up on information the complainant gave her regarding the presence of video cameras at the scene of the reported assault. The investigation did not find any evidence to support the allegation that the decision not to make an arrest and the failure to search for video evidence were motivated by racial, religious or other bias. All the evidence OPA has regarding this allegation is the complainant's claim of bias and Named Employee #1's denial. As such, there is no preponderance of evidence to either prove or disprove the allegation of bias.

The OPA investigation found that the complainant told Named Employee #1 about the presence of cameras in the building where the reported assault took place. Named Employee #1 did not use this information to search for or attempt to obtain from the building management any video of the incident. Named Employee #1 told OPA she did not recall the complainant telling her there were cameras at the location, nor did she recall the complainant asking her to check for cameras. Named Employee #1 also told OPA she did not look for the presence of cameras in the building or ask the building management whether there was video recording equipment in use. As it turned out, there was security video equipment in place, it did capture video of the contact between the complainant and the security person and the video appears to support the complainant's allegation he was assaulted. The complainant himself obtained a copy of the security video and supplied it to OPA. Given the complainant's statement to Named Employee #1 that there were cameras in the building and the clear dispute of fact between him and the security guard about whether the guard pushed the complainant to the ground or the complainant walked into the guard's hands, Named Employee #1, as the primary officer on this call, had an obligation to attempt to obtain access to any video that might have evidentiary value. Her failure to look for or ask about video, combined with the absence of any mention of potential security video in her report, did not meet the minimum requirements of SPD Policy § 15.180(1) that officers "conduct a thorough and complete search for evidence."

OPA alleged that Named Employee #2 made a statement captured on In-Car Video (ICV) that was derogatory and disparaging towards the complainant. The evidence also shows that Named Employee #2 was referring to the complainant in this statement but speaking to Named Employee #1 in such a way that the complainant was unable to hear what was being said. Although Named Employee #2 did not insult the complainant to his face, the statement was clearly "derogatory, contemptuous, or disrespectful" towards the complainant as prohibited by SPD Policy § 5.001(9). There is no evidence to indicate any legitimate law enforcement purpose for Named Employee #2 to use these terms in referring to the complainant.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

There is no preponderance of evidence to either prove or disprove the allegation of bias against Named Employee #1. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

#### Allegation #2

The evidence supports that Named Employee #1 violated the policy. Therefore a **Sustained** was issued for *Primary Investigations: Officers Shall Conduct a Thorough and Complete Search for Evidence*.

Discipline imposed: Written Reprimand

**Named Employee #2**

Allegation #1

The evidence supports that Named Employee #2 violated the policy. Therefore a **Sustained** was issued for *Employees Shall Strive to be Professional at all Times*.

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.*