



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-0089

Issued Date: 11/2/2016

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 August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.140 (5) Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

Named Employee #2	
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 August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.140 (5) Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

<b>Named Employee #3</b>	
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 August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.140 (5) Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

<b>Named Employee #4</b>	
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 August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #2	<u>Seattle Police Department Manual</u> 5.140 (6) Bias-Free Policing: Employees Will Document All Allegations of Bias-Based Policing (Policy that was issued August 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employees responded to a call for back up at a retail store.

### **COMPLAINT**

The complainant, the Force Review Board, alleged that a subject made an allegation of bias that was not reported or addressed. Specifically, the subject stated, "you're jamming me up because I am black," while being placed into the back seat of a patrol car.

## **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint memo
2. Review of In-Car Videos (ICV)
3. Review of private video
4. Search for and review of all relevant records and other evidence
5. Interviews of SPD employees

## **ANALYSIS AND CONCLUSION**

The complainant alleged a subject stated that the Named Employees arrested him because he was black. The allegation raised the accusation that the Named Employees engaged in bias-based policing. The Named Employees did not report the allegations to a supervisor as required by policy. The four Named Employees responded to a call for back up by officers working a foot beat. The Named Employees arrived and assisted in taking the subject into custody. The subject was placed in the back of Named Employee #1's patrol car for transport. While being placed into the car the subject said, "you're jamming me up because I am black." Named Employee #1, #2, and #3 did not report this to a supervisor as required by SPD policy. Named Employee #4 did not investigate and document this allegation of bias-based policing as required by SPD policy.

During their interviews Named Employee #1, #2, and #4 stated that it was a noisy chaotic situation and that they did not hear the subject make the allegation. It was reasonable to believe that under the circumstances the officers did not hear the specific language or recognize it as an allegation of racial bias. The comment was one of a string of angry comments that the subject was making while being placed in the back of a patrol car. Named Employee #1 and #2 stated that had they heard the comment they would have reported it as required. A preponderance of the evidence supported Named Employee #1 and #2's assertions they did not hear the single statement by the subject alleging racial bias. Since they did not hear the comment, they could not have reported it to a supervisor. A preponderance of the evidence supported Named Employee #4's assertion that he did not hear the single statement by the subject alleging racial bias. Named Employee #4 stated that had he heard the comment he would have investigated and documented it as required. During her interview Named Employee #3 stated that it was a noisy chaotic situation and that she did hear the subject make the allegation, but since there were two supervisors in close proximity she assumed that they heard it as well. Based on the proximity of the other supervisors it was reasonable for her to believe that they heard the allegation of racial bias and therefore it was not necessary for her to report it as required.

In addition, the preponderance of the evidence also showed Named Employee #1, #2, #3, and #4 did not engage in bias-based policing. The Named Employees did not make the decision to detain or arrest the subject. This was made by private security officers for a retail store who detained and arrested the subject for allegedly shoplifting merchandise from the store. All four

Named Employees were at the scene and interacted with the subject only because they responded to assist other officers.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The preponderance of the evidence showed Named Employee #1 did not engage in bias-based policing. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

#### Allegation #2

A preponderance of the evidence supported Named Employee #1's assertion he did not hear the statement by the subject alleging racial bias. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing*.

### **Named Employee #2**

#### Allegation #1

The preponderance of the evidence showed Named Employee #2 did not engage in bias-based policing. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

#### Allegation #2

A preponderance of the evidence supported Named Employee #2's assertion he did not hear the statement by the subject alleging racial bias. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing*.

### **Named Employee #3**

#### Allegation #1

The preponderance of the evidence showed Named Employee #3 did not engage in bias-based policing. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

#### Allegation #2

The preponderance of the evidence showed it was reasonable for Named Employee #3 to have believed that the supervisors heard the allegation of racial bias and therefore it was not necessary for her to report it as required. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Employees Will Call a Supervisor in Response to Allegations of Bias-Based Policing*.

## **Named Employee #4**

### Allegation #1

The preponderance of the evidence showed Named Employee #4 did not engage in bias-based policing. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

### Allegation #2

A preponderance of the evidence supported Named Employee #4's assertion he did not hear the statement by the subject alleging racial bias. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Employees Will Document All Allegations of Bias-Based Policing*.

*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.*