



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Closed Case Summary

Complaint Number OPA#2016-0193

Issued Date: 10/13/2016

Named Employee #1	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (VI.A.3) Standards & Duties: Integrity – Misuse of Authority (Policy that was issued 08/15/2012)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (VII.1.a) Standards & Duties: Professionalism – Exercise of Discretion (Policy that was issued 08/15/2012)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #3	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (VII.1.a) Standards & Duties: Professionalism – Exercise of Discretion (Policy that was issued 08/15/2012)

OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #4	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (VII.1.a) Standards & Duties: Professionalism – Exercise of Discretion (Policy that was issued 08/15/2012)
OPA Finding	Not Sustained (Lawful and Proper)
Allegation #2	<u>Seattle Police Department Manual</u> 7.030 (2) Photographic Evidence: Employees Will Upload Photographs They Create into the Digital Evidence Management System (Policy that was issued 10/17/2012)
OPA Finding	Not Sustained (Inconclusive)
Final Discipline	N/A

Named Employee #5	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (VII.1.a) Standards & Duties: Professionalism – Exercise of Discretion (Policy that was issued 08/15/2012)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

Named Employees #2, #3, and #4 responded to an incident involving Named Employee #1 and the Complainant, and the Complainant was arrested.

COMPLAINT

The complainant alleged he was involved in a 2013 incident with Named Employee #1 who was off-duty at the time in which she falsely accused him of scratching and denting her personal vehicle. He stated that responding officers were only interested in supporting Named Employee #1's version of the story and that she used her rank to influence the decision to arrest the complainant.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The complainant alleged that Named Employee #1 used her position as a Seattle Police Department (SPD) officer to improperly influence the officers who responded to her call for service and have the officers conduct a one-sided investigation in favor of her (Named Employee #1) resulting in the arrest of the complainant. The OPA investigation produced no specific evidence showing a request by Named Employee #1 for favoritism from the responding officers or any offer of special treatment from them. Nonetheless, it is impossible to avoid the impression that the responding officers were more skeptical of the complainant and more favorably disposed toward Named Employee #1.

The complainant alleged that Named Employees #2, #3, and #5 exercised poor judgment and/or were not objective in the application of their law enforcement power. The preponderance of the evidence from the OPA investigation showed Named Employees #2, #3, and #5 were on the scene as cover officers only and neither exercised nor influenced another's exercise of law enforcement authority.

The complainant alleged that Named Employee #4 exercised poor judgment and/or was not objective in the application of his law enforcement power. The preponderance of the evidence from the OPA investigation showed Named Employee #4 was the primary officer on the scene and made the decision to arrest the complainant. There are, essentially, two components of this analysis. The first is the question of whether Named Employee #4 had sufficient evidence to believe a crime (Damage to Property) had probably been committed by the complainant (Probable Cause). Based on what Named Employee #4 knew and observed at the time, the OPA Director believed Probable Cause existed. The only material dispute of fact was whether the complainant's umbrella struck Named Employee #1's vehicle as a result of an intentional or an unintentional act by the complainant. The nature of the minor damage to Named Employee #1's vehicle seemed to be consistent with Named Employee #1's assertion the umbrella strike was intentional, while the witness' account was more consistent with an unintentional strike as claimed by the complainant. However, there was some doubt as to the strength of the witness' account and there is legal precedent for an officer to give greater weight to the statements of a fellow officer. The second component of this analysis is whether or not Named Employee #4 adequately applied "reason, professional experience and judgment (SPD Policy 5.001(VII.1.a))" in his decision to arrest the complainant, put him in handcuffs and transport him to the Precinct. Given the very minimal amount of damage inflicted in Named Employee #1's vehicle and the

obvious potential for this to look like an act of favoritism for a fellow officer, the OPA Director found it difficult to understand the wisdom of arresting the complainant. Assuming adequate identification of the complainant, this situation seemed to be one where writing and routing a report to the City Prosecutor would be more appropriate. Clearly that was what the lieutenant thought in releasing the complainant from the Precinct. Nonetheless, police officers have relatively wide discretion in most cases and this was not a clear abuse of that discretion.

The complainant alleged that Named Employee #4 failed to upload the photographs into the Digital Evidence Management System (DEMS) and, as a result, they were lost and not available for either the Prosecution or Defense, if there had been charges filed. This investigation showed that Named Employee #4, while the Primary Officer on this case, did not make the photographs or take custody of them for the purpose of uploading them to DEMS; he delegated that task to either Named Employee #2 or Named Employee #5. However, as primary officer, Named Employee #4 retained some responsibility for making certain the photos were properly stored and retained. Even though it is not possible three years later to know exactly why they were not, it is important to acknowledge this failure. Since that time, technical improvements, training and experience have lessened the chances that a similar failure would occur in the future.

FINDINGS

Named Employee #1

Allegation #1

No evidence was found to support the allegation that Named Employee #1 improperly influenced the officers who responded to her call for service. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards & Duties: Integrity – Misuse of Authority*.

Named Employee #2

Allegation #1

The evidence showed that Named Employee #2 was on the scene as a cover officer only and neither exercised nor influenced another's exercise of law enforcement authority. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards & Duties: Professionalism – Exercise of Discretion*.

Named Employee #3

Allegation #1

The evidence showed that Named Employee #3 was on the scene as a cover officer only and neither exercised nor influenced another's exercise of law enforcement authority. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards & Duties: Professionalism – Exercise of Discretion*.

Named Employee #4

Allegation #1

The weight of the evidence showed that this was not a clear abuse of the discretion that police officers have in most cases. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Standards & Duties: Professionalism – Exercise of Discretion*.

Allegation #2

There was no preponderance of evidence to prove who failed to properly upload the photographs into DEMS as required or why that did not happen. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Photographic Evidence: Employees Will Upload Photographs They Create into the Digital Evidence Management System*.

Named Employee #5

Allegation #1

The evidence showed that Named Employee #5 was on the scene as a cover officer only and neither exercised nor influenced another's exercise of law enforcement authority. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards & Duties: Professionalism – Exercise of Discretion*.

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.