



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0528

Issued Date: 01/23/2018

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	Not Sustained (Unfounded)
Final Discipline	N/A

Named Employee #2	
Allegation #1	<u>Seattle Police Department Manual</u> 5.001 (9) Standards and Duties: Employees Shall Strive to be Professional at all Times (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)
Final Discipline	N/A

INCIDENT SYNOPSIS

The Named Employees were dispatched to a reported assault. When they arrived at the scene, they contacted the complainant.

COMPLAINT

The complainant alleged that he was arrested, rather than his girlfriend, based the fact that he was African-American and his girlfriend was white.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

Named Employee #1 and Named Employee #2 were dispatched to a reported assault. The witness, who had called 911, stated that he observed a male attempt to physically strike a female. When the officers arrived at the scene, they observed a male and female matching the description of the individuals involved in the altercation. The male, who was later identified as the complainant, was contacted by the officers and was asked what had occurred. The complainant stated that nothing was happening and that he was just trying to give the female water. The officers observed that the female, who was sitting on the ground at that time, had visible marks on her neck. The female began stating that the complainant had grabbed her neck and, as a result, the complainant's behavior became aggressive. Based on the complainant's conduct, the witness' report that the complainant attempted to strike the female, and the complainant's aggressive behavior, the Named Employees made the decision to place the complainant into handcuffs.

After the complainant was handcuffed, Named Employee #2 walked him to the front of a patrol vehicle and remained with him. Named Employee #1 stayed with the female victim and spoke with her. She reported that the complainant kicked her out of his tent and, when she did not want to leave, he grabbed her around the neck and began choking her. She stated that she could not breathe at points. Named Employee #2 spoke with the complainant to get his account. Named Employee #2 reported that the complainant stated that the female victim wanted to have sex with him and, because he did not want to do so, he pushed her off of him and, in doing so, grabbed her neck.

Based on the accounts of the complainant and female victim, the report by the witness, and the injuries to the female victim, the Named Employees formally arrested the complainant. The Named Employees noted that, given that the complainant and female victim appeared to be in a relationship, they believed that this was a domestic violence scenario and, thus, the arrest of the complainant was mandatory.

At the time of the incident, the complainant stated his belief that his arrest was based on bias. Specifically, the complainant alleged that he was being arrested because he was African-American and his girlfriend – the female victim – was white. The complainant also complained of the general bias against African-Americans in the criminal justice system. When interviewed by OPA, the complainant repeated these allegations.

The complainant's assertion that his arrest was based on bias was screened by a sergeant. The sergeant asked whether the complainant wanted her to refer his complaint of bias to OPA and the complainant responded affirmatively. OPA then initiated the investigation.

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (See id.)

When asked at their OPA interviews whether the complainant's race or another other personal characteristic played any role in their decision to arrest him, both of the Named Employees stated that it did not. The Named Employees stated that the weight of the evidence available to them at the time of arrest indicated that an assault had occurred and that the complainant was the primary aggressor. The arrest was effectuated for that reason. The OPA Director found no evidence in the record suggesting that this was not the case. He concluded that the arrest was based on probable cause and was not premised on any bias. The Director further noted that, as this appeared to be a domestic violence situation, the arrest of the complainant was mandatory and the Named Employees had no discretion in this regard.

FINDINGS

Named Employees #1 and #2

Allegation #1

A preponderance of the evidence showed that the arrest was based on probable cause and was not premised on any bias. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in 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.