



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0552

Issued Date: 12/11/2017

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

INCIDENT SYNOPSIS

The Named Employee responded to a disturbance.

COMPLAINT

The complainant alleged that Named Employee #1 targeted and arrested him based on his race. The complainant believed that, in doing so, Named Employee #1 engaged in biased policing.

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. Interview of SPD employee

ANALYSIS AND CONCLUSION

On the date in question, officers, including Named Employee #1, responded to a disturbance. After that call was resolved, Named Employee #1 was approached by an individual who claimed that he had just been harassed by someone who was sitting in a vehicle. Named Employee #1 approached the vehicle in question and contacted the occupant, who was later identified as the complainant. Named Employee #1 conducted an investigation into the threat allegations and, during that time, observed that the complainant had obvious signs of intoxication and impairment. The complainant's vehicle was parked at the time and Named Employee #1 could not definitively prove that he had been driving it; however, Named Employee #1 told him not to drive the vehicle anywhere. The complainant got out of the vehicle (he had a dog with him), but continued to mill around the area. Named Employee #1 remained concerned that he would get back in the vehicle and would drive away while intoxicated. Named Employee #1 remained in the near vicinity of the vehicle in order to observe the complainant's actions. Named Employee #1 saw the complainant get back into the vehicle, turn on the ignition, and begin to back out of the parking lot. Named Employee #1 then conducted a traffic stop.

Named Employee #1 initiated an investigation into the complainant's behavior and made the determination that there was probable cause to place the complainant under arrest for driving under the influence. During their interaction, the complainant called Named Employee #1 a derogatory racial term. In response, Named Employee #1 told the complainant to not use such terms towards him. Named Employee #1 removed the complainant from the vehicle and handcuffed him. During that time, the complainant pulled his arms away, but Named Employee #1 was ultimately able to place the handcuffs on.

Named Employee #1 impounded the complainant's vehicle, but allowed the complainant to retain his dog while in the patrol vehicle and then later in the precinct. The complainant was ultimately released from the precinct. Prior to being released, the complainant's blood-alcohol content was tested and was nearly twice the legal limit. A sergeant screened the arrest at the precinct and interviewed the complainant. At that time, the complainant alleged that Named Employee #1 had engaged in biased policing, and that he was specifically targeted and arrested because he was African-American. This allegation was memorialized by an acting sergeant and was referred to OPA.

Both of the complainant's initial contact with officers and his later interaction that resulted in his arrest were recorded on In-Car Video. The video was consistent with Named Employee #1's account of the incident and there was no indication of biased policing on the part of Named Employee #1 or any officers.

The complainant repeated his allegation that he was subjected to biased policing during his OPA interview. During that interview, he also appeared to admit that he was driving while intoxicated on the date in question. When asked about this allegation by OPA, Named Employee #1 denied engaging in bias and instead stated that he based the arrest on the

complainant's criminal conduct and the concern that, if allowed to drive away, the complainant could harm a member of the public.

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.)

Here, from the OPA Director's review of the record, he found no evidence establishing that Named Employee #1 engaged in biased policing. Notably, Named Employee #1 gave the complainant the opportunity to avoid arrest by telling him to walk away and not to drive his car. The complainant did not take that opportunity and, apparently admittedly, drove while intoxicated. As such, there was abundant probable cause to place him under arrest. Based on a preponderance of the evidence standard, the OPA Director concluded that the complainant's conduct, not his status as an African-American, was the basis for his arrest.

FINDINGS

Named Employee #1

Allegation #1

A preponderance of the evidence showed that the complainant's conduct was the basis for his arrest. 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.