



OFFICE OF POLICE ACCOUNTABILITY

Closed Case Summary

Complaint Number 2017OPA-0306

Issued Date: 10/17/2017

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)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (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	Not Sustained (Inconclusive)
Allegation #2	<u>Seattle Police Department Manual</u> 15.180 (5) Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report (Policy that was issued April 1, 2015)
OPA Finding	Not Sustained (Unfounded)

Final Discipline	N/A
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INCIDENT SYNOPSIS

The Named Employees responded to several disputes between the complainant and a neighboring business owner.

COMPLAINT

The complainant alleged the Named Employee and possible other Unnamed Employees failed to send a police report to the prosecutor, indicated to the complainant that he had to contact a prosecutor in order to file a report, did not write the reports necessary for charges to be filed, and failed to take appropriate police action. Moreover, the complainant alleged that the all the actions taken by the SPD officers were inconsistent with what would have been done had the complainant been white instead of black, and the other party black instead of white.

INVESTIGATION

The OPA investigation included the following actions:

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

ANALYSIS AND CONCLUSION

The complainant contacted OPA concerning his belief that he was receiving disparate treatment from law enforcement based on his race. (See Complainant Email, dated March 27, 2017.) The complainant, who is African-American, owns a business in South Seattle. (See id.) He had been involved in ongoing disputes with a neighboring business owner, who is white. (See id.) The complainant stated that SPD responded to several of these disputes, but that officers only completed reports approximately half of the time. (See id.) The complainant asserted that he believed that the other party had engaged in ongoing criminal activity, but that no charges had been filed as a result. (See id.) The complainant indicated his belief that the reason that no criminal charges had been referred to the prosecutor and no charges filed was because he was African-American and the other party was white. (See id.)

The complainant specifically alleged that in a recent incident, Named Employee #1 responded to the scene but referred the case to a “building department,” rather than to a prosecutor. (Complainant Email, dated April 5, 2017.) The complainant asserted his belief that this was a

means for Named Employee #1 to “escape” filing criminal charges against the neighboring business owner. (Id.)

Named Employee #1 indicated that he was a member of a Community Policing Team (CPT). (NE#1 OPA Interview, at pp. 2-3.) In that role, Named Employee #1 was assigned to be a liaison between the Department and business and community groups, and to assist those entities with non-criminal matters. (Id. at p. 4.) Here, Named Employee #1 was notified to respond to the dispute between two business owners – the complainant and the other party – that concerned a parking space. (See id.) As this was, in Named Employee #1’s understanding, a civil matter, this incident was within the purview of Named Employee #1 and the CPT. (See id.)

After arriving at the scene, Named Employee #1 spoke with employees of the neighboring business owner’s business. (Id. at pp. 4-5.) They indicated that the disputed parking spot belonged to them and showed Named Employee #1 their lease, which provided for the spot. (Id. at p. 5.) Named Employee #1 then spoke with the complainant. (Id.) During that conversation, Named Employee #1 informed the complainant that he was there to discuss the issues surrounding the parking space and that it was a civil, not criminal, matter. (Id.) Ultimately, Named Employee #1 made the decision to refer the matter to the Seattle Department of Construction and Inspections. (Id. at p. 6.)

At his OPA interview, Named Employee #1 was asked whether the actions he took with regard to this incident were based on or impacted by bias towards the complainant. (Id. at p. 7.) Named Employee #1 denied that they were. (Id.) Named Employee #1 further denied that the complainant was treated differently due to the past reported criminal incidents. (Id.)

Based on the OPA Director’s review of the record, there was no evidence indicating that Named Employee #1 engaged in biased policing or treated the complainant disparately for any reason.

The complainant alleged that Named Employee #1 failed to appropriately report this incident as a criminal matter. However, as indicated above, the dispute concerning the parking space was a civil, not criminal matter. Accordingly, Named Employee #1 had no obligation to complete a General Offense Report.

Moreover, during Named Employee #1’s conversation with the complainant, the complainant raised a number of past incidents between him and the neighboring business owner and/or him and employees of the neighboring business that he believed were criminal in nature. (See NE#1 OPA Interview, at pp. 5, 7.)

Named Employee #1 asked whether officers had previously generated reports concerning those incidents, and the complainant responded affirmatively. (See id. at p. 5.) This was supported by the list of General Offense Reports itemized below. (See Named Employee #2, Allegation #2.) Named Employee #1 indicated that unless there was new information that the complainant had

concerning these prior incidents, he would not be taking an additional report based on the same facts. (See id.)

The OPA Director found that, by verifying that these incidents had previously been reported and by determining that there were no new allegations or facts that needed to be documented, Named Employee #1 satisfied his obligations under SPD Policy 15.180.

OPA was not able to identify the unnamed officers who were alleged to have engaged in biased policing. While the complainant's allegations, if true, would certainly be concerning, the failure to identify the involved officers prevented a conclusive determination as to whether biased policing occurred.

The complainant alleged that there were a number of prior incidents between him and the neighboring business owner and/or the neighboring business owner's employees that he believed were criminal, but that these incidents were not reported as such. The complainant specifically identified a number of incidents, including: being chased with an axe handle; the cutting of a chain/lock; and the violation of an Anti-Harassment order.

From OPA's review, all of the above conduct, as well as other disturbances between the complainant and the neighboring business owner, were captured in the following General Offense Reports:

- GO #2017-045832;
- GO #2017-049867;
- GO #2017-100955;
- GO #2017-102363;
- GO# 2017-902583;
- GO #2017-108464;
- GO #2017-112620;
- GO #2017-130331;
- GO #2017-211547; and
- GO #2017-284799.

FINDINGS

Named Employee #1

Allegation #1

There was no evidence indicating that Named Employee #1 engaged in biased policing or treated the complainant disparately for any reason. 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 showed that Named Employee #1 had no obligation to complete a General Offense Report. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

Named Employee #2

Allegation #1

There was not a preponderance of the evidence either supporting or refuting the allegation. Therefore a finding of **Not Sustained** (Inconclusive) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias Based Policing*.

Allegation #2

A preponderance of the evidence showed that all of the incidents in question were captured in General Offense Reports. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Primary Investigations: Officers Shall Document all Primary Investigations on a General Offense Report*.

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.