



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-1034

Issued Date: 03/17/2017

| Named Employee #1 |  |
|-------------------|--|
| Allegation #1     | <u>Seattle Police Department Manual</u> 5.140 (7) Bias-Free Policing: Supervisors Conduct Preliminary Inquiry into Bias-Based Policing (Policy that was issued August 1, 2015) |
| OPA Finding       | <b>Not Sustained</b> (Training Referral)   |
| 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> (Training Referral)   |
| Final Discipline  | N/A  |

| Named Employee #2 |  |
|-------------------|--|
| Allegation #1     | <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 (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  |

### **INCIDENT SYNOPSIS**

The complainant, a supervisor within the Department, reviewed In-Car Video (ICV) for an incident that involved the Named Employees.

### **COMPLAINT**

While reviewing ICV for an investigation the complainant alleged that Named Employee #1 failed to complete a bias review when the subject alleged that if he had been a "cute little white lady" he would not have been asked to leave the premise by the two other Named Employees. The complainant indicated that Named Employee #1 failed to recognize that the subject was making a bias policing complaint against the two other Named Employees.

### **INVESTIGATION**

The OPA investigation included the following actions:

1. Review of the complaint memo
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**

As Named Employee #1 was interviewing the subject as part of Named Employee #1's use of force investigation, the subject told Named Employee #1 that he (the subject) would have been allowed to leave and not arrested had he been "a cute little white lady," thereby insinuating that the officers who arrested him were motivated by race and/or gender bias in their decision to arrest the subject. The entire interaction between the subject and Named Employee #1 was captured on ICV. It was clear from the ICV that Named Employee #1 and the subject were having a one-on-one conversation and that Named Employee #1 was responding to the various statements made by the subject. There was no evidence to suggest Named Employee #1 was unable to hear the subject's allegation of bias. However, Named Employee #1 did not respond directly to this particular statement and did not ask any questions to clarify the meaning of what the subject said. In addition, Named Employee #1 did not conduct any sort of inquiry into the

subject's statement that he would have been treated differently had he been "a cute little white lady." SPD Policy requires supervisors to: (1) discuss the incident (with respect to the allegation of bias) with the person alleging bias, and (2) explain to the person the option of referring the allegation to OPA. Named Employee #1 did neither of these. Named Employee #1 told OPA he did not hear the subject's statement alleging bias, or it did not register with Named Employee #1 at the time. Named Employee #1 also told OPA he did not review his ICV recording of his interview with the subject when he was completing his use of force investigation report and, as a result, did not later note the bias allegation. Even if Named Employee #1 did not "key into" the subject's statement, he should have. When interviewing a subject for the purpose of conducting a use of force investigation, it is the supervisor's responsibility to pay attention to what the subject is saying so as to conduct a thorough and objective investigation and to take appropriate action based on what was said.

A Discipline Meeting was held following a recommendation that this allegation be sustained. During the discussion, it was pointed out to the OPA Director that Named Employee #1 gave no indication he heard the subject's remark regarding not being a "cute white lady." Upon reflection, the OPA Director became of the opinion that there was not sufficient evidence to show that Named Employee #1 knew about the bias allegation and, therefore, had an obligation to act on it as specified by policy. In addition, Named Employee #1's supervisor present at the Discipline Meeting pointed out that since this incident, Named Employee #1 had followed the proper procedure for looking into and documenting a claim of bias.

Named Employee #1 was also obligated to document the subject's allegation of bias and his (Named Employee #1's) preliminary inquiry into that allegation. Named Employee #1 did not document it as required.

For the reasons articulated in the analysis for allegation #1, above, the OPA Director decided to change his recommended finding for this allegation.

The subject alleged he would not have been arrested had he been "a cute little white lady," thereby insinuating that the officers were motivated by race and/or gender bias in their decision to arrest the subject. The entire interaction between the subject and the two officers who contacted him (Named Employee #2 and Named Employee #3) was captured on ICV. There was no evidence to suggest any bias on the part of either Named Employee #2 or Named Employee #3 with respect to the race and/or gender of the subject. The ICV of the encounter made it very clear that Named Employee #2 and Named Employee #3 did not initiate contact with the subject, but were dispatched to contact the subject after the owner of a business called 9-1-1 to report a person trespassing on posted private property. Furthermore, the two officers gave the subject every opportunity to avoid being arrested and only made the decision to arrest after the subject repeatedly refused to identify himself.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Bias-Free Policing: Supervisors Conduct Preliminary Inquiry into Bias-Based Policing*.

#### Allegation #2

The evidence showed that the Named Employee would benefit from additional training. Therefore a finding of **Not Sustained** (Training Referral) was issued for *Bias-Free Policing: Employees Will Document All Allegations of Bias-Based Policing*.

### **Named Employees #2 and #3**

#### Allegation #1

There was no evidence to suggest any bias on the part of either Named Employee #2 or Named Employee #3 with respect to the race and/or gender of the subject. 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*.

*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.*