



## OFFICE OF PROFESSIONAL ACCOUNTABILITY

### Closed Case Summary

Complaint Number OPA#2016-0212

Issued Date: 10/19/2016

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	<b>Not Sustained</b> (Unfounded)
Allegation #2	<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	<b>Not Sustained</b> (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 6.010 (1) Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest (Policy that was issued February 1, 2016)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Allegation #4	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Lawful and Proper)
Final Discipline	N/A

<b>Named Employee #2</b>	
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	<b>Not Sustained</b> (Unfounded)
Allegation #2	<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	<b>Not Sustained</b> (Unfounded)
Allegation #3	<u>Seattle Police Department Manual</u> 6.010 (1) Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest (Policy that was issued February 1, 2016)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Allegation #4	<u>Seattle Police Department Manual</u> 5.001 (5) Standards and Duties: Employees May Use Discretion (Policy that was issued April 1, 2015)
OPA Finding	<b>Not Sustained</b> (Unfounded)
Final Discipline	N/A

### **INCIDENT SYNOPSIS**

The Named Employees were on patrol and initiated a traffic stop on the complainant.

### **COMPLAINT**

The complainant alleged that the Named Employees arrested him for DUI based on his race. The complainant denied he was drunk.

### **INVESTIGATION**

The OPA investigation included the following actions:

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

## **ANALYSIS AND CONCLUSION**

The complainant alleged that Named Employee #1 and #2 only arrested him because he (the complainant) was black. The preponderance of the evidence from this investigation did not support this allegation. Named Employee #1 and #2's entire contact with the complainant was recorded on audio and video. Throughout the contact, Named Employee #1 and #2 were respectful and treated the complainant with dignity. The complainant's allegation of bias was first mentioned by the complainant after Named Employee #1 and #2's supervisor screened the arrest at the Precinct. When the supervisor interviewed the complainant about his reasons for believing the arrest was based on bias, the complainant did not reply directly to the questions. OPA attempted to contact the complainant in order to conduct a follow-up interview and get more information, but the complainant had moved and OPA letters were returned as undeliverable.

The complainant alleged that Named Employee #1 and #2 were rude to him during a traffic stop and subsequent DUI arrest. The preponderance of the evidence from this investigation showed Named Employee #1 and #2 were respectful and treated the complainant with dignity throughout the entire contact. No specific information regarding the nature of the alleged rudeness could be obtained from the complainant, who left no forwarding address.

The complainant alleged that Named Employee #1 and #2 lacked sufficient evidence for probable cause to arrest the complainant. The preponderance of the evidence from this investigation showed that Named Employee #1 was aware of or personally witnessed behavior by the complainant sufficient to form probable cause to believe the complainant had been impaired at the time Named Employee #1 observed the complainant operating a motor vehicle. The preponderance of the evidence from this investigation showed that Named Employee #2 was not the one who decided to arrest the complainant. That decision was made by Named Employee #1.

The complainant alleged that Named Employee #1 and #2 exercised poor judgment in deciding to place him under arrest for DUI, even though his blood alcohol content on the portable breath tester was less than the legal limit. Named Employee #1 was in possession of information and observations sufficient to form probable cause to arrest the complainant for DUI. Another officer might have weighed the evidence somewhat differently and concluded there was no probable cause for arrest. Either judgment would have been reasonable. Since state law requires police officers to take action on DUI violations that come to their attention, Named Employee #1 was obligated to make an arrest if he concluded the complainant had been operating a motor vehicle while impaired. As stated above, Named Employee #2 was not the one who decided to arrest the complainant. That decision was made by Named Employee #1.

## **FINDINGS**

### **Named Employee #1**

#### Allegation #1

The preponderance of the evidence did not support this allegation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

#### Allegation #2

The preponderance of the evidence showed Named Employee #1 was respectful and treated the complainant with dignity throughout the entire contact. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

#### Allegation #3

The preponderance of the evidence did not support this allegation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest*.

#### Allegation #4

The preponderance of the evidence did not support this allegation. Therefore a finding of **Not Sustained** (Lawful and Proper) was issued for *Standards and Duties: Employees May Use Discretion*.

### **Named Employee #2**

#### Allegation #1

The preponderance of the evidence did not support this allegation. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Bias-Free Policing: Officers Will Not Engage in Bias-Based Policing*.

#### Allegation #2

The preponderance of the evidence showed Named Employee #2 was respectful and treated the complainant with dignity throughout the entire contact. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees Shall Strive to be Professional at all Times*.

#### Allegation #3

The preponderance of the evidence showed Named Employee #2 was not the one who decided to arrest the complainant. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Arrests: Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest*.

Allegation #4

The preponderance of the evidence showed Named Employee #2 was not the one who decided to arrest the complainant. Therefore a finding of **Not Sustained** (Unfounded) was issued for *Standards and Duties: Employees May Use 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.*