



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 8, 2019

CASE NUMBER: 2018OPA-0677

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

Named Employee #4

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that the Named Employees engaged in biased policing when they detained and subsequently arrested him for investigation of assault.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing



On the date of the incident, a security guard called 911 and reported that approximately 20 minutes earlier, a Black male, 25-30 years of age, 6'2" - 6'3" with a thin build and facial hair, wearing a black trench coat and red daypack and in possession of a skateboard smashed the front window of 1525 10th Avenue with his skateboard. Officers located the Complainant, who matched that description; however, the Complainant fled on foot and by skateboard. The Complainant was eventually apprehended and taken into custody. During the screening of the arrest, a struggle took place between the Named Employees and the Complainant when he acted in a manner that suggested he was about to spit on them. After the Named Employees attempted to put a spit prevention device on the Complainant, the Complainant became irate and began twisting away from the Named Employees. After gaining control of the Complainant and while on the ground, the Complainant asked: "How many white cops are around me?" The Complainant then shouted: "Wouldn't [have] put that on my face, I wouldn't have fought you in the first place. This [is] some slavery shit."

When a Sergeant spoke to the Complainant when screening the arrest and after being told about the Complainant's statements by the Named Employees, the Complainant stated that he wanted to make an OPA complaint because the Named Employees were White and he is Black. Based on the generalities of the Complainant's allegation, the Sergeant was unable to ascertain which officers the Complainant was complaining about. Accordingly, he initiated an OPA referral naming all four officers who were present and heard the Complainant's allegation.

OPA then initiated this investigation. As part of its investigation, OPA attempted to interview the Complainant. However, the Complainant did not make himself available and OPA was, thus, unsuccessful in this regard.

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.*) If, as the Complainant alleged, that the Named Employees treated him differently based on the Complainant's race it would have been a violation of SPD policy.

Based on OPA's review of the evidence, there is no indication that any of the Named Employees engaged in biased policing. The Complainant was arrested based on his conduct, not because of his race or membership in any protected class. That there was no bias on the part of the Named Employees is further confirmed by the Body Worn Video of this incident. For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #3 - Allegations #1



5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #4 - Allegations #1

5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**