



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 22, 2019

CASE NUMBER: 2018OPA-0900

### 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)
# 2	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)
# 3	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)

***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 Employee was unprofessional towards him and subjected him to biased policing. The Complainant further alleged that the Named Employee did not have probable cause to arrest him.

#### **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 Employee. As such, the Named Employee was 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***

Named Employee #1 (NE#1) was dispatched to a domestic disturbance. NE#1 contacted the victim in her apartment. She stated that her boyfriend, who was later identified as the Complainant, “shoved” her, would not allow her to leave the apartment, and damaged a door when she locked herself in the bathroom and the Complainant tried to get inside. NE#1 located the Complainant outside of the apartment. The Complainant stated that he had argued with the victim but asserted that he did not assault her. He contended that he did not try to break into the bathroom, but that he knocked on the bathroom door after the victim locked herself inside. Based on his investigation, NE#1 believed that there was probable cause to arrest the Complainant and he was taken into custody without incident.

After his arrest, the Complainant alleged that he had been subjected to biased policing by NE#1. When asked to specify the nature of his allegation, the Complainant stated that he was “targeted” and that he was arrested without



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a legal basis. He did not identify how he was treated differently by NE#1 based on his membership in any protected class.

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 as other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*) The explains that: “an allegation of bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernable personal characteristic...” (*Id.*)

First, I note that the Complainant has not actually made an allegation of bias here as he failed to identify how he was treated disparately by NE#1. Second, even had he done so, the objective evidence indicates that the Complainant’s alleged conduct, not his race, was the basis for his arrest.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #2**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

The Complainant further alleged that NE#1 was unprofessional towards him during this incident.

SPD Policy 5.001-POL-9 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-9.)

Based on OPA’s review of the evidence, there is insufficient support for the Complainant’s allegation. NE#1 conducted a thorough and complete investigation into this incident, which included him calmly and completely answering the Complainant’s questions. NE#1 did not raise his voice at the Complainant. He further he did not use any profanity or use derogatory, disrespectful, and contemptuous language towards the Complainant. While the Complainant may have been frustrated that he was being placed under arrest and clearly disagreed with this decision, that does not cause NE#1’s actions to have been unprofessional.

As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #3**

***6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***



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SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy.

When evaluating the totality of the evidence – including the statements provided by both the Complainant and his girlfriend, as well the investigation of the apartment conducted by the officers – I find that a reasonable officer in NE#1's place could have found that there was sufficient probable cause to arrest the Complainant for property damage and harassment. Especially compelling were the girlfriend's contention that she was placed in fear by the Complainant's conduct and the corroborating damage to the bathroom door. Moreover, once the officers established probable cause to believe that the Complainant had committed criminal offenses, they were required by Department policy to effectuate his arrest given that the Complainant's relationship with his girlfriend was domestic in nature.

For these reasons, and given that I find that the arrest was supported by probable cause, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**