



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 31, 2018

CASE NUMBER: 2017OPA-0838

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)

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 engaged in biased policing when he responded to a disturbance call at Westlake Center where both the Complainant called 911 and Westlake Security also called 911, and ultimately asked that the Complainant leave the Westlake Mall.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Named Employee #1 (NE#1) responded to the Westlake Mall based on calls for service both by the Complainant and mall security. In his call, the Complainant asked for police assistance based on a confrontation he was having with someone in a bathroom. In their call, mall security reported that the Complainant was involved in a disturbance and asked for police assistance to remove him from the mall.

NE#1 responded to the bathroom where he believed the Complainant to be located. Mall security was also in the vicinity of the bathroom. NE#1 stated that he told the Complainant that he was required to leave the mall. While NE#1 described a mild language barrier between him and the Complainant, he reported that the Complainant appeared to understand that he needed to leave the mall and ultimately did so. NE#1 told OPA that the Complainant walked out of the mall without the need for NE#1 to physically escort him out.

After this occurred, the Complainant again called 911 and, during the course of that call, alleged that NE#1 had discriminated against him. The Complainant contended that the discrimination was based the fact that he was Asian. He later repeated this claim to a Sergeant, who contacted the Complainant while conducting a preliminary investigation into the allegation of bias. The Complainant did not explain why he thought NE#1 was biased to either the 911 operator or the Sergeant.

During its investigation, OPA attempted to reach the Complainant on several occasions and, in doing so, utilized the services of an interpreter. However, OPA was unable to obtain a statement from him concerning this incident.



OPA interviewed NE#1 who denied engaging in biased policing. NE#1 noted that his wife is Korean and that he would not act with animus towards people of Asian descent.

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.*) The policy provides guidance as to when an allegation of biased policing occurs, explaining 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.*)

Based on my review of the record and applying a preponderance of the evidence standard, I find no basis to conclude that NE#1 engaged in biased policing. NE#1 responded to calls for service and was informed by mall security that the Complainant was causing a disturbance and responded to their request to remove him from the mall. I do not find that this law enforcement action was taken based on impermissible bias.

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

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