



CLOSED CASE SUMMARY

ISSUED DATE: MAY 21, 2018

CASE NUMBER: 2018OPA-0036

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)

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 arrested her for DUI because she was Black.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees were dispatched to a damaged vehicle blocking a road way. The Named Employees contacted the Complainant, who is an African American female. She was seated in the driver’s seat of the vehicle and was attempting to start it at that time. The officers asked her if she needed assistance, but she did not respond to them and continued to try to start her vehicle. The Named Employees reported smelling the odor of marijuana emanating from the vehicle and stated that the Complainant showed signs of intoxication.

The Named Employees attempted to talk to the Complainant, but she initially would not get off her cell phone. Ultimately, they were able to speak with her (she continued to talk on the phone) and determined that she was intoxicated. Notably, when Named Employee #2 (NE#2) advised the Complainant that she was being audio and video recorded, the Complainant admitted that she was intoxicated. The Complainant further could not complete the Field Sobriety Tests given to her by Named Employee #3 (NE#3).



During the stop, the Complainant alleged that she was being arrested because she was Black. The Named Employees notified a supervisor. The Complainant also told the supervisor that she believed that she was being arrested due to her race. When the supervisor asked the Complainant whether she wanted to file an OPA complaint, the Complainant stated that she did. This matter was then referred to OPA and this investigation ensued.

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 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.*)

The objective evidence of this case, including the In-Car Video, indicates that there was abundant probable cause to arrest the Complainant for DUI. I find that her conduct, not her race, was the basis for her arrest. I find no support in the record for the assertion that any of the Named Employees engaged in biased policing. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #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 - Allegation #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)**