



CLOSED CASE SUMMARY

ISSUED DATE: JULY 30, 2018

CASE NUMBER: 2018OPA-0139

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	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	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Unfounded)
# 2	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 he was subjected to excessive force and biased policing during his arrest for narcotics activity.

STATEMENT OF FACTS:

On the date in question, the Named Employees, who are West Precinct Bicycle Officers, observed what they believed to be narcotics activity in a white SUV. They observed three separate individuals get inside the vehicle and then quickly exit over a 35-minute period. During this time, the vehicle was parked in a three-minute load zone. The officers developed reasonable suspicion to believe that the vehicle and its occupants were involved in criminal activity. When they approached the vehicle and looked inside, they observed drug paraphernalia in open view. They arrested the driver – who was later learned to be the Complainant – and recovered over \$3,000 in cash. They impounded the vehicle and later searched it pursuant to a search warrant. During the search, the officers recovered a stolen firearm and narcotics.

While the Named Employees were not equipped with In-Car Video (ICV) or Body Worn Video (BWV) on the date in question, two other officers who responded to the incident recorded portions of what occurred on their ICV. The ICV did not show any force being used on the Complainant other than the officers handcuffing him. It further did not record the Complainant making any complaints of pain.



Notably, the Complainant pleaded guilty to multiple offenses stemming from this incident. As part of that plea, he agreed to a statement of facts that was taken directly from the General Offense Report.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

As discussed above, the Complainant alleged that the Named Employees subjected him to excessive force during his arrest. In his complaint, he did not detail what that force was with any specificity. Based on my review of the Department video, I see no evidence that either of the Named Employees used any force aside than that needed to handcuff the Complainant. Moreover, consistent with the ICV, neither Named Employee reported using any force.

For these reasons, and given that I find that no force was actually used, I recommend that this allegation be Not Sustained – Unfounded as against both of the Named Employees.

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

Named Employee #1 - Allegation #2

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

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.*)

While the Complainant asserted his belief that his arrest was racially motivated, I find no evidence that this was the case. Instead, I conclude that there was abundant probable cause to believe that he was engaged in narcotics activity. Further undercutting any allegation of bias is the fact that, in his guilty plea, he admitted the facts set forth in the General Offense Report. As such, the Complainant cannot contest the legitimate basis for the stop.

For these reasons, I recommend that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

Named Employee #2 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

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 #2 - Allegation #2

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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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