



CLOSED CASE SUMMARY

ISSUED DATE: MAY 22, 2019

CASE NUMBER: 2019OPA-0061

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)

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 after discovering that he had an outstanding felony warrant.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the review and approval of the Office of Inspector General for Public Safety, 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.

As discussed below, an inaccuracy was identified between the *Terry* Template generated concerning the Complainant’s detention and the Body Worn Video of the officers. This inconsistency was ultimately not determinative as to whether there was reasonable suspicion to effectuate the stop. As such, the inconsistency was addressed via a Supervisor Acton rather than in this investigation.

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) and Named Employee #2 (NE#2) stopped a man, who is the Complainant in this case, at 4:06 a.m. at the entrance of an apartment building. The Named Employees reported that the Complainant, who was wearing mainly dark clothing, had dark sunglasses, and had most of his face covered, was at a building entrance and



appeared to be pressing buttons. The Named Employees indicated that, when the Complainant noticed the officers, he began walking away. NE#2 noted that there was a recent rash of burglaries at the location where the officers observed the Complainant, and that SPD's Crime Analysis Unit identified the area as a "hot spot" for crime. The General Offense Report documented that when the officers approached the Complainant, he immediately stated: "Do you have probable cause?" NE#2 reported that, almost immediately after this interaction, he recognized the Complainant from previous interactions and referred to Complainant by the name he knew him by. The Complainant denied that the name NE#2 referred to him by was his name. He further contended that he was waiting for his friend at the building. After NE#2 received verification from SPD radio that the Complainant had an outstanding felony warrant for assault with a deadly weapon, the Complainant was placed under arrest. The Complainant claimed that he was arrested because of his race.

During its investigation into this incident, OPA made multiple attempts to interview the Complainant but was unsuccessful. Thus, the Complainant was not interviewed as part of this investigation.

OPA reviewed the Body Worn Video (BWV) associated with this incident. The BWV largely supported the recounting of the incident from the General Offense Report. There was one notable exception to this. The BWV captured that, at the time the Named Employees explained the basis for the detention to the Complainant, he was told: "You didn't press any buttons." However, as discussed above, it was reported in the *Terry* Template that the Complainant appeared to be pushing buttons. This matter was addressed in a Supervisor Action and was not part of this investigation.

SPD Policy 5.140 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." 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 his race it would constitute a violation of SPD policy. However, based on OPA's review of the evidence, there is no indication that the Named Employees engaged in such conduct. The Complainant was stopped and questioned because the Named Employees had reasonable suspicion to conduct a *Terry* stop. Moreover, he was arrested due to an outstanding warrant, not because of his race or membership in any protected class. Lastly, the BWV, which fully captured this incident, provides conclusive evidence that no biased policing occurred.

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 - 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)**