



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 15, 2018

CASE NUMBER: 2018OPA-0034

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 he was handcuffed because of his race.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Named Employees responded to a hit and run incident. The suspects in the incident were described as a White male and a Black male. The suspect vehicle was sitting unattended at the time the Named Employees arrived. A White male then walked towards the vehicle. The White male – who was later identified as the Complainant – was not wearing a jacket even though the weather was cold and wet. This suggested to the Named Employees that he was one of the occupants of the vehicle. The Complainant later admitted that he was the passenger of the suspect vehicle. A Black male, also not wearing a jacket, approached the suspect vehicle. The Named Employees believed that the Black male – who was later identified as the Subject – was possibly the driver of the vehicle.

The driver of the vehicle that was struck in the hit and run believed that the Complainant and the Subject were the occupants of the other car but was not sure. Named Employee #1 (NE#1) began questioning the Subject concerning his involvement in the hit and run. At that time, the Subject grew upset about being questioned and began, according to NE#1, to become animated and act erratically. Based on his demeanor, NE#1 placed the Subject into handcuffs and temporarily seated him in the rear of a patrol vehicle. At that time, the Complainant, who was standing in the near vicinity, made an allegation to Named Employee #2 (NE#2) that the detention and handcuffing of the Subject was based on bias. NE#2 called a supervisor to the scene.



The supervisor spoke with the Complainant, who told him that the Subject had been subjected to biased policing. The Complainant stated that the Subject had been detained for no reason and simply because the Subject was Black. NE#1 spoke to the victim who indicated that he could not be completely sure that the Subject was the driver of the vehicle. As a result, and because NE#1 did not believe that he had enough evidence to support probable cause, the Subject was unhandcuffed and released. Notably, at the time of his release and during the incident, the Complainant did not make an allegation of bias. The Complainant and the Subject wanted to get back into their vehicle but NE#1 said that he could not because it was being towed as evidence of a crime. The Subject attempted to access his vehicle on several more occasions and was then placed under arrest for obstruction. The arrest was screened and approved by a supervisor.

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.*)

From my review of the evidence, including the Department video and documents generated as a result of this incident, I find insufficient evidence supporting the Complainant’s allegation of biased policing. Even if, as the Complainant suggests, there was a questionable basis to detain and handcuff the Complainant, I do not believe that these actions were premised on bias. Instead, NE#1 appeared to act in good faith and based on his reasonable perception of the circumstances facing him. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegations #1

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

I find that NE#1, not NE#2, was the officer who interacted with the Subject. At the time the Subject was detained and handcuffed, NE#2 was speaking with the Complainant. As such, I construe the allegation of bias to be alleged against NE#1, not NE#2, and, accordingly, I recommend that this allegation be Not Sustained – Unfounded.

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