



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 22, 2018

CASE NUMBER: 2018OPA-0399

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 Complainants alleged that the Named Employees engaged in biased policing during their investigation into a shoplifting incident.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, 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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainants alleged that they were assaulted by a White male. The Complainants, who are African-American, stated that they were “very engrossed in conversation” while shopping at a Target store and “did not notice [they] were approaching the entrance of the store.” The Complainants asserted that they were approached by two White males who told them that they had unpaid items in their cart. The Complainants stated they responded by saying “oh yeah” and “duh” and then turned back towards the cash register. The Complainants stated that, at this time, they were grabbed by the two White males, one of whom stated: “You’re coming with me.” One of the Complainants pepper sprayed one of the White males and both Complainants fled the store.



They reported this alleged assault to the police and asked that the police meet them at their home. The Complainants stated that the officers who came to their home were “dismissive” concerning the “attack” that they suffered. The Complainants noted that all of these officers were White and, when they asked for a female officer of color, they were told that no such officer was available.

The officers also received a 911 call from a Target employee. The employee told the police that one of the loss prevention officers had been assaulted by the Complainants. Specifically, the employee asserted that the Complainants, who had been shoplifting, pepper sprayed the loss prevention officer. Officers, including the Named Employees, responded to the Target and initiated their investigation. They also went to the Complainants’ residence and spoke with them. During that conversation, the Named Employees attempted to explain what had been reported by the Target employees. This conversation, which was captured in its entirety on Body Worn Video (BWV), was not productive and resulted in the Complainants intimating that they were being treated disparately due to their race.

The Complainants were later named as the suspects in the General Offense Report. The officers submitted a Charge by Officer and, as of the present, the Complainants have yet to be criminally charged.

A little more than a week after the incident, the Complainants initiated this complaint with OPA, asserting that they were subjected to biased policing by the Named Employees.

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.*)

As part of its investigation, OPA obtained the Target security video of this incident. This video contradicted the Complainants’ accounts in a number of respects. First, it showed both of the Complainants walking completely out of the store and towards the parking lot when they were stopped by loss prevention officers. Second, contrary to the Complainants’ contentions, they were not lost in conversation at the time. Indeed, the video showed that they were not even speaking when they left the store. Third, the Complainants made it seem that they were simply wandering around the store when they happened to be wrongly stopped by the entrance. However, the video is clear that they purposefully walked up to the exit and out of the store – no part of their conduct appeared to be inadvertent.

With regard to the Named Employees’ handling of this call and interaction with the Complainants, I find that there is no evidence indicating that they engaged in biased policing. The Named Employees were attempting to conduct an investigation, which included obtaining information from all involved parties and questioning the Complainants’ accounts, which were inconsistent with the great weight of the evidence. I further do not find that their failure to call a female officer of color to the Complainants’ residence violated policy or suggested bias. Ultimately, I find that the Complainants’ allegations are meritless. The Named Employees engaged in no misconduct during this incident, let alone violated the Department’s policy concerning biased policing. As such, 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)**