



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 24, 2019

CASE NUMBER: 2018OPA-0885

### 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)
# 2	6.220 - Voluntary Contacts, Terry Stops & Detentions 10. Officers Must Document All Terry Stops	Not Sustained (Lawful and Proper)

***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 Employee engaged in biased policing and did not have reasonable suspicion to stop and detain him.

#### 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 Employee. As such, the Named Employee was 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***

Named Employee #1 (NE#1) was dispatched to investigate an armed robbery. The victim informed NE#1 that he had been struck in the head with a rubber mallet and that his property was stolen. NE#1 escorted the victim back to the location where the robbery occurred and the victim provided NE#1 with a description of the perpetrator. The victim and NE#1 located the Complainant (who is African American) sleeping in a vehicle. The victim looked at the Complainant through the driver side window and the passenger side window. Each time, the victim told NE#1 that the Complainant was the person who hit him with the mallet. NE#1 then asked the Complainant to get out of the vehicle and asked him if he knew the victim. The Complainant stated that he and the victim had been in an altercation. The Complainant gave NE#1 his name and NE#1 determined that he had an open felony warrant. The Complainant was then placed under arrest.

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.*)

Based on a review of the record, including the Department video of the incident, there is no support for the Complainant’s allegation that NE#1 subjected him to biased policing. Instead, I find that NE#1 had reasonable suspicion to believe that the Complainant assaulted the victim. Once the Complainant was lawfully detained, NE#1 developed additional information, including that there was an open warrant for the Complainant, justifying the Complainant’s arrest. I find that the Complainant’s conduct, not his race, was the reason for the law enforcement action taken towards him. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #2**

***6.220 - Voluntary Contacts, Terry Stops & Detentions 10. Officers Must Document All Terry Stops***

SPD Policy 6.220-POL-1 stands for the proposition that Terry stops are seizures of an individual and, as such, must be based on reasonable suspicion in order to be lawful. SPD Policy defines a Terry stop as: “A brief, minimally invasive seizure of a suspect based upon articulable reasonable suspicion in order to investigate possible criminal activity.” (SPD Policy 6.220-POL-2(b).) SPD Policy further defines reasonable suspicion as: “Specific, objective, articulable facts, which, taken together with rational inferences, would create a well-founded suspicion that there is a substantial possibility that a subject has engaged, is engaging or is about to engage in criminal conduct.” (*Id.*) Whether a Terry stop is reasonable is determined by looking at “the totality of the circumstances, the officer’s training and experience, and what the officer knew before the stop.” (*Id.*) While “[i]nformation learned during the stop can lead to additional reasonable suspicion or probable cause that a crime has occurred, it “cannot provide the justification for the original stop.” (*Id.*) Lastly, officers are required to inform the detainee of the reason for the detention as early on in the contact as safety permits. (SPD Policy 6.220-POL-5.)

As discussed above, the evidence indicates that there was sufficient reasonable suspicion justifying the stop and detention of the Complainant. He was identified as the perpetrator in a robbery by the victim, who positively identified him twice. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**