



CLOSED CASE SUMMARY

ISSUED DATE: MAY 13, 2019

CASE NUMBER: 2018OPA-1126

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)

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 subjected him to biased policing.

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 Employee. As such, the Named Employee was not interviewed as part of this case.

OPA further notes that the Named Employee’s supervisor at the time, who initiated this complaint on the Complainant’s behalf, is now assigned to OPA as a Sergeant. This Sergeant was not consulted concerning this case and this matter was not discussed with him at any point in order to avoid any potential conflicts.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Officers, including Named Employee #1 (NE#1), responded to a trespass and disturbance at a substance abuse center. NE#1 spoke with an employee of the center who informed him that an individual, who is the Complainant in this case, was engaging in a disturbance. She further asked that the Complainant be trespassed from the center. NE#1 contacted the Complainant and the Complainant stated: “I’m leaving anyway.” He then walked out of the center. NE#1 followed him out and said: “Alright man. Have a good night.” The Complainant, who is African American, then turned around, called NE#1 a “White liar,” and tried to walk back into the center. NE#1 moved in front of the Complainant and held out his right hand towards the Complainant to prevent the Complainant from reentering the center. The Complainant asked NE#1 why he was touching him and NE#1 responded that it was to prevent the Complainant from going back inside. The Complainant then made a bias allegation towards NE#1. After further back-and-forth between the Complainant and NE#1, NE#1 requested a supervisor to come to the scene. The



supervisor arrived and spoke with the Complainant. The Complainant reiterated his bias allegation against NE#1 and indicated to the supervisor that he wanted to file an OPA complaint. The supervisor referred this matter to OPA and this investigation ensued.

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.*)

Based on OPA’s review of the evidence, which included the Department video that fully captured this incident, OPA finds no indication that NE#1 engaged in biased policing. To the contrary, NE#1’s conduct appears to have been consistent with policy and law. Indeed, the Complainant was trespassing and tried to reenter the center after being removed. As such, the law enforcement action taken towards him at that time by NE#1 was entirely appropriate and was based on the Complainant’s behavior, not his race or membership in a protected class. For these reasons, I recommend that his allegation be Not Sustained – Unfounded.

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