



CLOSED CASE SUMMARY

ISSUED DATE: MAY 28, 2019

CASE NUMBER: 2018OPA-1147

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 failed to make an arrest of a person that assaulted her and that this inaction was based upon her race.

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.

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 an assault disturbance call. The Named Employees contacted the Complainant who stated she was the petitioner in a protection order in which her ex-boyfriend was the respondent. She told the officers that she was at a gas station when she saw her ex-boyfriend walking with his new girlfriend. The Complainant attempted to take photographs of the respondent for evidence to support the violation of the protection order. However, the new girlfriend blocked her path in order to facilitate the respondent leaving the area. Both the Complainant and the new girlfriend alleged they were assaulted by the other. During their investigation, the officers attempted to establish probable cause for the arrest of either party, but they were



ultimately unsuccessful in doing so. They searched for independent witnesses to the event and third-party video, but none were located.

The Named Employees attempted to explain to the Complainant that no arrest was going to be made based upon the lack of sufficient information supporting probable cause to arrest. The Named Employees told the Complainant that a report would be generated detailing the events that were described to them by both involved parties. The Complainant then alleged that she was being discriminated against based upon her race and that the Named Employees were selectively not enforcing the laws for this same reason. A sergeant was called to the scene to investigate the bias allegation. The Sergeant later forwarded the complaint to OPA for investigation after the Complainant insisted that the officers' actions were based on prejudice.

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 OPA's review of the record, I find insufficient evidence establishing that the officers engaged in biased policing or that they acted in any type of a discriminatory manner towards the Complainant. I agree with the Named Employees that, based on the facts available to them at the time, they had insufficient probable cause to effectuate an arrest. I find that their decision to not take one the involved parties into custody and to, instead, document the incident in a report was reasonable and consistent with policy. 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)**