



## CLOSED CASE SUMMARY

ISSUED DATE: JUNE 4, 2019

CASE NUMBER: 2019OPA-0011

### 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	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)

**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)

**Named Employee #3**

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 arrested without probable cause and that his arrest was based on bias.

**ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General’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.



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**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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

On December 27, 2018, the Named Employees were dispatched to investigate a domestic violence (DV) assault in which the victim reported to 911 that she had been pushed against the wall by her boyfriend. When the Named Employees arrived, they made contact with the suspect described by the 911 caller. The suspect is the Complainant in this case. The Complainant denied that an assault occurred, but, based on the investigation conducted by the officers, he was placed under arrest for DV assault per policy and state law. After the Complainant was taken into custody, he alleged that he should not have been arrested and that his arrest was based bias on the part of the Named Employees. After the Complainant requested the presence of a supervisor and made allegations of bias, Named Employee #1 (NE#1) called for a Sergeant, who screened the arrest and the Complainant's bias allegation. The Sergeant approved the arrest and forwarded the bias complaint to OPA.

The Complainant alleged to OPA that NE#1's decisions during this incident were made without fully investigating the alleged DV incident. He stated that there was no logic behind NE#1's decisions that evening, including her determining that the Complainant was the primary aggressor. The Complainant maintained that NE#1 did not have probable cause to arrest him. The Complainant listed the following reasons for why he believed the arrest to be inappropriate: he does not have a previous record; he was never given the benefit of the doubt; and NE#1 was in a rush to make an arrest.

The Complainant also alleged that he was subjected to biased policing by NE#1 because of his gender, his ethnicity (Arab), and potentially even his sexual orientation. The Complainant explained his belief that NE#1 is a lesbian and that she may have unconsciously made decisions that went against him because he is a heterosexual male. The Complainant further told OPA that Named Employee #2 (NE#2) and Named Employee #3 (NE#3) participated in NE#1's bias when they did not intervene or speak out concerning NE#1's decision to arrest the Complainant. The Complainant additionally expressed to OPA that he does not want the officers fired but that they need to receive additional training.

In the General Offense Report for this incident, NE#1 documented the facts that she relied upon to determine that the Complainant was the primary aggressor and the probable cause that existed for his arrest. NE#1 specifically pointed to the Complainant's conduct that was described by the victim, as well as the fact that she stated that she suffered pain to her shoulders when the Complainant pushed her into a wall. NE#1 reported that she told the Complainant that, based on her investigatory findings, SPD policy and state law mandated that she arrest him.

OPA lastly reviewed the Body Worn Video (BWB) associated with this incident. The video supported what was documented in NE#1's General Offense Report.

SPD Policy 5.140 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."



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Based on OPA's review of the evidence, there is no indication that any of the Named Employees engaged in biased policing. The Complainant was arrested based on his conduct and the victim's assertions, not because of his gender, race, sexual orientation, and/or membership in any protected class. The BWV of this incident further confirms that no bias occurred and that the Named Employees acted appropriately and consistent with policy during this incident. Indeed, and in OPA's opinion, the video suggests that the Complainant's assertions in this regard and, specifically, those concerning NE#1's bias due to her purported sexuality are frivolous and insulting. For the above reasons, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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

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

***6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest***

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy.

Based on OPA's review of the totality of the evidence, including the documentation of this matter and the BWV, OPA finds that there was abundant probable cause supporting the arrest of the Complainant. Indeed, based on the information available to NE#1 at the time, the arrest of the Complainant was mandated by both law and policy and she had no discretion as to whether or not to take the Complainant into custody.

For these reasons, I recommend that this allegation be Not Sustained – Lawful and Proper.

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

**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)**

**Named Employee #3 - 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)**