



## ***CLOSED CASE SUMMARY***

ISSUED DATE: FEBRUARY 3, 2018

CASE NUMBER: 2017OPA-0841

### **Allegations of Misconduct & Director's Findings**

#### **Named Employee #1**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

#### **Named Employee #2**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

#### **Named Employee #3**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

#### **Named Employee #4**

<b>Allegation(s):</b>		<b>Director's Findings</b>
# 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, through an SPD sergeant, alleged that the Named Employees engaged in racial profiling and biased policing when they arrested him for assault.

### **ANALYSIS AND CONCLUSIONS:**

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

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

On the date in question, the Named Employees responded to 911 calls indicating that an individual had attempted to stab others civilians. One call indicated that the subject was an African-American male with white hair and unknown clothing riding around on a black bicycle. A later call provided more details as to his clothing, reporting that the subject was wearing a white hat.

The Named Employees arrived in the vicinity of the calls and were approached by City Metropolitan Improvement District (MID) workers. One MID worker told the officers that he learned from a colleague that the subject was riding



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on a black bike, was holding a crowbar, and was wearing a small white hat. The MID worker further stated that he believed that the subject might be sitting next to some bushes.

The officers then observed the Complainant who was sitting on a bench next to some bushes. He was an African-American man who was wearing a white fedora. The Complainant appeared to the officers to be calm at that time and the officers did not observe any weapons.

The officers spoke with another MID worker, as well as with two civilian witnesses. One witness identified the Complainant as the perpetrator with “70% certainty.” The MID worker also identified the Complainant as the perpetrator, saying that he recognized his black bicycle. Given the information learned from the witnesses and the fact that parts of the Complainant’s person and clothing matched the dispatched description, the officers placed the Complainant under arrest.

After his arrest, the Complainant made allegations that law enforcement action was taken towards him because of bias on the part of the Named Employees and that he was racially profiled. The Complainant made these allegations to an SPD sergeant who later referred this matter to OPA. In addition, also after the arrest, the Complainant identified a black bicycle nearby as belonging to him. The officers conducted an inventory search of a black bag attached to the vehicle and found an improvised weapon that the witnesses identified as being the weapon that had been brandished by the Complainant.

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.*) 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.*)

During its investigation, OPA interviewed the Named Employees, all of whom denied engaging in biased policing. They all indicated that the Complainant’s arrest was based on probable cause and not some other impermissible reason. OPA also interviewed a number of civilian witnesses who corroborated the officers’ account. All of these witnesses denied that the officers engaged in biased policing. OPA tried to contact the Complainant in order to interview him concerning the allegations of biased policing and racial profiling. However, the Complainant did not respond to OPA.

Based on the totality of the record, I find no evidence suggesting that the Named Employees engaged in biased policing. To the contrary, I find that the officers had a lawful basis to arrest the Complainant and that they acted entirely appropriately in this case. As such, I recommend that this allegation be Not Sustained – Unfounded.

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



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**Named Employee #2 - Allegation #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 - Allegation #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 #4 - Allegation #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)**