



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 7, 2020

CASE NUMBER: 2019OPA-0535

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 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 Employees. As such, the Named Employees were 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

Officers, including the Named Employees, were called to the scene of a shoplift. Loss Prevention Officers (LPO) were holding the subject – who is the Complainant in this case – down on the ground and had him in handcuffs. When they arrived on scene, Named Employee #1 (NE#1) and Named Employee #2 (NE#2) located the Complainant, who was still on the ground. The officers stood him up, walked him to the patrol vehicle, and place him into the rear seat. At the time SPD officers took the Complainant into custody, he alleged that he was being racially profiled. The officers told him that he could speak with a supervisor and called a Sergeant to the scene.

The Complainant remained in the rear of the patrol vehicle while the officers conducted their investigation. They determined that the Complainant had stolen an item from the Apple Store, as well as that the Complainant had an open DOC warrant. A Sergeant arrived and the Complainant was searched in front of the patrol vehicle. The officers switched handcuffs and returned the LPOs' handcuffs. At that time, the Complainant stated that he had pain from



the handcuffs. That claim was addressed by the officers and was later investigated as required by policy. The Complainant also reiterated his allegation of bias to the Sergeant. Notably, during this incident, the Complainant made a number of other statements that did not make sense and suggested either mental health crisis or substance abuse. The Sergeant ultimately referred the Complainant's bias allegation to OPA, and this investigation ensued.

As part of its investigation, OPA reviewed the documentation generated concerning this matter. OPA also watched the Body Worn Video (BWV) recorded by the officers, which fully captured the Named Employees' interaction with the Complainant and the entirety of the law enforcement action that they took. OPA attempted to locate the Complainant in order to interview him; however, despite best efforts, OPA was unsuccessful in this regard.

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 BWV, there is no support for the Complainant's allegation that the Named Employees engaged in biased policing. When the Named Employees arrived on scene, the Complainant was already in the custody of LPOs and there were multiple witnesses that verified that he had shoplifted. Moreover, the officers confirmed that the Complainant had an open DOC warrant, which provided a further legal basis for his arrest. Ultimately, the Complainant's conduct, not his race or membership in any protected class, was the reason he was taken into custody. As such, OPA concludes that the Complainant's biased policing allegation is meritless and that the Named Employees acted appropriately during this incident.

For the above reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

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), OPA recommends that this allegation be Not Sustained – Unfounded.

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