



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 5, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0227

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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Named Employees were dispatched to a call of two men who were sitting on a homeowner's stone retaining wall and who were allegedly yelling at people passing by. The officers responded to the location and observed two men who matched the description. Both men were Black. The officers contacted the men. One of the men said that they were waiting for a bus. After being informed by the officers that the bus stop was down the block, that man got up and walked to the bus stop. The other man – who is the Complainant in this case – remained sitting on the wall even when asked to depart by the officers. Based on a review of the Body Worn Video (BWV), the Complainant appeared to be intoxicated. The officers offered to provide the Complainant with detox services, but he continued to be non-cooperative. Ultimately, the Complainant got up off of the wall and began to walk away towards the bus stop. The officers started to return to their patrol vehicle. At that time, the Complainant stated that he felt he was discriminated against based on his race. The officers asked if he wanted a supervisor to come to the scene, and the Complainant said that he did.



A supervisor arrived and spoke with the Complainant. The Complainant told the supervisor that he did not remember what occurred but that he felt he was discriminated against. The Complainant asked the supervisor to refer this incident to OPA and the supervisor did so. This investigation ensued.

As part of its investigation, OPA reviewed the BWV. It verified that the Complainant was sitting on the wall, that he was contacted based on a community member complaint, and that he was asked to move by the officers. While the Complainant was unhappy at being asked to move and felt that this was racially motivated, the officers were responding to a 911 call from a community member. They did not make the discretionary decision to tell the Complainant to move based on their own observations. As such, the Complainant's concerns predominantly lie with the 911 caller not the officers. Moreover, the Complainant technically had no right to be sitting on the wall and the officers had a legal authority to ask him to move. Lastly, the BWV indicated that the officers were polite to the Complainant and took efforts to be respectful while enforcing the law.

Given this, OPA finds no basis to conclude that the officers engaged in biased policing. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against both Named Employees.

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

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

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