



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 26, 2020

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0312

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)

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 unidentified SPD officers subjected him to biased policing and arrested him without probable cause.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant asserted that unidentified SPD employees engaged in biased policing when, during their response to a call for service at his building, the officers took the side of building staff over what he told them and did not listen to him. The Complainant also raised concerns with his later arrest and asserted that it was improper.

OPA's investigation indicated that, on May 6, 2020, officers responded to the Complainant's building for an alleged violation of an anti-harassment order. The officers learned that the Complainant had been served with paperwork by building staff, but that staff mistakenly gave the Complainant the entirety of the packet. This included information concerning the protected party. A conflict arose when staff tried to retrieve the portions of the packet that had been improperly served. Staff then took the packet back and later provided the documentation to the officers. The officers served the Complainant with the packet. He was not arrested.

Two days later, on May 8, 2020, officers again responded to the building. It was reported that the Complainant was repeatedly calling the protected party and had left a note with her personal address on it at the front desk of the building. It was further reported that the Complainant told building staff that he was going to go to the protected party's home, and he had been sending threats to her via text and email. Given the available evidence, the Complainant was arrested for harassment.



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.*)

OPA’s investigation, which included a review of the Body Worn Video and reports from the Complainant’s contacts with officers, yielded no evidence of bias. To the contrary, the evidence indicated that the officers thoroughly and objectively investigated the incident, which included obtaining information from all the involved parties. The evidence further indicates that, when they arrested the Complainant, the officers acted based on probable cause. As such, OPA concludes that the Complainant’s conduct and the information available to the officers, not the Complainant’s race, was the basis for the law enforcement action taken towards him. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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. Probable cause exists when the facts and circumstances within an officer’s knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.

As discussed above, OPA finds that there was probable cause supporting the Complainant’s May 8 arrest. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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