



## ***CLOSED CASE SUMMARY***

ISSUED DATE: FEBRUARY 5, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0444

### **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)

#### **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)

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

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.

### **SUMMARY OF INVESTIGATION:**

Officers, including the Named Employees, were dispatched to a call of a threat with a firearm. When they arrived at the scene, they spoke with the victim. He stated that he got into an argument with another male – the Complainant in this case. During that argument, the Complainant drew a firearm from his backpack and pointed it at the victim's head. The victim recounted that he reached to his breast pocket and pretended that he was also armed. As a result, the Complainant stopped pointing the firearm at the victim and put it away.



The officers spoke with a witness who affirmed seeing the Complainant draw and point the firearm. When the witness observed this, he ran for cover and called 911.

The officers took the Complainant into custody and searched him. They located a firearm inside of the Complainant's backpack. The officers additionally verified that the Complainant did not have a concealed carry permit. During their search, the officers also located a machete-type knife in a holster on the Complainant's person. A record check indicated that the Complainant was a convicted felon who was barred from possessing a firearm and that he had an open warrant.

The Complainant was placed under arrested and was transported from the scene. At the time of his arrest, he asserted that he was only taken into custody due to his race. Given his allegation, this OPA investigation was initiated.

#### **ANALYSIS AND CONCLUSIONS:**

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

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

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 officers' actions during this incident were fully captured on Body Worn Video (BWV). The video established that there was clear probable cause to arrest the Complainant. Specifically, both the victim and a third-party witness verified that the Complainant withdrew a firearm and pointed it at the victim. In addition, it was further confirmed that the Complainant was a convicted felon who was prohibited from possessing a firearm, as well as that he had an open warrant. These provided additional bases to arrest him.

The totality of the evidence is clear that the Complainant's conduct, not his race, was the reason for his arrest. There is no indication that any of the Named Employees engaged in biased policing towards him, let alone that they did anything wrong or inconsistent with policy during this incident.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded as against all of the 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)**



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

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