



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 23, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0566

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 he was racially profiled when the Named Employees arrested him for armed robbery.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On the afternoon of August 28, 2020, an armed robbery occurred at a Safeway store. 911 was notified that an individual brandished a knife and threatened to stab employees while stealing food. The 911 caller indicated that the individual then left the store. A description of the individual was provided to 911 and then communicated to



officers over the radio. The individual was described as a Black male in his 30s wearing a red shirt, black and red shorts, and a black backpack.

The Named Employees were dispatched to the incident. Their response to the scene was recorded on Body Worn Video (BWV). Officers located an individual – later identified as the Complainant – who matched the exact description provided by the 911 caller. The Complainant was observed running around a third of a mile from the Safeway. When the Complainant saw the officers, he ducked into bushes and then began running up a driveway. The officers got out of their patrol vehicles and ordered the Complainant to stop. He ceased running near the end of the driveway and got down onto the ground. He was handcuffed and placed under arrest. At that time, he acknowledged being at the Safeway earlier. A Safeway employee was brought to the scene to do a “show up” and positively identified the Complainant as the perpetrator of the armed robbery.

Named Employee #1 (NE#1), who was assigned as an Acting Sergeant, came to the scene, and screened the Complainant’s arrest. At that time, the Complainant contended that he was racially profiled and that his arrest was based on his status as a Black man. He made an allegation of biased policing against all of the Named Employees. His allegation was forwarded to OPA and this investigation ensued.

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 review of the evidence indicates that there was abundant probable cause supporting the Complainant’s arrest. Most notably, he matched the exact description of the armed robber, he admitted being in the Safeway, and he was positively identified as the perpetrator. Given this, OPA finds that the Complainant’s conduct, not his race, was the impetus for the police action taken towards him. OPA finds no basis to conclude that any of the Named Employees engaged in biased policing or in any other inappropriate conduct.

Accordingly, 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)**