



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 16, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0682

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 he was subjected to biased policing when he was arrested because of his race.

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.

SUMMARY OF INVESTIGATION:

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were dispatched to a report of an individual who had threatened an employee of a nearby restaurant with a knife. When NE#1 and NE#2 arrived at the scene, they spoke with a witness who described the individual – who was later identified as the Complainant – and confirmed that the Complainant had threatened him with a knife. Based on this information, the officers developed probable cause to arrest the Complainant for felony harassment.

Body Worn Video (BWV) of the incident showed that NE#2 located the Complainant, placed him in handcuffs, and put him in the patrol car. Another officer – Witness Officer #1 (WO#1) – read the Complainant his Miranda Rights. NE#1 retrieved a knife from the bushes near the restaurant, which was the alleged weapon used by the Complainant. A Sergeant arrived to screen the arrest. The Sergeant asked the Complainant if he was injured. The



Complainant alleged that he had been “groped” but his statements were otherwise unintelligible. When the Sergeant asked when the alleged improper touching happened, the Complainant said it did not matter. The Sergeant asked again if the Complainant had any other injuries. The Complainant responded that his wrists hurt from the handcuffs. The Sergeant asked if the handcuffs were presently uncomfortable and the Complainant’s response was unintelligible.

The Complainant then said he believed he was arrested because he was Black. The Sergeant asked the Complainant why he thought that, but the response was unclear on BWV. The Sergeant asked the Complainant if he would like a complaint filed on his behalf for the bias allegation. The Complainant at first said he would file it, and then told the Sergeant to do so. When the Sergeant confirmed that the Complainant wanted him to file the complaint, the Complainant did not directly respond and said: “let’s just get out of here.” The Sergeant then asked WO#1 to check the handcuffs. WO#1 ensured the handcuffs were put on correctly and that two fingers could fit in between, which meant they were not too tight.

The Sergeant screened the Complainant’s allegations with OPA. The Complainant’s allegations of excessive force and sexual abuse were determined to be unfounded by OPA during the screening process. Therefore, the only issue addressed in this case is the bias allegation.

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-POL.) This includes different treatment based on the race of the subject. (*See id.*)

Based on a review of BWV, OPA finds insufficient evidence to support the Complainant’s allegation of bias. The officers had probable cause to arrest the Complainant based on a witness’s identification of the Complainant as the individual who had threatened him with a knife. Therefore, the arrest was based on the Complainant’s conduct rather than his membership in a protected class. Further, officers on scene properly addressed the Complainant’s complaint of the handcuff discomfort and referred the bias complaint to OPA as required by policy. Based on this evidence, OPA could not identify any basis to believe that the Complainant was treated differently or worse based on his race.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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 described above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.



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