



CLOSED CASE SUMMARY

ISSUED DATE: MAY 4, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0733

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)

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 Employee engaged in biased policing towards her.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

Named Employee #1 (NE#1) responded to two back to back 911 calls in which sounds of a disturbance were heard over an open line. NE#1's handling of this incident was recorded on Body Worn Video (BWV). When NE#1 arrived at the location, he observed two women arguing with each other outside of a car. NE#1 began speaking with one of the women – the Complainant in this case – who was significantly escalated and appeared heavily intoxicated. At one point the Complainant said that the other woman – her sister – scratched her face. She almost immediately recanted that. However, she remained angry at her sister and they yelled at each other for a period of time as NE#1 tried to speak with other witnesses. NE#1 confirmed the Complainant's identity with the father of her child, who was picking up his son and was leaving the home because of the Complainant's intoxication level.

Other officers arrived on scene and remained with the Complainant while NE#1 ran her information through his MDT system. She continued to yell and was ultimately directed to sit on the bumper of the patrol vehicle and was informed that she would go into handcuffs if she did not calm down. NE#1 attempted to determine what was going on. The Complainant was upset that the father was taking his son from the home because the son was supposed to watch the Complainant's daughter. The Complainant then alleged that the father scratched her face by hitting her three times in the face.

NE#1 tried to verify who lived at the residence. He asked the Complainant where she was going to stay. She became very animated, yelling and striking her chest, and stated that she was going to stay in her own home. NE#1 told her



that he was on her side and trying to help her and she denied that. She again said that the father struck her and, while gesticulating, struck NE#1's hand. The Complainant was then placed under arrest for assault.

After her arrest and while seated in the rear of the patrol vehicle, the Complainant asserted that NE#1 was "racist." A supervisor was called to the scene. The supervisor spoke with the Complainant about her allegation. The Complainant said that NE#1 was "traumatizing" and asked the supervisor to file an OPA complaint on her behalf. The supervisor did so and this OPA investigation followed.

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.*)

Based on a review of the BWV, there is no evidence supporting the Complainant's allegation of biased policing. The video is clear that the Complainant was belligerent and intoxicated, as well as that she struck NE#1's hand. Accordingly, he had probable cause to place her under arrest for assault. There is no basis to conclude that NE#1, also a person of color, took this law enforcement action because of the Complainant's race or because of her membership in any protected class.

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

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