



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 12, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0166

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 subjected him to biased policing.

SUMMARY OF INVESTIGATION:

Named Employee #1 (NE#1) was dispatched to a threats call. When he arrived, he was informed that an SPD Parking Enforcement Officer (PEO) observed an individual – the Complainant in this case – threaten another person while holding a rock in his hand. NE#1 spoke to the victim who confirmed that the Complainant had threatened her while holding a rock. She further contended that his actions put her in fear of her life. Given this NE#1 developed probable cause to arrest the Complainant. NE#1 also determined that the Complainant had an open warrant for felony harassment.

While NE#1 was speaking with the victim, the Complainant exited a store. When he did so, he was stopped by the store's loss prevention officer based on the belief that the Complainant could be engaging in theft. NE#1 then took the Complainant into custody and informed him of the reason why he was under arrest. NE#1 transported the Complainant to the North Precinct. At that time, the Complainant made complaints that NE#1 engaged in biased policing.

While at the precinct, the Complainant spoke with a Sergeant. The Complainant alleged that NE#1 did not tell him why he was arrested. The Complainant further reiterated his claim that he was only arrested because of his race and because the victim was a White woman.

Based on the Complainant's request, the Sergeant forwarded his complaint to OPA. This investigation ensued. As part of its review of this case, OPA watched the Body Worn Video (BWV) and read the reports generated by NE#1.

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 BWV for this incident disproves the Complainant’s allegation of bias policing. Instead, it conclusively establishes that the Complainant was arrested based on his conduct, not due to his race. Indeed, the BWV shows that NE#1 was dispatched to the call – it was not a subjective on-view, that the Complainant was identified as the perpetrator by a impartial PEO and the victim, and that he had an open felony warrant. Given this, there was abundant probable cause for his arrest.

For these reasons, OPA finds the Complainant’s claim of bias to lack merit and recommends that this allegation be Not Sustained – Unfounded.

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