



CLOSED CASE SUMMARY

ISSUED DATE: OCTOBER 4, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0106

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 BiasBased Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Unfounded (Expedited)
# 3	6.010 - Arrests 6.010-POL 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights	Not Sustained - Unfounded (Expedited)

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in BiasBased Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Unfounded (Expedited)
# 3	6.010 - Arrests 6.010-POL 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights	Not Sustained - Unfounded (Expedited)

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in BiasBased Policing	Not Sustained - Unfounded (Expedited)
# 2	6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained - Unfounded (Expedited)
# 3	6.010 - Arrests 6.010-POL 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights	Not Sustained - Unfounded (Expedited)

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 Named Employee #1 (NE#1), Named Employee #2 (NE#2), and Named Employee #3 (NE#3) arrested him without probable cause, failed to advise him of his *Miranda* rights, and engaged in bias-based policing due to his race.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the involved employees. As such, OPA did not interview the involved employees in this case.

During its intake investigation, OPA reviewed BWV, which showed a supervisor screening the Complainant's allegations of bias-based policing. That supervisor asked the Complainant about how the officers treated him but did not explore the Complainant's claim he was detained due to his race. The supervisor provided the Complainant with OPA's contact information, which is a best practice under policy, but policy still required the supervisor submit a Bias Review via Blue Team, which OPA was unable to locate. OPA returned this allegation to the chain of command to be handled by way of Supervisor Action.

SUMMARY OF INVESTIGATION:

The Complainant submitted two letters to OPA concerning his November 11, 2020, arrest. In those letters, the Complainant alleged officers "fabricated the probable cause" for his arrest and failed to read him *Miranda* rights. OPA opened an investigation. During its intake, OPA added a bias-based policing allegation due to statements the Complainant made, captured on BWV.

During its investigation, OPA reviewed the Complainant's letters to OPA, the Computer Aided Dispatch (CAD) Call Report, Incident Report, Court Records, and Body Worn Video (BWV). The Complainant was represented by legal counsel in this matter so, pursuant to OPA policy, OPA attempted contact through the Complainant's lawyers on four separate occasions. OPA did not receive permission to speak with the Complainant as the Complainant's counsel did not respond prior to the submission of this expedited case.

The entire interaction between the named employees, the Complainant, and the person who accused the Complainant of assault (Community Member #1 or CM#1) was captured on BWV. Accordingly, the relevant facts summarized below are undisputed.

The CAD Call Report showed NE#1, NE#2, and NE#3 were dispatched to a 911 call for an assault. BWVs show the named employees arrived on scene and contact CM#1. CM#1 described being assaulted by the Complainant. Specifically, CM#1 stated the Complainant blocked the door of CM#1's job. CM#1 stated, as he tried to enter the door, the Complainant yelled at him and punched him near CM#1's shoulder, knocking CM#1's coffee onto CM#1's body. CM#1 said he was scared and a "little bit [of pain] right there where he hit me." On scene, CM#1 identified the Complainant as the offender. The Complainant was arrested and, shortly thereafter, Witness Employee #1 (WE#1) read the Complainant his *Miranda* rights on BWV. At multiple points during his interactions with the named employees, the Complainant alleged the named employees arrested him because of his race.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant alleged the named employees arrested him because of his race.

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.*)

BWV established the Complainant was arrested because CM#1 identified the Complainant as the person who assaulted him. OPA did not identify any evidence to suggest the Complainant was treated differently due to his race.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #2

6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

The Complainant alleged the named employees arrested him without probable cause.

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy. Probable cause exists when the facts and circumstances within an officer’s knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.

BWV showed the named employees had probable cause to arrest the Complainant because the Complainant was identified as the perpetrator of an assault by a present, complaining victim. CM#1 not only identified the Complainant as the perpetrator of the assault, but he provided a statement under penalty of perjury to that effect at the scene. *See* SPD Policy 7.110-TSK-1 Taking an Audio Recorded Statement.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegation #3

6.010 - Arrests 6.010-POL 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights

The Complainant alleged the named employees did not advise him of his *Miranda* rights.



SPD Policy 6.010-POL-3 requires arrestees be read their Miranda warnings “as soon as practical” after being taken into custody.

BWV showed WE#1 started reading the Complainant his full *Miranda* rights less than one minute after the Complainant was placed in handcuffs.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

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

For the same reasons set forth above at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #2

6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

For the same reasons set forth above at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #3

6.010 - Arrests 6.010-POL 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights

For the same reasons set forth above at Named Employee #1 – Allegation #3, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #1

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

For the same reasons set forth above at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Unfounded.

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



Named Employee #3 - Allegation #2

6.010 - Arrests 6.010-POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

For the same reasons set forth above at Named Employee #1 – Allegation #2, OPA recommends this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegation #3

6.010 - Arrests 6.010-POL 3. Officers Shall Advise All Arrestees of Their Full Miranda Rights

For the same reasons set forth above at Named Employee #1 – Allegation #3, OPA recommends this allegation be Not Sustained – Unfounded.

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