



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 14, 2018

CASE NUMBER: 2018OPA-0164

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 was subjected to biased policing by the Named Employee.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

The Complainant, who identifies as Pacific Islander, alleged during his arrest that Named Employee #1 (NE#1) took him into custody and treated him differently because of his race and his criminal history. After his arrest, the Complainant was interviewed by a Department supervisor. He reiterated to that supervisor that he believed that NE#1 treated him differently because of his criminal history. The Complainant was also asked by the supervisor whether he believed that he was treated differently because of the “color of his skin,” and he replied: “absolutely, yes.” The supervisor referred the Complainant’s allegation of bias to OPA and this investigation ensued.

During its intake investigation, OPA reviewed NE#1’s In-Car Video (ICV). The ICV showed the stop of the Complainant and, in OPA’s opinion, it appeared that the Complainant was clearly speeding at the time. This is consistent with NE#1’s determination that the Complainant was driving more than 30 miles per hour over the posted speed limit. The ICV also indicated that NE#1 determined, upon making contact with the Complainant, that the Complainant did not have a valid driver’s license. The sobriety tests, as well as the Complainant’s responses thereto, were also recorded. Again, based on OPA’s review of the video, it appeared clear that the Complainant was intoxicated. This was borne out by the results of the BAC tests that he took. After reviewing the preliminary evidence, OPA determined that no further investigation needed to be completed and this was designated, with the approval of the OPA Auditor, as an Expedited Investigation. As such, NE#1 was not interviewed as part of this case.

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 as 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 policy describes when an allegation of biased policing occurs, explaining that: “an allegation of



bias-based policing occurs whenever, from the perspective of a reasonable officer, a subject complains that he or she has received different treatment from an officer because of any discernable personal characteristic..." (*Id.*) Based on my review of the record, I find that there was more than sufficient probable cause to arrest the Complainant for DUI. I conclude that the Complainant's conduct, not his race, was the reason that law enforcement action was taken against him. There is no evidence establishing that NE#1 engaged in biased policing. Indeed, it clearly indicates the opposite – that NE#1's actions in this instance were consistent with policy and not motivated by any impermissible basis. As such, I recommend that this allegation be Not Sustained – Unfounded.

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