



CLOSED CASE SUMMARY

ISSUED DATE: MAY 14, 2019

CASE NUMBER: 2018OPA-1121

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 arrested him because he is Asian.

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 Named Employee. As such, the Named Employee was not interviewed as part of this case.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegations #1

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

Named Employee #1 (NE#1) and other officers were dispatched to a downtown hotel regarding a disturbance. The call for police assistance came from hotel employees. When the officers arrived, the Complainant was surrounded by hotel security guards. The Complainant acknowledged to the officers that he was escorted off the hotel property and was told not to return; however, he confirmed that he did so anyway. The Complainant also acknowledged that he was checked out of his hotel room and had no property in the hotel. Hotel management told the police that the Complainant was no longer welcome on their property because he had already caused too many issues at the hotel. NE#1 and the other officers asked the Complainant to leave the property multiple times and warned him that he would be arrested for trespassing if he failed to leave. After being warned a final time, the Complainant was arrested by NE#1. The Complainant then alleged that he was arrested because he is Asian.

The Complainant reiterated that information to NE#1’s Sergeant, who later screened the arrest. Due to the nature of this allegation, SPD referred this matter to OPA, and this investigation ensued.



OPA interviewed the Complainant. The Complainant told OPA that he was mad and angry during the incident and thought that NE#1 and the other officers should have checked with the hotel to confirm whether he was a guest there. The Complainant did not elaborate on how that would have impacted this incident and/or the officers' decision-making. When asked for additional information regarding his allegation of bias and whether he believed that NE#1 treated him differently because he is Asian, the Complainant stated that he was unsure.

OPA reviewed the available Body Worn Video (BWV) pertaining to this incident. In the BWV, NE#1 was heard explaining to the Complainant that the police do not want to arrest him, but that the hotel management does not want him on their property. She was further heard instructing the Complainant that he needed to leave. Officers were seen confirming again with hotel management that the Complainant was checked out, not wanted on the property, and that they viewed his presence as trespassing. An officer was then heard stating to the Complainant: "Please, sir, you just need to leave." The Complainant refused to leave and was then arrested. Almost immediately, the Complainant was heard stating, "It's because I am Asian." NE#1 was the officer who made the final decision to arrest the Complainant.

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.*) If, as the Complainant alleged, NE#1 engaged in biased policing it would be a violation of SPD policy.

Based on OPA's review of the evidence, there is no indication that NE#1 engaged in biased policing. The Complainant was arrested based on his conduct, not because of his race or membership in any protected class. That there was no bias on the part of NE#1 or any other officer is further confirmed by the BWV of this incident, which conclusively established that NE#1 acted appropriately and consistent with policy during this incident. For these reasons, I recommend that this allegation be Not Sustained – Unfounded.

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