



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 19, 2018

CASE NUMBER: 2017OPA-0812

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.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

The Complainant reported to officers that, on the date in question, he was delivering packages for Amazon. He stated that he did not wear a uniform or any identifying badge when he did so. The Complainant delivered a package to a business and, when he was inside the business, someone opened the door into him and struck the Complainant on the foot.

Officers, including Named Employee #1 (NE#1), responded to the scene. The Complainant alleged that the door striking his foot constituted an assault. The individuals who opened the door indicated that it was a mistake and that they could not see the Complainant through the door. The Complainant was skeptical of this explanation. The Complainant later reported to a Sergeant that he wanted the individuals to apologize for hitting him with the door, but that they “got in [his] face.” He reported getting into a heated back and forth with one of the individuals that he believed had racial undertones. He stated that, at one point, the individual locked the door to the business as if to shut him in.

The police were called and NE#1 and a witness officer responded to the scene. The Complainant indicated that he did not have a problem with the witness officer, but stated that he believed NE#1 to have been biased. Specifically, the Complainant contended that NE#1 took sides with the individuals that hit him with the door because they were white and he was African-American.

The Complainant later reported to the Sergeant that he believed that NE#1 cut him off mid conversation and took the side of the other parties to the incident. The Sergeant referred the Complainant’s allegation to OPA and this investigation ensued.



OPA interviewed the Complainant who repeated his claims made to the Sergeant. The Complainant again asserted that NE#1 engaged in biased policing by siding with white people over him. OPA also interviewed NE#1. NE#1 described that when he arrived at the scene, he interviewed the business owners and the witness officer interviewed the Complainant. At the conclusion of those interviews, the officers discussed what they had learned and determined that they could not establish probable cause to arrest for either assault or kidnapping.

The officers called the Sergeant to the scene and discussed this matter with him. The Sergeant agreed with the officers' determination that there was insufficient probable cause to make an arrest. The officers then communicated this information to the Complainant. The Complainant was unhappy and kept raising his voice and interrupting NE#1 as NE#1 tried to convey the reason for their decision. NE#1 reported that he ultimately decided to cut short the discussion as it was unproductive. The Complainant then asserted that the officers were engaging in biased policing. NE#1 reported this assertion to a supervisor and left the scene.

The In-Car Video (ICV) relating to this incident captured the audio of the officers' interaction with the Complainant. The ICV indicates that the officers explained their actions and decision making several times to the Complainant and allowed the Complainant sufficient time to explain his account in detail. At one point, NE#1 cut the Complainant off and stated, in sum and substance, that they had discussed the matter multiple times and were going to leave the scene. I note that the Complainant and NE#1 spoke over each other a number of times. However, I do not think that NE#1 was being rude in this instance. Instead, I believe that he was trying to explain to the Complainant the reasoning behind his behavior and decision making and was frustrated that the Complainant would not listen to him.

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 Complainant was clearly unhappy with what he believed was biased policing on the part of NE#1. Specifically, he was upset because he felt that NE#1 was taking the side of the white individuals involved in the incident. However, based on my review of the ICV, I did not hear any statements made by NE#1 that indicated bias. Further, NE#1's decision to not arrest the other individuals does not appear to have been motivated by bias, but instead was based on the fact that, after a discussion with the witness officer and evaluation of the facts, there was insufficient probable cause to do so. For these reasons, I find that NE#1 did not engage in biased policing and, as such, I recommend that this allegation be Not Sustained – Unfounded.

While not necessarily germane to my findings, I would like to commend the Sergeant for his supervisory actions in this case. The Sergeant spoke to the Complainant on several occasions and, over the course of more than an hour, engaged in a wide-ranging and empathetic conversation with him. The Sergeant then wrote up and submitted an organized, well-written, and thoughtful report on his discussion with the Complainant and his investigation of this incident. This is exactly what the Department should hope for in its supervisors. I was incredibly impressed by his diligent work in this regard.

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