



## CLOSED CASE SUMMARY

ISSUED DATE:      OCTOBER 23, 2018

CASE NUMBER:     2018OPA-0357

### 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)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)

**Named Employee #3**

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 Employees engaged in biased policing towards him.

**ADMINISTRATIVE NOTE:**

This case was designated as an Expedited Investigation. This means that OPA, with the OPA Auditor’s review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

In addition, after this case was closed and the Closed Case Memo was sent to the Complainant, the Complainant emailed OPA and identified an error in the DCM. Specifically, the Complainant pointed out that he was never charged with a crime by the Seattle City Attorney’s Office. The Complainant also asserted that it was incorrect that the case was not charged based on witness unavailability. Instead, the Complainant provided the following explanation: “The actual reason no charges were filed is because the same ‘evidence’ the SPD used to make the arrest was reviewed by the city attorney’s office - and it was clear that allegation has no basis.”

With regard to the Complainant’s first point, he is correct that he was never charged with a crime in this case. OPA recognizes its error in this regard and has amended the DCM to reflect this. This is the case even though this fact has no ultimate bearing on OPA’s conclusion that no biased policing occurred and that the Named Employees handled this incident appropriately and consistent with policy.



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With regard to the Complainant's second point, OPA believes that its characterization of the prosecutor's basis for declining to file charges was accurate. Notably, this information was taken from the decline notice that was sent to Named Employee #1 and that is included in OPA's case file. (See General Offense Report, at p. 30.) That notice stated the following: "The defendant will have a right to confront witnesses at trial. This includes the aunt. The aunt is unavailable to the City because she lives in Pakistan. We therefore cannot proceed." As such, OPA declines to amend its DCM to include the second change that the Complainant proposes.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegations #1**

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

The Complainant alleged that he was arrested for a domestic violence incident and that this arrest was based on his gender, ethnicity, and religion. He told OPA that the charges against him were later dismissed by the Seattle City Attorney's Office. He asserted that the involved officers failed to exercise appropriate judgment in his case and overreached when arresting him. Lastly, the Complainant contended that when he asked Named Employee #1 (NE#1) what he was being arrested for, she told him that he was alleged to have violated a no-contact order and that the officers had evidence of his criminal behavior. The Complainant claimed that he was treated in a humiliating and disrespectful fashion by the officers. He told OPA that when he asked what evidence the officers had supporting his arrest, NE#1 responded: "you'll find out in front of a judge."

SPD Policy 5.140-POL-5 requires employees to call a supervisor in response to allegations of biased policing. This includes providing sufficient information to the supervisor to allow a determination as to what occurred and what the nature of the bias allegation is. (SPD Policy 5.140-POL-5.)

OPA's investigation included interviewing the Complainant. His statement is fully detailed in the Intake Follow-Up attached to OPA's case file. OPA further reviewed the General Offense Report and Department video. Based on this investigation, it appeared that the officers developed probable cause to believe that the Complainant violated a no-contact order. The officers spoke to the Complainant and informed him that he was under arrest. The Complainant denied that he violated the no-contact order but Named Employee #2 (NE#2) stated that they had proof that he did so. The Complainant's arrest was screened with NE#1, who was the on-scene supervisor. He was then transported to the King County Jail by Named Employee #3 (NE#3). The Complainant continued to deny that he had violated the no-contact order. The Complainant's case was referred to the Seattle City Attorney's Office; however, he was not charged and the prosecution was declined due to the unavailability of a witness.

Given my review of the totality of the record, I find insufficient evidence to establish that any of the Named Employees engaged in biased policing towards the Complainant. Instead, I find that they reasonably believed that there was probable cause to arrest the Complainant for violating a no-contact order. That the City Attorney's Office declined to file charges against him because of witness unavailability does not change this determination. As there is no support for the Complainant's allegation of biased policing, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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



**Named Employee #2 - Allegations #1**

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #3 - Allegations #1**

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

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Unfounded.

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