



## CLOSED CASE SUMMARY

ISSUED DATE:      JANUARY 24, 2019

CASE NUMBER:     2018OPA-0821

### 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)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 3	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)

**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)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 3	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)

***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 used excessive force, engaged in bias policing, and detained the wrong person.

**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.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

Named Employee #1 (NE#1) and Named Employee #2 (NE#2) were given information that the Complainant had an open warrant and that she had been seen in a specific location. The NE#1 and NE#2 went to that location and found



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the Complainant. NE#1 and NE#2 looked at a booking photo of the Complainant, confirmed that she was the individual that they were seeking, and detained her when they saw her come out of a tent. The Complainant denied that she was the person that the Named Employees were looking for and she gave NE#1 and NE#2 a false name. After further interactions with the officers, she gave her correct name. The Named Employees verified that the Complainant did have an open warrant and arrested the Complainant.

After her arrest, the Complainant spoke to a supervisor and told the supervisor that the Named Employees harassed her because they thought she had a warrant. The supervisor advised the Complainant that she did, in fact, have a warrant. The Complainant then told the supervisor that she believed that she had been racially profiled because the Named Employees looked at her in a mean manner.

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 provides guidance as to 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 discernible personal characteristic...” (*Id.*)

Based on my review of the record, including the Body Worn Video (BWV), I find that the Named Employees had a legal basis to contact the Complainant and then probable cause to arrest her. The Complainant’s open warrant, not her race, was the reason that law enforcement action was taken against her. There is no evidence establishing that the Named Employees, instead, engaged in biased policing. As such, I recommend that this allegation be Not Sustained – Unfounded.

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

**Named Employee #1 - Allegation #2**

***8.200 - Using Force 1. Use of Force: When Authorized***

At the time the Named Employees took the Complainant into custody, she resisted the officers’ attempts to handcuff her by tensing her arms and pulling away from them. Once the Complainant was handcuffed, she continued to pull away from NE#1 and NE#2. The Complainant then went down to the ground on her own and refused to stand up. NE#1 and NE#2 lifted the Complainant by her arms and attempted to put her in the back of a patrol vehicle. The Complainant then used her leg to prevent NE#1 and NE#2 from placing her inside. While NE#1 held on to the screaming Complainant, NE#2 went to the other side of the patrol vehicle and pulled the Complainant into the back seat by her arms. Once in the back seat, and while no one was touching her, the Complainant said “ow,” and complained of stomach pains.

A supervisor came to the scene and spoke with the Complainant. The Complainant told the supervisor that NE#1 and NE#2 had “rough handled” her and that she was too scared to go into the patrol car so she slumped down onto the ground. The Complainant’s boyfriend also told the supervisor that the Complainant had been slammed to the ground three times and then modified his statement to contend that the Complainant had been slammed on her



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stomach. He stated that the force was videotaped but said that the video was on a friend's cell phone and that the friend had left. The boyfriend did not provide the friend's name.

The Named Employees' interaction with the Complainant, including the force they used, was captured on BWV. The video reflected that the Named Employees used de minimis force to take the Complainant into custody, to prevent her from resisting, and to place her into the patrol vehicle. There is no evidence that the Named Employees ever "rough handled" the Complainant or that they ever slammed her to the ground. With regard to the force that the Named Employees did use, it was reasonable, necessary, and proportional, and, thus, consistent with policy.

As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #1 - Allegation #3**

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

As discussed above, the Named Employees determined that the Complainant had an open warrant. They verified her identify and placed her under arrest. The warrant provided the Named Employees with probable cause to take the Complainant into custody. As such, I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

**Named Employee #2 - Allegation #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 #2 - Allegation #2**

***8.200 - Using Force 1. Use of Force: When Authorized***

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**



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**Named Employee #2 - Allegation #3**

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

For the same reasons as stated above (see Named Employee #1, Allegation #3), I recommend that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**