



## CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 18, 2019

CASE NUMBER: 2018OPA-0850

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 2	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	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 2	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	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 2	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 her and subjected her to excessive force.

### 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**

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

The Named Employees were dispatched to a youth crisis center to take the Complainant into custody for an outstanding warrant. The warrant was verified by the dispatcher. The Named Employees contacted the Complainant



---

at the center and informed her of the warrant. She became uncooperative virtually immediately, and threw herself onto the floor. The Complainant was handcuffed, but she refused to walk. She was escorted by the Named Employees to a patrol vehicle. At that time, she kicked at the officers. In order to prevent further assaultive behavior, the Named Employees lowered the Complainant onto the ground and secured her there. She then began to attempt to bite the officers and spat at them. As a result of this conduct, a spit sock was placed over her head.

A supervisor screened the Complainant's arrest. During the screening conversation, the Complainant stated that she was assaulted when her face was held to the ground by officers. She contended that this constituted excessive force. She also alleged that law enforcement action was taken against her because she was African-American. The Complainant's allegations were referred to OPA and this investigation ensued.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary, and proportional. Whether force is reasonable depends "on the totality of the circumstances" known to the officers at the time of the force and must be balanced against "the rights of the subject, in light of the circumstances surrounding the event." (SPD Policy 8.200(1).) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where "no reasonably effective alternative appears to exist, and only then to the degree which is reasonable to effect a lawful purpose." (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

Based on OPA's review of the record, including the Department video of this incident, the Named Employees had probable cause to arrest the Complainant for an outstanding warrant. With the legal authority to arrest came the right to use force, if needed, to take the Complainant into custody. When the Complainant was initially informed that she was under arrest, she dropped to the ground and refused to comply with the officers. As such, they were permitted to use force, which was de minimis in nature, to stand her up and to escort her to the patrol vehicle. Moreover, when she attempted to assault the officers, including biting, kicking, and spitting at them, they were entitled to use additional force to prevent her from further doing so. The force they used against her was reasonable, necessary, and proportional, and, thus, consistent with policy.

For the above reasons, I recommend that this allegation be Not Sustained – Lawful and Proper as against all of the Named Employees.

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

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

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

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 race. (*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.*)



---

As discussed above, the Complainant alleged that she was arrested and force was used against her because of her race. However, OPA concludes that this contention is unsupported by the objective evidence in this case. The officers had probable cause to arrest the Complainant and, when she physically resisted and attempted to harm them, they were entitled to use force to compel compliance and to prevent her from further doing so. Ultimately, this law enforcement action was based on the Complainant's conduct, not her race. As such, I recommend that this allegation be Not Sustained – Unfounded as against all of the Named Employees.

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

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

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

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

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

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

***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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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

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

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

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

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

***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 #2), I recommend that this allegation be Not Sustained – Unfounded.

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